

SECTION 33 – VIOLATIONS

33.1 DUTIES OF THE DIRECTOR OF PLANNING AND BUILDING

The Director of Planning and Building and his duly-authorized assistants shall be authorized and directed to enforce the provisions of these regulations and the International Building Code, as duly-adopted by the County.

The Director of Planning and Building shall be in immediate charge of the work of the staff of the Planning and Building Department, he shall supervise the approval of all applications and plans submitted for the purpose of obtaining permits therefore, and shall direct all inspection work. He shall have full power to make determinations regarding any questions arising from the provisions or portion of any provision of the these regulations, and any building code which may be adopted by the County under its jurisdiction, subject to the conditions, modifications and limitations contained therein.

The Director of Planning and Building or his assistants shall inspect any property upon which complaints are filed by any citizen pursuant to Section 33.5 below, or representative of law enforcement, alleging a violation of the provisions of these regulations or the International Building Code, or any property upon which said violation seems apparent upon casual observation from a public right-of-way or area generally open to the public. Where it appears the erection, reconstruction, alteration, repair, conversion, maintenance, or use of any building, structure, automobile trailer or land does not meet the intent of these regulations or the International Building Code, he shall take steps to cause the property owner to modify the property to meet these regulations or the International Building Code.

Upon presentation of proper credentials, the Director of Planning and Building and/or his assistants may enter at reasonable times any building, structure or premises within the jurisdictional area of these regulations and perform any duty imposed upon him by this chapter, or these regulations.

The actions described in Chapter 1 of the International Building Code, as the same may be adopted by the County and as may be amended from time to time, are hereby authorized for all sections of these regulations. In the event of any conflict between these Regulations and the International Building Code, these Regulations shall supersede.

33.2 TYPES OF VIOLATIONS

33.2.1 GENERAL ZONING VIOLATIONS

It shall be unlawful for any person to erect, construct, reconstruct, alter, repair, convert, maintain, or use any building, structure, automobile trailer, or land in any manner not consistent with the letter and/or intent of these regulations.

33.2.2 NUISANCE VIOLATIONS

It shall be unlawful for any person to cause, permit, maintain or allow the creation of a nuisance.

A nuisance shall exist when a person fails to perform a duty or permits any condition to exist, which act, omission, condition:

- (A) Injures or endangers the comfort, repose, health or safety of others; or
- (B) Is offensive to the senses; or
- (C) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, alley, highway, sidewalk, stream, ditch or drainage; or
- (D) In any way renders other persons insecure in life or the use of property; or
- (E) Essentially interferes with the quiet enjoyment of life and property, or tends to depreciate the value of the property of others; or
- (F) The maintaining, using, placing, depositing, leaving or permitting to be or remain on the public or private property of any of the following items, conditions or actions is hereby declared to be and to constitute a nuisance; however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:
 - 1. Any condition which provides harborage for rats, mice, snakes and other vermin.
 - 2. All unnecessary or unauthorized noises and annoying vibrations, including, but not limited to, non-agricultural animal noises.
 - 3. Disagreeable or obnoxious gases, odors and/or fumes, as well as the conditions, substances or other causes which give rise to the emission or generation of such gases, odors and/or fumes, except for agricultural uses.
 - 4. The dressed or undressed carcasses of fish, animals, or fowl, wild game or domestic, not disposed of, processed, or removed from the general public view.
 - 5. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
 - 6. Any building, structure or locations wherein or upon which any activity which is in violation of local, state or federal law is conducted, performed or maintained.
 - 7. Any accumulation of stagnant water permitted or maintained on any lot or property.
 - 8. Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
 - 9. Any method of human excretion disposal which does not conform to the provisions of state law or city rule or regulation.
 - 10. Leaking or defective water pipes, sewer pipes, hydrants, cisterns, wells, gutters, drains, rain spouts or seepage in or about any structure used for human occupancy or the surrounding earth.
 - 11. Any abandoned or open wells, cisterns or cellars.
 - 12. The discharge of any filthy or offensive water, swill, liquid or waste from any commercial establishment into or on any street, alley, sidewalk, gutter, vacant lot, stream or river.
 - 13. The parking or storage of any vehicle or machine or parts thereof in violation of these regulations, state statute or federal law.

14. Every other act or thing done, made, permitted, allowed or continued on any property, whether public or private, detrimental to the health of or likely to injure any of the inhabitants of the County or within its jurisdictional authority.

33.2.3 DANGEROUS STRUCTURE VIOLATIONS

A Dangerous Structure shall exist when any building or other structure is in such a dilapidated condition that it is unfit for human habitation, kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, presents a fire hazard in the vicinity where it is located, is liable to fall or collapse from inherent structural weakness or as the result of fire, decay, or otherwise, in which the owner refuses to repair in accordance with the provisions of these regulations and the International Building Code, or any structure which has deteriorated from any cause to the extent of 50% of the cost of a similar new building above the foundations.

It shall be unlawful for any person to continue the use or occupancy of any building or structure in which violations of the provisions of these regulations are found to exist to such an extent as would make the building or structure dangerous for occupancy and use until changes, alterations or repairs ordered by the Director of Planning and Building or his assistants shall have been made.

33.3 ENFORCEMENT OF GENERAL AND NUISANCE VIOLATIONS

Whenever a general or nuisance violation of these regulations is found to exist within the County, the Director of Planning and Building shall give written notice to those interested persons for the property upon which such violation exists and/or upon the person causing or maintaining the violation. For the purpose of this regulation, interested persons are: 1) the owner of record of the property, as determined by the records of the Sarpy County Assessor; 2) any occupant or lessee of the property found on the property; 3) any person who files a written claim of interest in the property with the Director of Planning.

The notice to abate a violation issued under the provisions of these Regulations, unless otherwise specifically provided in a subsequent article, shall contain:

- (A) An order to abate the violation within thirty (30) days of the date of the notice.
- (B) The location of the violation, if the same is stationary.
- (C) A description of what constitutes the violation.
- (D) A statement of acts necessary to abate the violation.
- (E) A procedure available to the interested persons for the purpose of convening a hearing on the actual existence of the alleged violation and the requirement to abate the alleged violation.

The notice to abate a violation shall be sent via U.S. Mail. If the initial contact receives no response, a second notice shall be sent via certified mail.

If the interested person(s) in violation of the provisions of these regulations shall fail to make such changes, alterations, repairs, etc. in the time set forth in the notice of the violation, and no

extension of time has been procured, the Director of Planning and Building shall report such violations to the County Attorney's Office for proper legal action.

33.4 ENFORCEMENT OF DANGEROUS STRUCTURE VIOLATIONS

Whenever the occupancy or use of a building or portion thereof becomes dangerous to life or limb by reason of imminent or actual failure or collapse, the Director of Planning and Building or his assistants may order the immediate vacation of such building, or part of the building, or adjacent building found to be unsafe until such dangerous condition is corrected, either through required repair or through the tear down and removal of the violating structure.

Any building or other structure, or other pertinent apparatus in, upon, or about the building or structure, found, either in whole or in part, to be structurally unsafe or dangerous in case of or as a result of fire, panic, tornado, wind, lightening, deterioration, flood or other cause, or which is insufficient in any way for the purpose for which it is intended to be used, shall be made safe and secure by the owner, agent, lessee or occupant of such building or other structure within the time set forth in the written notice from the Director of Planning and Building.

The Director of Planning shall placard every building or structure found to be unsafe or unfit for occupancy or use under the provisions of these Regulations. Such placard shall be placed on the exterior near the building entrance and shall set forth that such building or structure is unsafe or unfit for occupancy.

If the owner, agent, lessee or occupant of any building or structure found to be unsafe for occupancy or use or otherwise in violation of the provisions of these regulations shall fail to make such changes, alterations or repairs in the time set forth in the notice of the violation, and no extension of time has been procured, the Director of Planning and Building shall report such violations to the County Attorney's Office for proper legal action.

Where immediate action is deemed necessary by the Court to protect life or limb, the Director of Planning and Building or his assistants may cause an unsafe or dangerous building or structure, appurtenance, appliance or apparatus, or any portion thereof, to be taken down or repaired. The cost of taking down or repairing the building or structure under the provisions of this section, in an amount of a certified bill of all expenses incurred by the Director of Planning and Building or his assistants, shall be collected in the same manner provided for in Section 33.6.

33.5 CITIZEN COMPLAINTS

All complaints shall be submitted to the Director of Planning in writing. The complaint must include the address where the violation exists, the owner of the property on which the violation exists (if known), and the nature of the complaint. All complaints shall include the contact information of the reporting party for purposes of follow-up by the Planning and Building Department should more information be needed. Written complaints shall be kept on file as a matter of public record.

33.6 PENALTIES FOR VIOLATIONS

Any violations to provisions of these Regulations shall be a misdemeanor pursuant to Nebraska Revised Statutes §§23-174 and 23-114.05, and subject to a penalty of up to three (3) months

imprisonment, a \$500 fine, or both. Each day any violation continues after notice of the violation has been given may be considered a separate offense.

33.7 APPEAL

Should the interested person believe that they are not in violation of sections 33.2.1, 33.2.2, or 33.2.3 above, an appeal may be filed to the County Board of Adjustment pursuant to Neb. Rev. Stat. §23-168.02. The County Board of Adjustment shall schedule a hearing as soon as reasonably possible after the filing of the request. At such hearing, the interested person and the Director of Planning and Building shall be permitted to submit evidence and argument as to why or why not the violation exists. The County Board of Adjustment shall issue a written decision on the matter as soon as is reasonably possible after the hearing. Such decision may be further appealed to the Sarpy County District Court by either party.