

ORDINANCE NO. 1737

CITY OF LEXINGTON, NEBRASKA

ORDINANCE NO. 1737

AN ORDINANCE REGULATING AND RESTRICTING THE MOVING OF BUILDINGS OVER, ALONG OR ACROSS HIGHWAYS, STREETS AND ALLEYS IN THE CITY; PROVIDING FOR PROTECTION TO THE CITY FROM DAMAGES ARISING OUT OF SUCH OPERATION; AUTHORIZING THE CITY MANAGER TO ISSUE PERMITS; TO REPEAL ORIGINAL SECTIONS 6-15, 6-16, 6-17, AND 6-18 OF THE LEXINGTON CITY CODE; TO PROVIDE FOR AN EFFECTIVE DATE AND PUBLICATION IN PAMPHLET FORM.

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

Section 1. Building defined.

The word "building," for purposes of this article, shall mean a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property and used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes; A structure which, when loaded, does not violate any width, height, length, or weight restrictions for movement upon the public highways of the State of Nebraska shall not fall within this definition.

Section 2. Permit required.

No person shall move any building over, along or across any highway, street or alley within the corporate limits of the city without first obtaining a permit from the city clerk.

Section 3. Application.

A person seeking issuance of a permit hereunder shall file an application for such permit with the city building inspector.

1. Form; The application shall be made in writing, upon forms provided by the building inspector or otherwise, and shall be filed in the office of the building inspector.

2. Contents: The application shall set forth:

- (a) A description of the building proposed to be moved, giving street number, construction materials, dimensions, number of rooms and condition of exterior and interior;
- (b) A legal description of the lot from which the building is to be moved, giving the lot, block and tract number, if located in the city;
- (c) A legal description of the lot to which it is proposed such building be moved, giving lot, block and tract number, if located in the city;
- (d) The portion of the lot to be occupied by the building when moved;
- (e) The highways, streets and alleys over, along or across which the building is proposed to be moved;
- (f) Proposed moving date and hours;
- (g) Any additional information which the building inspector shall find necessary to a fair determination of whether a permit should issue.

3. Accompanying papers.

- (a) Tax certificate. The owner of the building to be moved shall file with the application sufficient evidence that the building and lot from which it is to be removed are free of liens and that all taxes and any city assessments or utility charges against the same are paid in full.
- (b) Certificate of ownership or entitlement. The applicant shall file with the application a written statement or bill of sale signed by the owner, or other sufficient evidence, that he is entitled to move the building.

4. Fee. The application shall be accompanied by a permit fee in the amount of \$ 50.00.

Section 4. Duties of building inspector.

1. Inspection. The building inspector shall inspect the building and the applicant's equipment to determine whether the standards for issuance of a permit are met.

2. Standards for issuance. The building inspector shall refuse to issue a permit if he finds:

- (a) That any application requirement or any fee or deposit requirement has not been complied with;

(b) That the building is too large to move without endangering persons or property within the city;

(c) That the building is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering persons or property within the city;

(d) That the building is structurally unsafe or unfit for the purpose for which moved, if the removal location is within the city;

(e) That the applicant's equipment is unsafe and that persons or property would be endangered by its use;

(f) That zoning or other ordinances would be violated by the building in its new location;

(g) That for any other reason persons or property in the city would be endangered by the moving of the building.

3. Estimate of expense to city. The building inspector shall procure from the city street department and city utilities department an estimate of the expense that will be incurred in removing and replacing any electric wires, street lamps, or pole lines belonging to the city or any other property of the city, the removal and replacement of which will be required by reason of the moving of the building through the city, together with the cost of materials necessary to be used in making such removals and replacements. Prior to issuance of the permit the building inspector shall require of the applicant a deposit of a sum of money equal to the amount of the estimated expense or \$500.00, whichever is greater.

4. When the building inspector shall determine that the moving of a building shall interfere with any gas mains, telephone or telegraph poles or wires, cable TV wires or equipment, or other public or private facilities, said building inspector shall give notice to the person, business or franchise owning such facilities of the provisions of any proposed moving permit.

5. Designate streets for removal. The building inspector shall procure from the public streets and utilities departments a list of designated streets over which the building may be moved. The building inspector shall have the list approved by

by the chief of police and shall reproduce the list upon the permit in writing. In making their determinations the street department and utilities department and chief of police shall act to assure maximum safety to persons and property in the city and to minimize congestion and traffic hazards on public streets.

Section 5. Damage deposits.

An application hereunder shall be accompanied by a cash deposit in the sum of \$5,000.00 as an indemnity for any damage which the city may sustain by reason of damage or injury to any highway, street or alley, sidewalk, fire hydrant or other property of the city, which may be caused by or be incidental to the removal of any building over, along or across any street in the city and to indemnify the city against any claim of damages to persons or private property, and to satisfy any claims by private individuals arising out of, caused by or incidental to the moving of any building over, along or across any street in the city. This damage deposit shall be in addition to the permit fee and deposit for expense to city.

1. Bond in lieu of deposit. Any person filing an application hereunder may, in lieu of the general cash deposit required above, file with the building inspector a bond, approved as to form by the city attorney, executed by a bonding or surety company authorized to do business in the State of Nebraska, in the amount of \$5,000.00, conditioned upon the assurance that this and other applicable ordinances and laws will be complied with. Such bond shall run to the city for the use and benefit of any person or persons intended to be protected thereby and shall be conditioned on the payment of any damage to public or private property and the payment of any damages or losses resulting from any malfeasance, misfeasance, or nonfeasance or negligence in connection with any of the activities or conditions upon which the permit applied for is granted.

2. Insurance policy in lieu of deposit. Any person filing an application hereunder may, in lieu of the general cash deposit required above, file with the building inspector a liability insurance policy, issued by an insurance company authorized to do business in the State of Nebraska, and approved as to form by the city attorney, in the same amount and providing the same protection as would be required for bond hereunder.

Section 6. Fees and deposits.

1. Deposit. The building inspector shall deposit all fees and deposits, and all bonds or insurance policies with the city clerk.

2. Return upon nonissuance. Upon his refusal to issue a permit the building inspector shall return to the applicant all deposits, bonds and insurance policies. Permit fees filed with the application shall not be returned.

3. Return upon allowance for expense. After the building has been removed the building inspector shall furnish the city manager with a written statement of all expenses incurred in removing and replacing all property belonging to the city, and of all material used in the making of the removal and replacement together with a statement of all damage caused to or inflicted upon property belonging to the city. The city manager shall authorize the building inspector to return to the applicant all deposits after the city clerk deducts the sum sufficient to pay for all of the costs and expenses and for all damage done to property of the city by reason of the removal of the building. Permit fees deposited with the application shall not be returned.

Section 7. Duties of permit holder.

Every permittee under this ordinance shall:

1. Use designated streets. Move a building only over streets designated for such use in the written permit.

2. Notify of revised moving time. Notify the building inspector in writing of a desired change in moving date and hours as proposed in the application.

3. Notify of damage. Notify the building inspector in writing of any and all damage done to property belonging to the city within 24 hours after the damage or injury has occurred.

4. Display lights. Cause red lights to be displayed during the nighttime on every side of the building, while standing on a street, in such manner as to warn the public of the obstruction, and shall at all times erect and maintain barricades across the streets in such manner as to protect the public from damage or injury by reason of the removal of the building.

5. Comply with governing law. Comply with the building code, the fire code, the zoning ordinances and all other applicable ordinances and laws upon relocating the building in the city.

6. Pay expense of officer. Pay the expense of a traffic officer ordered by the city to accompany the movement of the building to protect the public from injury.

7. Clear old premises. Remove all rubbish and materials and fill all excavations to existing grade at the original building site so that the premises are left in a safe and sanitary condition.

8. Remove service connections. See that the sewer line is properly plugged, the water shut off, electricity disconnected and all meters returned to the city office. Permittee shall notify the gas and cable TV companies to remove their services.

Section 8. Enforcement.

1. Enforcing officers. The building inspector, police department and city manager shall enforce and carry out the requirements of this ordinance.

2. Permittee liable for expense above deposit. The permittee shall be liable for any expense, damages or costs in excess of deposited amounts or securities, and

the city attorney shall prosecute an action against the permittee in a court of competent jurisdiction for the recovery of such excessive amounts.

3. Premises left unsafe. The city shall proceed to do the work necessary to leaving the original premises in a safe and sanitary condition, where permittee does not comply with the requirements of this ordinance, and the cost thereof shall be charged against the general deposit.

Section 9.

That original Sections 6-15, 6-16, 6-17 and 6-18 of the Lexington City Code and all other ordinances or sections of ordinances in conflict herewith are hereby repealed.

Section 10.

This ordinance shall be published in pamphlet form and take effect as provided by law.

Passed and approved this 11th day of October, 1983.

CITY OF LEXINGTON, NEBRASKA

By *Elmer O. Young*
Mayor

ATTEST:

Gene E. Maly
City Clerk

