

ORDINANCE RECORD

413

No. 728 ★ ★ ★ K-B PRINTING CO. ★ ★ ★ OMAHA

CITY HALL LEXINGTON, NEBRASKA

The Mayor and Council of the City of Lexington, Dawson County, Nebraska, met in ~~regular~~ special session in the City Hall at 8 o'clock p. M., on September 18, 1946. Mayor W. A. Stewart, Jr., presided and City Clerk A. R. Kirkpatrick recorded the proceedings of this meeting.

The Mayor instructed the Clerk to call the roll. The Clerk called the roll and the following Councilmen were present: W. R. Smith, M. Morganson, W. R. Hemelstrand, M. B. Hebrew, and W. R. Egenberger.

Absent: Councilman R. R. Reutlinger.

Whereupon the Mayor announced that the introduction of ordinances was now in order, and the matter now coming before the Mayor and Council was the passage and approval of Ordinance No. 427 of the City of Lexington, Nebraska.

This ordinance was introduced by Councilman Hebrew and is in words and figures as follows, to wit:

ORDINANCE NO. 427

AN ORDINANCE RELATING TO BUILDINGS WITHIN THE CORPORATE LIMITS OF THE CITY OF LEXINGTON, DAWSON COUNTY, NEBRASKA; PROVIDING RULES AND REGULATIONS CONCERNING THE ISSUANCE OF BUILDING PERMITS HEREAFTER REQUIRED AS CONDITIONS PRECEDENT TO THE CONSTRUCTION, IMPROVEMENT, OR REPAIR OF BUILDINGS WITHIN THE CORPORATE LIMITS; ESTABLISHING DISTRICTS IN SAID CITY WHEREIN THE USE OF PROPERTY FOR TRADE, INDUSTRY, COMMERCE, BUSINESS, RESIDENCE OR OTHER PROPOSES IS REGULATED, CREATING AND PROVIDING A BOARD OF ADJUSTMENT WITH CERTAIN POWERS WITH RESPECT TO CITY PLANNING AND ZONING FOR THE PURPOSE OF PROMOTING HEALTH, SAFETY, MORALS AND GENERAL WELFARE OF THE COMMUNITY; REGULATING THE AREA OF YARDS AND OTHER OPEN SPACES ABOUT BUILDINGS AND TO REGULATE AND RESTRICT THE HEIGHT, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES; PROVIDING FOR THE REPEAL OF PRIOR ORDINANCES IN CONFLICT HEREWITH; PROVIDING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT AND PROVIDING A PENALTY FOR THE VIOLATION OF ANY OF THE SEVERAL SECTIONS THEREOF.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA:

Section 1. Any person, persons, firm or corporation desiring to build, erect, improve or repair, or cause to be built, erected, improved or repaired, or to move a building from any one location to another within said City, shall, before proceeding with said work or commencing any work or execution in connection therewith, file in the office of the city Clerk written application designating the kind of building or character or extent of improvements or repairs which he intends to erect or make, materials of which the same is to be composed, the legal description and location of the real estate to be occupied by the building or improvement and the probable costs thereof and shall obtain a permit therefor as hereinafter provided.

Section 2. All such applications shall be referred forthwith to the City Inspector, who shall make or cause to be made due investigation and if he finds that the proposed work or construction will conform to all the statutes, ordinances and regulations of the State, City, Board of Health and Fire Marshall, he shall thereupon approve said application and make due return thereof to the office of the City Clerk. The City Clerk shall at the expiration of 48 hours thereafter issue the permit unless

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protest is filed as herein provided. Provided however, that if the application be disapproved or if any citizen of the City of Lexington, shall file objection in writing to the issuance of said permit before the same is issued, the City Clerk shall present said application and all papers and findings to the City Council at their next regular meeting and the Council shall then determine whether the permit shall be issued.

Section 3. The City Clerk shall, upon issuance of any permit as aforesaid, charge and collect the sum of \$1 for the issuance of said permit; \$2 for the inspection of plans and specifications where the cost of said improvement does not exceed \$500; \$4 where the cost exceeds \$500 and does not exceed \$5,000; \$9 where the cost thereof exceeds \$5,000; and in addition thereto the sum of \$2 in all cases requiring an inspection by the Chief of the Fire Department.

Section 4. It shall be unlawful for any contractor or any other persons engaged in the actual work of erecting said building or other structure or making said improvements or repairs to proceed with the work until he knows that the owner has obtained a permit as herein provided. The Chief of Police may order cessation of any work started before the issuance of said permit. Any person violating any of the provisions of any of any of the three preceding Sections of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than \$5.00 nor more than \$100.00 for each offense and shall stand committed to the City or County jail until said fine and costs are paid.

Section 5. For the purpose of interpreting the provisions of this Chapter relating to zoning certain terms and expressions used herein are defined as follows: Words in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular; and the word "shall" is always mandatory. ACCESSORY BUILDING. A subordinate building, the use of which is incidental to that of a main building or dwelling. APARTMENT HOUSE. A detached building used or designed as a residence for three (3) or more families living independently of each other. BOARDING HOUSE. A building, other than a hotel, where lodging and meals are served or provided for compensation. DWELLING. A detached building that is arranged, intended or designed to be occupied as the residence of one family. DWELLING, TWO-FAMILY. A detached building that is arranged, intended or designed to be occupied as the residence of two families living independently of each other. GARAGE, PRIVATE. A building or portion thereof used for the housing or care of self-propelled vehicles and with a capacity for not more than three for each dwelling. LOT. A parcel of land occupied or to be occupied by a building and its accessory buildings together with such open spaces as are required by this ordinance or designed to be used in connection with such buildings, and abutting upon one or more streets. LOT DEPTH. The distance from the front lot line to the rear lot line. In case of a lot of irregular shape, the average depth shall be the lot depth. FRONT STREET. The front street of any block is the street running at right angles to the longest boundary line of the lots in said block according to the recorded plat thereof. SIDE STREET. The side street for any block is the street running parallel to the longest boundary line of the lots in the said block according to the recorded plat thereof. NON-CONFORMING USE. Use of a building or property that does not conform with the regulations of the district in which it is situated. SET BACK. The minimum horizontal distance between the Street line and the front line of any building or projection thereof. STABLE, PRIVATE. A stable with capacity for not more than four horses. ORDINANCE AND CHAPTER. The terms when used in the text are synonymous. There is hereby created as provided by statute a Board of adjustment, consisting of five members, who shall exercise all the powers granted and perform the duties imposed by this ordinance and in Article 9, Chapter 19, Revised Statutes of Nebraska, 1943, as it now is or as hereafter amended. The Mayor, with the advice and consent of the Council, shall, at the time of the passage of this ordinance, appoint five members of said Board of Adjustment; one for the term of one year; two for the term of two years and two for the term of three years, all of which terms shall expire on June 1st of such respective years, and thereafter the Mayor with the advice and consent of the Council shall appoint such members of said Board as may be required and each of said appointments to be for a period of three years.

Section 6. All other conditions precedent as to notice and hearing, as required by law both as to the zoning commission appointed by the Mayor and Council, and as to the governing bodies of said City concerning regulations, restrictions and boundaries of original districts, having been heretofore complied with, it is hereby declared and ordained, subject to amendment from time to time according to law, that the City of Lexington, Nebraska, is hereby divided into three (3) classes of districts, which shall be known as; Residence, Business District, and Railroad and Industrial District. The Residence District shall include all the property within the corporate limits of the City of Lexington, except the territory included within the Business District and the Railroad and Industrial District. The Business District shall include all of the property within the following boundaries, commencing at the intersection of the east corporate limits of said City of Lexington with the right of way of the Union Pacific Railroad Company; thence North to the North Line of Tract "F" of Section Five (5) in Township Nine (9) North, Range Twenty-one (21) West of the 6th P. M. in Lexington, Dawson County, Nebraska; thence West

along the North line of said Tract "F" and continuing west on Third (3rd) Street to Tyler Street; thence north on Tyler Street to Fourth (4th) Street; thence West on Fourth (4th) Street to Jackson Street; thence north on Jackson Street to Seventh (7th) Street; thence west to Grant Street; thence North to Eighth (8th) Street; thence west to Lincoln Street; thence South to Sixth (6th) Street; thence west to Adams Street; thence North to the north line of Tract "K" of Section Six (6) in Township Nine (9) North, Range Twenty-one (21) of said Tract "K" to the west corporate limits of the said City of Lexington; thence south to the right of way of the Union Pacific Railroad Company; thence east along the north line of said right of way to the place of beginning.

Section 7. The Railroad and Industrial District shall include all of the property within the following boundaries: Commencing at the North line of the Union Pacific Railroad right of way at the West corporate limits of the City of Lexington, thence South to Elm Street; thence East on Elm Street to Madison Street; thence South on Madison Street to Spruce Street; thence East on Spruce Street to Washington Street; thence South on Washington Street to Walnut Street; thence East on Walnut Street to the East Corporate limits of the City of Lexington; thence North to the north line of the Union Pacific Railroad right of way; thence west along the north line of said right of way to the place of beginning.

Section 8. The residence districts shall be used for residential uses only, and such uses shall include: 1. Private dwelling; 2. Two-family dwellings; 3. Church; 4. Public or private schools; 5. Museums and libraries; 6. Parks and playgrounds; 7. Hospitals; 8. Farms, truck-gardens, orchards, nurseries, green-houses; 9. Uses customarily incident to any of the above uses, including home occupations when located on the same lot. The office, studio or shop of a physician, surgeon, dentist, musician, or artist, or a beauty shop proprietor, may be permitted therein when located in his or her dwelling, provided that there shall be no outside display of goods and no advertising except a sign not exceeding two square feet in area which shall announce only the name and occupation of the occupant of the premises. 10. Signs advertising the sale or rental only of the property upon which they are located. Such sign shall be distant as far as possible from abutting property and at least twenty-five feet from any curb line or not more than five feet in front of any principal building. No such sign shall exceed five square feet in area. 11. Apartment House, providing that before any apartment house over two stories in height is erected or used, written consent must be obtained from the owners of all property abutting the ground on which such apartment house shall be constructed and from the Board of Adjustment. Such apartment house shall be constructed in accordance with other ordinances of the City of Lexington, Nebraska. 12. Boarding Houses. 13. Clubs, lodges, or social or community center building, excepting those a chief function of which is service or activity conducted for pecuniary profit. 14. Home for the aged or for orphans. 15. Private garages, private stables or accessory buildings. 16. Poster Advertising board or painted bulletins providing they are constructed according to the latest accepted rules governing the construction thereof and providing they shall be at least three (3) feet from the ground and not to exceed fifteen (15) feet in height and shall be set back from the front lot line - the average set back distance in the block where they may be located, and if located on a corner lot they shall be built diagonally across the corner thereof and set back a sufficient distance from both streets so that they will not be an obstruction to the view, and both the location, and the construction thereof must be subject to the approval of the City Inspector, to be appointed by the Mayor and Council of said City. In addition the party desiring to erect such boards or bulletins must file with the City Inspector when he applies for a permit therefor the written consent of the owners of all property within one hundred fifty (150) feet of the proposed location thereof.

Section 9. Except as is hereinafter provided, no building shall be erected, enlarged or altered in the Residence District except in conformity with the following regulations: FRONT YARD. Upon every lot upon which the building is to face a front street, there shall be a front yard having a depth of at least 12 feet from the front line to any part of the residence nearest the front street; and if said residence is built upon a corner lot, or facing upon a side street, there shall be a side yard or a front yard having a depth of at least 6 feet from the side lot line to any part of the residence nearest the side street; provided however, that in all cases where a greater or less distance than that above provided has been established by three or more residences in any block, then no building shall be nearer to the lot line than the average of the set back distance so established, and if established by less than three residences, then and in that event the Board of Adjustment shall have the power to establish said set back distance. B. SIDE AND REAR YARD. There shall be a side and rear yard on each side and in the rear of the PRINCIPAL building of at least four (4) feet, and with an additional foot for each full story above the second story of any building, measured from the projection nearest the lot line; except that on lots measuring less than forty (40) feet in width each side yard shall be not less than ten (10) per cent of the width of the lot, and except on lots where the side yard adjoins an alley, no side yard shall be required on the side adjoining the alley.

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C. ACCESSORY BUILDINGS. Private garages are permitted upon the same lot or an adjacent lot with a dwelling either as a separate building or in a suitable room with-in or attached to the dwelling, provided that space for not more than three automobiles for each dwelling is permitted on one lot. Every such garage shall be at least two feet from the side lot line, except that within fifty (50) feet of any street line, such garage shall be distant at least two (2) feet from any rear lot line that serves also as the side lot line to an adjoining property. In any case a private garage may be erected or maintained across a common lot line by mutual agreement between adjoining property owners. The same regulation concerning private garages shall also apply to private stables, except that one horse-drawn vehicle shall be considered the equivalent of one automobile. Other accessory buildings may be erected and maintained in the residence district, provided that they are not connected with the dwellings, are not more than ten (10) feet in height, and are built as an accessory in the rear of a dwelling, and at least two (2) feet from the lot line and no nearer the side lot line on the street side than the average set back distance in the block as determined by the City Inspector. This does not apply to incinerators which may be built on the alley line. D. NO FENCE shall be erected or maintained upon or adjoining any property nearer the street than the rear line of the principal building located upon such property, that is objectionable to the owner of any adjacent property; provided that ornamental shrubbery, trees, or flowers shall not be considered as fences. E. NO LOT or portion of a lot shall be used for the salvaging of automobiles, machines, or building material, within the residence district, without first obtaining the consent of the Board of Adjustment. F. Where anyone desires to erect a BUSINESS BUILDING or to carry on a business upon any lot in a Residential District, said person shall present to the Board of Adjustment his petition setting forth his desire in detail, together with the written consent of at least three-fourth of the freeholders within 150 feet of said lot; the Board of Adjustment shall there-upon fix a time and place for hearing upon said petition, and shall have power to hear and determine all matters so presented.

Section 10. In the business district the property or the buildings thereon may be used for any use permitted in the residence district; and, in addition, for retail and wholesale business, trades, industries and professions; and for any light industry, not noxious or offensive due to the emission of odors, gas, smoke, dust or noise, which is not a menace to public health or safety and which will not substantially or permanently injure or damage the use or value of neighboring property, and which comply with the ordinances governing the erection of structures within the fire limits of said City.

Section 11. The buildings and property in the Industrial Districts may be used for any purpose whatsoever that is not a nuisance and will not conflict with the ordinances of the City of Lexington, Nebraska, or the laws of the State of Nebraska.

Section 12. No building shall be moved from one lot to another or moved into the city without first obtaining the consent of the Board of Adjustment.

Section 13. All cess pools and privy vaults in said City where sewer connection is available, or which hereafter may be made available, are hereby declared to be a nuisance and dangerous to the public health and shall be abated as such. Where sewer connections shall hereafter be made available, sixty (60) days shall be allowed in which connections shall be made and all cess pools and privy vaults filled and it shall thereafter be unlawful for any person or persons to use the same.

Section 14. Notice of the time and place of all hearings before the Board of Adjustment shall be given by publication thereof in a paper of general circulation in said City of Lexington for ten days prior to such hearing; such notice shall contain a brief statement of all matters to be submitted to said Board of determination.

Section 15. (A) The lawful use existing at the time of the passage and adoption of this ordinance, of buildings, may be continued although such use does not conform with the provisions hereof. (B) Whenever a new district herein established shall hereafter be changed, any resulting non-conforming use of buildings in such changed district may be continued as though the change had not occurred, provided compliance is made with all other requirements or restrictions due to such change of district. (C) If any building now existing and used in conformity with the provisions of this ordinance shall be damaged or destroyed by any casualty, it may be replaced and the use at the time of such damage or destruction may be continued thereon, provided that permit is obtained as herein required and that the work of reconstruction shall be commenced within a reasonable time and be prosecuted diligently thereafter.

Section 16. Any person presenting to the Board of Adjustment a petition for permission to carry on a business upon any lot in the Residential District, praying for permission to erect a post or advertising board or painted bulletin in the Residential District, or praying for other relief which requires a meeting of the Board of Adjustment, and a notice of hearing thereon as provided in this Chapter, shall upon the filing of said petition, pay to the secretary of said Board of Adjustment the sum of \$21.00. It shall be the duty of the Secretary of said Board

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of Adjustment to thereupon advertise notice of hearing, cause abstract of title and plans necessary incidental to the petition to be prepared and upon final determination of said matter, to make delivery to the petitioners a certified copy of all of the records and proceedings which in any way affect the title to said property. It shall be further the duties of the Secretary of said Board of Adjustment to make an accounting to the Mayor and Council of the City of Lexington of all money so received and expended by him, at the first meeting in June of each and every year succeeding the date hereof.

Section 17. Any person, firm or corporation, violating any of the provisions of the twelve preceding Sections of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum of not less than \$5.00 nor more than \$100.00 and shall pay the costs of prosecution, and shall stand committed to the City jail until said fine and costs are paid, and that each day of violation of any of the provisions of said Sections shall be deemed a separate offense.

Section 18. This ordinance shall be in full force and take effect from and after its final passage, approval and publication as provided by law. Passed and approved this 18th day of September, 1946.

MAYOR

ATTEST:

CITY CLERK.

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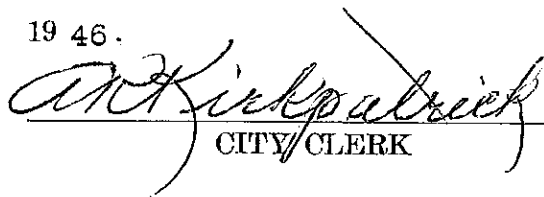
CERTIFICATE OF PASSAGE

STATE OF NEBRASKA }
COUNTY OF DAWSON } SS.
CITY OF LEXINGTON }

I, A. R. Kirkpatrick, City Clerk of the City of Lexington, Dawson County, Nebraska, hereby certify that the annexed ordinance, purporting to be Ordinance No. 427 of said City was passed as such by the Mayor and Council of the City of Lexington, Dawson County, Nebraska, pursuant to the rules and regulations prescribed by general law and by said City for the passage of ordinance and was duly approved by the Mayor of said City, said passage and approval having been made on the 18th day of September, 1946, with respect to said ordinance aforesaid which said Ordinance No. 427 has been published in ^{phamphlet form by} a legal newspaper, The Lexington Clipper by authority of the Mayor and Council of said City under direction of its duly constituted authorities pursuant to resolution of the Mayor and Council thereof, said publication having been made ~~in issue of~~ September 30, 1946.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal this

30th day of September 1946.


CITY CLERK

(Seal)