

CHAPTER 9
BUILDINGS

ARTICLE I. IN GENERAL.

The erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, uses, height, area, and maintenance of buildings or structures in the City of Carrington shall meet with the provisions of the rules and regulations of the North Dakota State Building Code and any future updates and amendments to that code, copies of which are on file with the City Auditor and are hereby made a part of this chapter by reference, and the City of Carrington hereby adopts said code as so modified.

All other provisions under Chapter 9 are hereby repealed.

ARTICLE II. DANGEROUS BUILDINGS - NUISANCES.

9.0102 In General.

All dangerous buildings, as found under this article, are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as hereinbefore and herein after provided.

9.0103 Duties of Building Official.

The building official shall:

(a) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this article;

(b) Inspect any building, wall or structure reported (as hereinafter provided for) by the fire or police departments of this city as probably existing in violation of the terms of this article;

(c) Notify in writing the owner, occupant, lessee, mortgagee, and all other persons having an interest in said building, as shown by the records in the office of the register of deeds of the county of Foster, of any building found by him to be a dangerous building, that (1) the owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this article; (2) the owner or occupant must vacate said building or may have it repaired in accordance with the notice and remain in possession. Provided, that any person notified under this subsection to repair, vacate or demolish any building shall be given thirty days, or such reasonable time to be determined by the building official, as may be necessary to do, or have done, the work or act required by the notice provided for herein,;

(d) Set forth in the notice provided for in subsection (c) hereof a description of the

building or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building, and an order requiring the same to be put in such condition as to comply with the terms of this chapter within such length of time, not exceeding thirty days, as is reasonable;

(e) Report to the city council any noncompliance with the notice provided for in subsections (c) and (d) hereof;

(f) Appear at all hearings conducted by the city council and testify as to the condition of dangerous buildings;

(g) Place a notice on all dangerous buildings reading as follows:
"This building has been found to be a 'dangerous building' by the Building Official. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the Register of Deeds of the County of Foster. It is unlawful to remove this notice until such notice is complied with."

9.0104 Duties of the city council

The city council shall:

(a) Upon receipt of a report of the building officer as provided for in section 9.0103, subsection (e), give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county to appear before it on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building officer's notice provided for herein in section 9.0103, subsection (d);

(b) Hold a hearing and hear such testimony as the building officer or the owner, occupant, mortgagee, lessee, or any other person having an interest in said building as shown by the records of the register of deeds of the county shall offer relative to the dangerous building;

(c) Make written findings of fact from the testimony offered pursuant to subsection

(b) As to whether or not the building in question is a dangerous building.

(d) Issue an order based upon findings of fact made pursuant to subsection (c) hereof commanding the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the records of the register of deeds of the county to repair, vacate or demolish any building found to be a dangerous building within the terms of this article and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said dangerous building;

(e) If the owner, occupant, mortgagee or lessee fails to comply with the order provided for in subsection (d) hereof, within ten days, the city council shall cause such building or structure to be repaired, vacated or demolished as the facts may warrant, and shall, with the assistance of the city attorney, cause the costs thereof to be assessed back against the property in the manner provided by law, or in the alternative, cause the costs of such repair, vacation or demolition to be recovered in a suit at law against the owner or other property party;

f) Report to the city attorney the names of all persons not complying with the order provided for in subsection (d) of this section.

9.0105 Violations- Penalty for disregarding notices or orders.

(a) The owner of any dangerous building who shall fail to comply with any notice or order to repair, vacate or demolish said building given by any person authorized by this article to give such notice or order shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding five hundred dollars for each offense, and every day subsequent to such notice in which the said owner shall fail to comply with any notice or order as above stated shall be deemed a separate offense.

(b) The occupant or lessee in possession who fails to comply with any notice to vacate and who fails to repair said building in accordance with any notice given as provided for in this article shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding five hundred dollars for each offense, and every day subsequent to such notice or order as above stated shall be deemed a separate offense.

(c) Any person removing the notice provided in section 9.1043, subsection (h) shall be guilty of a misdemeanor and upon conviction shall be fined not exceeding five hundred dollars for each offense.

9.0106 Duties of the City Attorney.

The city attorney shall:

(a) Prosecute all persons failing to comply with the terms of the notices provided for in section 9.0103, subsections (c) and (d) and the order provided for in section 9.0104, subsection (d);

(b) Appear at all hearings held by the city council in regard to dangerous buildings;

(c) Take such other legal action as is necessary to carry out the terms and provisions of this article.

9.0107 Owner absent from the city.

All notices or orders provided for in this article shall be sent by registered mail to such owner, occupant, lessee or mortgagee, and all other persons having an interest in said building, to the last known address of each, and a copy of such notice shall be posted in a

conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service.

9.0108 Duties of the Fire Department.

The members of the city fire department shall make a report in writing to the building officer of all buildings or structures which are, may be, or are suspected to be dangerous buildings. Such reports must be delivered to the building officer within forty-eight (48) hours of the discovery of such buildings by any member of the fire department.

9.0109 Duties of the Police Department.

All employees of the police department shall make a report in writing to the building officer of all buildings or structures which are, may be, or are suspected to be dangerous buildings. Such reports must be delivered to the building officer within forty-eight (48) hours of the discovery of such buildings by any employee of the police department.

9.0110 Recommended duties of the County Health Officer and Board of Health.

The county health officer and members of the county board of health may make a report in writing to the building officer of all buildings or structures which are, may be, or are suspected to be dangerous buildings, and which, because of their condition, are untenable, unsanitary or dangerous to the health, morals, safety or general welfare of the occupants or the people of this city. Such reports should be delivered to the building officer within forty-eight (48) hours of the discovery of such buildings by any member of the board of health or the health officer.

9.0111 Appeal.

(a) The city council shall serve upon the owner, occupant, mortgagee, lessee, and all other persons having an interest in any such building so ordered repaired, vacated or demolished, a copy of its order, such notice to be served upon such owner, occupant, mortgagee or lessee within ten (10) days after the issuance of such order. Such owner, occupant, mortgagee or lessee shall thereafter have thirty (30) days from the date of the service of such order upon him/her in which to appeal from such order to the District Court of Foster County, North Dakota, or to take such other legal steps to enjoin the enforcement of such order as he/she may deem proper.

(b) Any person desiring to appeal from an order issued by the city council under and by virtue of this article shall file an undertaking in the sum of at least five hundred dollars (\$500.00), to be approved by the city auditor, and conditioned that the appellant will prosecute the appeal without delay and will pay all costs that may be adjudged against him/her in district court. Such undertaking shall be payable to the city.

Article III – BUILDING OFFICIAL

9.0112 Definitions.

As used in this Code, the following words and terms shall have the meanings ascribed to them in this section:

“Building Official” shall mean the person, or his designee, responsible for enforcing the City of Carrington building codes, issuing building permits, inspecting buildings, structures and related activities, issuing certificates of occupancy, presenting data and reports to the public, Planning Commission and City Council as requested, and any other duties as assigned by the City Council.

“Code Administrator” shall mean “Building Official”.

“Building Inspector” shall mean “Building Official”.

9.0113 Building official - office created; appointment and tenure; acting building official.

(a) The office of building official is hereby created and the executive official in charge shall be known as the building official.

(b) The building official shall be appointed by the City Council for a term of two (2) years. His appointment shall continue during good behavior and satisfactory service. He shall not be removed from office except for cause after full opportunity has been given him to be heard on specific charges.

(c) During temporary absence or disability of the building official the City Council shall designate an acting building official. In the event the City of Carrington does not have a building official on staff, the City Council shall appoint or designate an acting building official to assume the duties and responsibilities of the building official as defined in this Chapter.

9.0114. Building official qualifications.

To be eligible for appointment, the candidate for the position of building official shall have had experience as an architect, structural engineer, building inspector, superintendent of building construction, or other relevant experience the City Council deems appropriate. He shall be in good health and physically capable of making the necessary examinations and inspections. He shall not have any interest whatever, directly or indirectly, in the sale or manufacture of any material, process or device entering into or used in or in connection with building construction, alterations, removal and demolition.

9.0115. Building official duties, generally.

The building official, or his designee, shall:

(a) Receive applications as required by this Code, issue permits required by this Code, and furnish any certificates prescribed by this Code;

(b) Examine the premises for which permits have been issued and make necessary inspections to see that the provisions of law are complied with and that construction is prosecuted safely;

(c) Take any action authorized by this Code, the adopted building code, or law to enforce all provisions of this Code, the adopted building code, or law;

(d) When requested by proper authority, or when the public interest requires, make investigations in connection with matters referred to in this Code, the adopted building code, or law and render written reports on the same;

(e) Issue notices or orders as may be necessary to enforce compliance with this Code, the adopted building code, or law, to remove illegal or unsafe conditions, to secure the necessary safeguards during construction, or to require adequate exit facilities in buildings and structures.

9.0116. Inspections generally.

Inspections required by this code or under the provisions of the adopted building code shall be made by the building official. The building official may accept reports of inspectors of recognized inspection services, after investigation of their qualifications and reliability, in lieu of performing the inspection himself. No certificate called for by any provision of this code or the building code shall be issued on such reports unless the same are in writing and certified by a responsible officer of such service.

9.0117 Right of entry.

The building official has the authority to enter any building, structure or premises in the discharge of his official duties. The inspections shall be conducted during regular business hours or at any other reasonable time.

9.0118 Administrative search warrant.

Whenever the building official is denied access to a building for an inspection, he may secure an administrative search warrant from a magistrate, as defined in Chapter 29-01-14, N.D.C.C., in accordance with Chapter 29-29.1, N.D.C.C.

9.0119 Notice and order.

Whenever a violation of this Code, the adopted building code, or law is found, unless otherwise specified, the building official shall give written notification to the owner and the person in charge of the work that a violation has occurred and order the violation abated and the work brought back into compliance with this Code. A reasonable time must be allowed for compliance.

9.0120 Appeal and emergency.

All decisions of the building official dealing with violations of this Code, the adopted building code, or law or the issuance or non-issuance of the licenses or permits required by this Code, the adopted building code, or law are subject to appeal to the City Council upon written notice of appeal filed within fifteen (15) days of issuance of the decision. If no appeal is filed within the time period specified, the decision of the building official is final. An appeal stays the decision issued unless the building official certifies to the City Council that a stay would cause imminent danger to life and property in which case the decision may be stayed only by a restraining order from the City Council or a court of record.

9.0121 Hearing.

Upon receiving the notice of appeal the City Council shall set a date for a hearing within fifteen (15) days of receipt of the notice of appeal. Notice of the time and place for the hearing must be served upon the appellee by certified mail or in person not less than five (5) days prior to the hearing.

9.0122 Violation – penalty.

Any person who fails to comply with a final or un-stayed decision of the building official or a decision of the City Council after a hearing, shall have committed an ordinance violation and shall be subject to the provisions of Chapter 1, Section 1-9. Each day the violation continues constitutes a separate offense.

9.0123 Abatement.

The imposition of a penalty provided by the provisions of this Code, the adopted building code, or law shall not preclude the City from instituting proceedings to restrain, correct, or abate a continuing violation of this Code. If within ten (10) days of a final order, that order has not been obeyed, the building official is hereby authorized to restrain, correct, or abate the violation and have the costs incurred assessed against the property.

9.0124 Permits.

(a) It is unlawful to do any work covered by this Code for which a permit is required without first obtaining a permit.

(b) Nothing in this Code, the adopted building code, or law shall be construed to prohibit emergency repairs at times when it is not practical or possible to obtain a permit. When emergency work is done an application for a permit must be submitted within twenty-four (24) hours of completion, exclusive of weekends and holidays.

(c) The issuance or granting of a permit or approval of plans and/or specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of this Code. The issuance of a permit upon plan and/or specifications shall not prevent the building official from thereafter requiring the correction of errors in the plans and/or specifications, or from preventing building operations being carried on thereunder when in violation of this Code, the adopted building code, or law.

9.0125 Liability.

In no event shall the City assume any liability for personal injury or property damage caused by any defect in work that was inspected and approved, done under a permit, or done under plans approved pursuant to the provisions of this Code, the adopted building code, or law.

9.0126 Building official records.

The building official shall keep comprehensive records of applications for permits, of permits issued, of certificates issued, of inspections made, of reports rendered and of notices or orders issued. He shall retain on file copies of required plans and/or specifications and all documents relating to building work as long as any part of the building or structure to which they relate may be in existence.

All such records shall be open to public inspection during regular office hours, but such records shall not be removed from the office of the building official without his written consent.

9.0127 Building official reports.

The building official shall make written reports to the City Council once each month at its regularly scheduled meeting, or more often if requested, including statements of permits and certificates issued, and orders promulgated.

9.0128 Building official to cooperate with other city officials.

In the discharge of his duties, the building official may request, and may receive so far as may be necessary, the assistance and cooperation of other officials of the City.

Article IV

9.0129. Definition

Under this section a container shall be defined as any structure that is a reusable and closed, semi closed or open vessel or cargo container that is used for the storage of freight articles, goods, solid waste, personal belongings, commodities or the like that is a minimum size of 512 cubic feet. For purposes of this Article, a container shall not include a commercially owned waste dumpster.

9.0130 Residential and C-1 Use of Containers Prohibited, Exception-Temporary Permit.

No container is permitted within a residential zoning district or C-1 district without previously obtaining a temporary storage permit from the auditor's office.

A residential temporary storage permit may be obtained upon approval by the city auditor upon application made and signed by the owner or occupant along with a fee as set forth from time to time by resolution of the City Council. Such a permit shall be valid for a period of 30 days. No owner or occupant may request more than one, 30 day permit within one calendar year.

In the event of denial, request for a permit for a period of time beyond 30 days, or request for a subsequent permit within a one year, such permit will not be approved without consent of the City Council.

9.1031. Temporary Permit Requirements.

A permittee, as a condition of the permit, shall agree to all of the following:

1. Grant consent to the Public Works Director or any other duly authorized representative of the City to enter upon the premises listed in the permit for inspection of the container to determine compliance with this section;
2. Position the container in such manner that will not affect access to the property or to the property adjacent land owners. The container shall not be maintained in a setback area. The container shall not be placed upon a street or other public right of way. The Public Works Director shall have discretion to determine if the location of a container is appropriate and has the authority to request the permittee to re-locate said container;

3. Control for rodents, vermin, and other pests which shall include, but not be limited to, closing or sealing all forklift stake pockets and lock holes;
4. Secure the container in such a manner as to prevent the attraction of children or other persons to the container; and
5. Maintain the container in such a manner that does not affect the public's health and safety and comports with all other local, state and federal regulations.

Failure of the permittee to meet the above conditions, may be cause to revoke the permit. Such revocation shall be within the sole discretion of the Public Works Director.

9.0132. C-2 and I-1 Use of Container Prohibited in Commercial Districts, Exception-Yearly Permit.

The use of a container within C-2 and I-1 zoned districts is prohibited unless the owners or occupant has duly applied for and obtained a yearly permit in accordance with the ordinances of the City of Carrington. A yearly permit may be obtained in accordance with the ordinances of the City of Carrington. A yearly permit may be obtained by completing an application as may be modified from time to time by the Public Works Director. As part of the application, each applicant must specify the exact location applicant intends to place the container, prior to placement, which shall be subject to the Public Works Director's approval. Upon receipt of a completed application and yearly fee as set forth from time to time by resolution of the City Council, the Public Works Director shall review and issue a permit for all applications meeting the requirements set forth in these Ordinances.

9.1031. Yearly Permit Requirements.

A permittee, as a condition of the permit, shall agree to all of the following:

1. Grant consent to the Public Works Director or any other duly authorized representative of the City to enter upon the premises listed in the permit for inspection of the container(s) to determine compliance with this section;
2. Limit the total cubic feet of container(s) located on each lot at 3,840 cubic feet;
3. Each container shall be painted one solid, flat, neutral color devoid of all art, graffiti, and advertising. Neutral colors may include, but are not limited to, dark blue, dark green, gray or black;
4. Anchor the container(s) onto a concrete foundation;
5. Position the container(s) in such manner that will not affect access to the property or to the property of adjacent land owners. The container(s) shall not be maintained in a setback area. The container(s) shall not be placed upon a street or other public right of way. The Public Works Director shall have discretion to determine if the location of a container(s) is appropriate and has the authority to request the permittee to re-locate said container(s);
6. Control for rodents, vermin, and other pests which shall include, but not be limited to, closing or sealing all forklift stake pockets and lock holes;
7. Secure the container(s) in such a manner as to prevent the attraction of children or other persons to the container(s); and

8. Maintain the container(s) in such a manner that does not affect the public's health and safety and comport with all other local, state and federal regulations.

Each permit approves of the placement of containers to the maximum cubic feet allotment as set forth above, for each lot. Only one permit will be given to each lot.

9.0134. Revocation or Denial of Permit.

Failure of the permittee to meet the conditions set forth in Section 9.0133, may be cause to revoke the permit or the denial of a new permit. Such revocation or denial shall be within the sole discretion of the Public Works Director. In the event of a revocation or denial, the Public Works Director shall send a letter to the address given in the application notifying the permit holder or applicant, as the case may be, of the revocation or denial and that any container must be removed from the property within 30 days of the date of the letter.

Any denial of a permit may be reviewed at the request of the applicant or permit holder with the City Council. Such a request must be made in writing to the City Auditor within 30 days of the date of the letter. City Council may approve, approve with conditions, deny or take any other action upon the permit or application it deems appropriate. The decision of the City Council shall be final. In the event the City Council revokes a permit or denies a new permit or requires certain conditions to be met, the container shall be removed or the conditions shall be met within 30 days unless the City Council order otherwise.

9.0135. Penalty

Any owner or occupant who maintains a container on their premises in violation of these ordinances shall be guilty of an infraction and may be fined not more than \$500.00. The continued storage of a container upon the premises shall be a new violation each day.

9.0136. Effect on Existing Use – Sunset

This ordinance shall not apply to any existing container use as of the effective date of this ordinance for a period of four years. However, this clause shall apply when the property's zoning use changes, if the owner removes the container from the premises, changes the location of the container, or the container otherwise violates any other federal, state, or local law. After the four year period, all property owners must be in compliance with this Article.

9.0137 Effective Date.

The Effective date of this ordinance shall be August 1, 2018.