

**NEBRASKA BASIC CODE
OF ORDINANCES
FOR CITIES
OF THE SECOND CLASS**

**By
The League of Nebraska Municipalities**

Contains state legislation through July 1, 2013

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THE NEBRASKA BASIC CODE USER'S GUIDE

Adoption of the NBC

The Nebraska Basic Code (NBC) is intended to be adopted by a municipality as its own code of ordinances. The NBC contains extensive regulations concerning the subjects listed in its table of contents.

The NBC must be adopted by ordinance before it is effective. Provided for your convenience is a sample, "Ordinance Adopting the Nebraska Basic Code of Ordinances." The ordinance adopting the NBC must be adopted at a meeting of the municipal legislative body in the same manner as an ordinance on a specific subject is adopted. All publication requirements must be met. The entire NBC is not published, only the ordinance adopting the NBC. Once passed, please send a copy of the adopting ordinance to American Legal Publishing.

A municipality is free to adopt ordinances on subjects not covered by the NBC or to amend the provisions of the NBC to conform to local needs and concerns. These ordinances and all amendments should be codified and added to the NBC in Title XVII.

Before adopting the NBC, the municipality must have a copy of the NBC as it is proposed to be adopted in the office of the municipal clerk for inspection by the public. Once adopted, the municipality must also file a copy of the NBC, along with any local Title XVII ordinances, with the county court. (See Neb. Rev. Stat. 25-2703, and Rule No. 57 of the Neb. Court Rules of County Courts) Until then, the municipality should retain its old code on file with the county court.

The enclosed Model Ordinance Adopting the Nebraska Basic Code of Ordinances repeals all ordinances pertaining to the subjects treated in the NBC which were adopted by the municipality prior to the adoption of the NBC. If there are ordinances pertaining to subjects covered by the NBC, but which the municipality wishes to continue in force (and perhaps add to Title XVII of the NBC), the municipality or its attorney should customize the enclosed adopting ordinance to specifically exclude those ordinances from repeal. Municipalities with an existing Title XVII should customize the enclosed ordinance to exclude Title XVII from repeal.

Use of the NBC

The code is intended to be used in three ways.

First, it can be adopted by any Nebraska village or city of the second class under the mayor-council form of government. It would then replace the existing ordinances on the subjects contained in the NBC. Ordinances on topics not contained in the NBC will continue in effect. The

code can be amended or supplemented by additional local ordinances. Amendments should be codified and contained in Title XVII. New ordinances on topics not contained in the NBC can be either included in Title XVII or kept in the municipality's ordinance files. Note that legislation intended to be enforced by the courts should be codified as part of Title XVII and a copy placed on file with the county court.

Second, when a municipality uses the League of Nebraska Municipalities and its consultant American Legal Publishing to codify its existing ordinances, various parts of the NBC may be used as the basis for any changes in already existing ordinances, or specific provisions can be included in the new municipal code. A municipality may use the NBC as a basis for designing a new custom code book.

Third, it can be used as a reference book by municipal attorneys and municipal staff who wish to have models of ordinances available which they can modify and recommend to their municipality for adoption, with appropriate acknowledgment by the municipality that the LNM/ALP'S NBC is being used. Use by non-attorneys as the basis for municipal ordinances is discouraged unless the draft is reviewed by a municipal attorney before adoption, as the drafting of ordinances is a legal matter and knowledge of the existing statutes and other laws upon which an ordinance is based is imperative. The NBC has been prepared for use by villages and cities of the second class under the mayor-council form of government; however, many provisions are derived from statutes that also apply to other classes of municipalities and thus can be used by those municipalities.

Fees and Charges

No fees or charges are specified in the NBC, unless a specific amount is required by law. A municipality adopting the NBC should therefore adopt an ordinance establishing fees and charges. Until that ordinance is adopted, any fees and charges established by ordinances that are in effect when the NBC is adopted remain in effect.

Councils, Departments, Boards and Commissions

For legislative bodies, departments, boards and commissions, the NBC does not specify the number of members, as it may vary among municipalities. A municipality adopting the NBC may establish the particular number by ordinance, and may add that ordinance to Title XVII if the municipality wishes to have the number set forth in the code book. Until that ordinance is adopted, any ordinances establishing the membership number(s) that are in effect when the NBC is adopted remain in effect.

The municipality may also adopt other ordinances regarding municipal legislative bodies, departments, boards and commissions. For example, the municipality should set the specific time and place of its legislative body's meetings (see § 33.04). Such ordinances may simply be kept on file, or may be sent in and codified in Title XVII, at the municipality's option.

Arrangements and Numbering

The Nebraska Basic Code is divided into eight odd-numbered titles, each devoted to a particular topic of municipal law. The titles include the following topics: Title I - General Provisions; Title III - Administration; Title V - Public Works; Title VII - Traffic Code; Title IX - General Regulations; Title XI - Business Regulations; Title XIII - General Offenses; and Title XV - Land Usage. The last title, Title XVII, is reserved for local legislation, if any.

Titles are divided into chapters, and all chapters are subdivided into sections. A citation to a specific section identifies the title, chapter and section number of the Basic Code provision being cited. For example, "71.11" refers to section 11 of Chapter 71 in Title VII. Title and chapter number appear to the left of the decimal: the title number precedes the first digit to the left of the decimal, and the chapter number constitutes all numerals to the left of the decimal. The section number appears to the right of the decimal. As another example, "130.02" indicates that the citation refers to section 02 of Chapter 130 in Title XIII.

General Provisions

The purpose of this title is to create consistency throughout the code, and the provisions of Title I apply to all titles of the code. Thus, the general provisions of Title I will not be repeated throughout the code unless a variation of the provision applies to a particular code provision. Title I contains provisions concerning general definitions, rules of construction, the effect of amendment or repeal, the construction of section references, conflicting provisions, severability, errors and omissions, ordinances repealed, ordinances unaffected, interpretation, amendments to the code, amendatory language, explanation of statutory references, preservation of penalties, offenses, rights and liabilities, and a general penalty.

General Penalty

Penalty provisions have been given a section number of .99. A general penalty has been provided at § 10.99. This general penalty will apply when no other penalty has been specifically provided for in another provision of this code.

Title and Chapter Analysis

A table of contents, giving the name of each chapter within the title and the respective chapter numbers, can be located on the first page of each title. A Chapter Analysis, giving section headings and the respective section numbers, can be located on the first page of each Chapter. Thus, if a user wants to search for a specific crime involving property, the user could bypass the general index and go directly to the Table of Contents at the beginning of Title XIII. A quick scan down this Table of Contents would identify Chapter 130 as "Property Offenses." The user could

then go directly to Chapter 130 and scan the Chapter Analysis for the appropriate section heading, such as “Trespass.”

References

The table entitled “References to Nebraska Statutes” enables a user to trace those citations to Nebraska Statutes (cited as “Neb. RS” in the NBC) which appear throughout the NBC. This table enables a user to quickly and accurately determine if a statute is adopted by reference or otherwise cited in the NBC.

Index

The Index contains references to all Basic Code provisions currently in effect. Index references cite section numbers.

Questions and Suggestions

Questions and comments may be directed to Customer Service, American Legal Publishing, 432 Walnut Street, 12th Floor, Cincinnati, OH 45202, 1-800-445-5588, customerservice@amlegal.com. Suggestions specifically relating to the contents of the Nebraska Basic Code may be sent to Christi Baunach, Staff Attorney, American Legal Publishing, 432 Walnut Street, 12th Floor, Cincinnati, OH 45202, cbaunach@amlegal.com. Because this is a document that will continually be improved, corrections or suggestions for improvement are welcomed, along with suggestions for model ordinances which should be included in future editions.