

CHAPTER IV. BUILDING AND CONSTRUCTION

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ARTICLE 1. BUILDING CODE

- 4-101. **STANDARD BUILDING CODE INCORPORATED.** The certain standard code known as the Uniform Building Code, 1985 Edition, published by the International Conference of Building Officials, is hereby incorporated by reference and made part of this article, save and except such portions as hereinafter in this article be deleted or amended. There shall be no fewer than three copies of the standard code incorporated by reference and kept on file in the office of the city clerk and kept available for inspection by the public at all reasonable hours. The filed copies of the standard code shall be marked "Official Copy as Incorporated by the Code of the City of Cimarron." All sections or portions of the filed copies of the standard code shall be clearly marked to show deletions from the standard code. (Ordinance 865 – 10/03/94)
- 4-102. **PERMIT REQUIRED.** Before beginning any building, any construction, or any repair work that changes existing structure size, foundation or roof lines, the person doing such work shall apply to the City and obtain a permit to do such work. All such work shall meet the building code requirements and the zoning requirements of the City. The fee for the permit shall be the sum of 5¢ per square foot of new buildings and a flat \$10 fee for fences, decks, porches, patios, and other similar construction. (Ord. 912 – 07/29/02)

ARTICLE 2. PLUMBING AND GAS-FITTING CODE

- 4-201. **PLUMBING CODE INCORPORATED.** The Uniform Plumbing Code, Edition of 1982, published by the International Association of Plumbing and Mechanical Officials, a standard for the installation, maintenance, extension and the alteration of all pipes, fixtures, appliances and appurtenances in connection with sanitary sewers, public and private water systems and gas piping systems is hereby incorporated by reference as the plumbing code of the city. The code shall be the minimum standard for all plumbing work done or performed under the provisions of this article except as hereinafter provided. No fewer than three copies of the Uniform Public Code shall be kept on file in the office of the city clerk for inspection by and use of the public at all reasonable business

hours. The filed copies shall be marked or stamped with the words “Official Copy as Incorporated by the Code of the City of Cimarron.” All sections or portions of the filed copies of the standard code shall be clearly marked to show deletions or amendments from the standard code. (Code 1986)

4-202. DEFINITIONS. For the purpose of this article, the following terms shall mean:

- (a) Gas-Fitter or Gas-Fitting Contractor – Any person engaged in the business of installing, repairing, altering or maintaining gas piping, which shall include all pipes, valves or fittings used for conveying fuel gas located within the property lines of any premises or in any building, except (1) any portion of the service piping installed by or under the control and maintenance of a gas utility, and (2) any approved piping connection six feet or less in length extending between an existing gas outlet and a gas appliance located in the same room as the outlet.
- (b) Plumber or Plumbing Contractor – Any person engaged in the business of installing, altering, maintaining, or repairing plumbing, which shall include all materials and plumbing fixtures, water pipes, portable water treatment equipment, traps, drainage and vent piping, and building drains, including their respective joints, connections, devices, receptacles and appurtenances located within the property lines of any premises or in any building.

(Code 1986)

ARTICLE 3. ELECTRICAL CODE

4-301. NATIONAL ELECTRICAL CODE INCORPORATED. The certain standard code known as the National Electrical Code, 1984 Edition, published by the National Fire Protection Association, is hereby incorporated herein by reference and made a part of this article, save and except such portions as may hereinafter in this article be deleted or amended. There shall be no fewer than three copies of the standard code incorporated by reference and kept on file in the office of the city clerk and kept available for inspection by the public at all reasonable hours. The filed copies of the standard code shall be marked “Official Copy as Incorporated by the Code of the City of Cimarron.” All sections or portions of the filed copies of the standard code shall be clearly marked to show deletions from the standard code. (Code 1986)

4-302. DEFINITION. For the purpose of this article, the following shall mean:

- (a) Electrician or Electrical Contractor – Any person engaged in the business of installing, repairing or maintaining electrical wiring and apparatus, which shall include all wiring, materials, devices, machinery, appliances, fixtures, motors or conductors used in connection with the transmission or consumption or current used in electrical light, heat or power. (Code 1986)

4-303. STANDARDS. All electrical construction, all materials, appliances, motors, heating devices and apparatus used in connection with electrical work and the operation of all electrical apparatus within the city shall conform to the rules and requirements of the

edition of the National Electrical Code adopted by the city at the time when work is performed or equipment and apparatus installed. (Code 1986)

ARTICLE 4. DANGEROUS AND UNFIT STRUCTURES

- 4-401. **PURPOSE.** The governing body has found that there exist within the corporate limits of the city structures which are unfit for human use or habitation because of dilapidation, defects increasing the hazards of fire or accidents, structural defects or other conditions which render such structures unsafe, unsanitary or otherwise inimical to the general welfare of the city, or conditions which provide a general blight upon the neighborhood or surrounding properties. It is hereby deemed necessary by the governing body to require or cause the repair, closing or demolition or removal of such structures as provided in this article. (K.S.A. 12-1751; Code 1986)
- 4-402. **DEFINITIONS.** For the purpose of this article, the following words and terms shall mean:
- (a) Structure shall include any building, wall, superstructure or other structure which requires location on the ground, or is attached to something having a location on the ground.
 - (b) Public Officer means the city building inspector or his or her authorized representative.
- (K.S.A. 12-1750; Code 1986)
- 4-403. **PUBLIC OFFICER; DUTIES.** The public officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this article, including the following:
- (a) Inspect any structure which appears to be unsafe, dangerous or unfit for human habitation;
 - (b) Have authority to enter upon premises at reasonable hours for the purpose of making such inspections. Entry shall be made so as to cause the least possible inconvenience to any person in possession of the structure. If entry is denied, the public officer may seek an order for this purpose from a court of competent jurisdiction;
 - (c) Report all structures which he or she believes to be dangerous, unsafe or unfit for human habitation to the governing body;
 - (d) Receive petitions as provided in this article.
- (Code 1986)
- 4-404. **PROCEDURE; PETITION.** Whenever a petition is filed with the public officer by at least five residents charging that any structure is dangerous, unsafe or unfit for human habitation, or whenever it appears to the public officer on his or her own motion that any structure is dangerous, unsafe or unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, report such findings to the governing body. (Code 1986)

- 4-405. SAME; NOTICE. The governing body upon receiving a report as provided in section 4-404 shall by resolution fix a time and place at which the owner, the owner's agent, any lien holder of records and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished. (K.S.A. 12-1752; Code 1986)
- 4-406. SAME; PUBLICATION. (a) The resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing.
- (b) A copy of the resolution shall be mailed by certified mail within three days after its first publication to each owner, agent, lien holder and occupant at the last known place of residence and shall be marked "deliver to addressee only."
- (K.S.A. 12-1752; Code 1986)
- 4-407. SAME; HEARING, ORDER. (a) If, after notice and hearing, the governing body determines that the structure under consideration is dangerous, unsafe or unfit for human use or habitation, it shall state in writing its findings of fact in support of such determination and shall cause to be served upon the owner or agent an order directing such owner to either repair or demolish or remove the structure.
- (c) If the repair, alteration, or improvement of the structure can be made at a cost which shall not exceed 50 percent of the fair market value of the structure, the owner of the property shall, within the time specified in the order, repair, alter, or improve the structure to render it safe and fit for human use or habitation, or shall vacate and close the structure until such time and he or she has complied with the order.
- (d) If the repair, alteration or improvement of the structure cannot be made at a cost of 50 percent or less of its fair market value, the owner shall, within the time specified in the order, remove or demolish the structure.
- (Code 1986)
- 4-408. DUTY OF OWNER. Whenever any structure within the city shall be found to be dangerous, unsafe or unfit for human use of habitation, it shall be the duty and obligation of the owner of the property to render the same secure and safe or to remove the same.
- (Code 1986)
- 4-409. SAME; FAILURE TO COMPLY. (a) If, within the time specified in the order, the owner fails to comply with the order to repair, alter, improve or vacate the structure, the public officer may cause the structure to be repaired, altered, improved, or to be vacated and closed.
- (c) If, within the time specified in the order, the owner fails to comply with the order to remove or demolish the structure, the public officer may cause the structure to be removed and demolished.
- (Code 1986)
- 4-410. SAME; MAKE SITE SAFE. Upon removal of any structure, the owner shall fill any basement or other excavation located upon the premises and take any other action neces-

sary to leave the premises in a safe condition. If the owner fails to take such action, the public officer may proceed to make the site safe. (Code 1986)

- 4-411. **ASSESSMENT OF COSTS.** (a) The cost to the city of any repairs, alterations, improvements, vacating, removal or demolition by the public officer, including making the site safe, shall be reported to the city clerk.
- (b) The city clerk may sell any salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the site safe. Any proceeds in excess of that required to recover the costs shall be paid to the owner of the premises upon which the structure was located.
- (c) If the proceeds of the sale of salvage is insufficient to recover the cost, or if there is no salvage, the city clerk shall, at the time of certifying other city taxes, certify the unpaid portion of the costs to the county clerk who shall extend the same on the tax roll of the county.
- (K.S.A. 12-1756; Code 1986)

4-412. **IMMEDIATE HAZARD.** When in the opinion of the governing body any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the governing body may direct the public officer to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, agents lienholders and occupants. The cost of any action under this section shall be assessed against the property as provided in section 4-411. (Code 1986)

4-413. **APPEALS FROM ORDER.** Any person affected by an order issued by the governing body under this article may, within 30 days following service of the order, petition the district court of the county in which the structure is located for an injunction restraining the public officer from carrying out the provisions of the order pending final disposition of the case. (Code 1986)

ARTICLE 5. MOVING BUILDINGS

4-501. **PERMIT NECESSARY.** It shall be unlawful for any person to move, haul or transport, any house, building, derrick or other structure of the height of 16 feet or over, or of a width of 15 feet or more upon, across or over any street or alley in this city without first obtaining a permit therefore as hereinafter provided. (Code 1986)

4-502. **APPLICATION FOR PERMITS.** All applications for permits to move houses, buildings, derricks or other structures mentioned in section 4-601 shall be made in writing to the city clerk specifying the day and hour said moving is to commence and the route thru the city's streets over which said building or structure shall be moved. If it shall be necessary to cut down and move, raise or in any manner interfere with any wires or poles, the application shall state the name of the owners of said wire and poles, the time and place, when and where the removal of said poles and the cutting, raising, or otherwise interfering with said wires will be necessary. (Code 1986)

4-503. POLES AND WIRES. No person, firm or corporation shall remove, raise or cut any wires of the city but all such removal of poles, wires, or other city utility structures shall be handled by the city. The necessary expense which is incurred thereby shall be paid by the holder of the moving permit. (Code 1986)

4-504. BOND, INSURANCE REQUIRED. (a) It shall be the duty of any person at the time of making application for a permit as provided in this article to give a good and sufficient surety bond to the city, to be approved by the governing body, indemnifying the city against any loss or damage resulting from the failure of any such person to comply with the provisions of this article or for any damage or injury caused in moving any such house or structure. The bond herein shall be in the sum of \$5,000, or cash may be deposited in lieu of such surety bond.

(b) A public liability insurance policy issued by an insurance company authorized to do business in the State of Kansas, in the amount of \$100,000 per person \$300,000 per accident as to personal injury, and \$50,000 property damage may be permitted in lieu of a bond.

(Code 1986)

ARTICLE 6. HEATING AND COOLING STANDARDS

4-601. DEFINITIONS. For the purposes of this article, the following rules of construction and definitions shall apply.

(a) City refers to the City of Cimarron, Kansas.

(b) Shall and will are mandatory.

(c) ASHRAE refers to the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., of New York, New York.

(d) BTUs means British Thermal Units.

(e) EER means Energy Efficiency Ratio, the ratio of net cooling capacity in BTUs/hr. to total electric input in watts.

(f) Heated Space shall mean that space within a building which is provided with a positive heat supply having a connected output capacity in excess of 10 BTUs/hr. per square foot.

(g) New Commercial Building shall mean any building used to provide, at wholesale or retail, storage, services, supplies, goods or products to the public, other than a building used for the purpose of manufacturing raw material into a finished product, but shall not be construed to apply to any such building whose foundation has been completed by August 1, 1978.

(h) New Residential Building shall mean all new hotels, motels, apartment houses, lodging, houses, private homes and other residential dwellings, construction of which commences on or after the effective date of this article, but shall not be construed to apply to mobile homes, or any such new residential dwelling where the foundation has been completed by August 1, 1978. This definition shall apply to buildings of mixed occupancy.

(i) Owner shall mean a person, as defined herein, holding legal title to the residential dwelling or commercial building.

(j) Person shall mean any individual, individuals, corporations, partnership, unincorporated association or other business organization, committee, board, trustee, receiver or agent.

(k) City Utility shall mean the electric system operated by the city.

(Ord. 731, Sec. 1)

4-602. **CERTIFICATE OF COMPLIANCE.** No connections or attachments of service to new residential dwellings or new commercial buildings shall be made by a city utility until such utility has received a certificate of compliance from the owner that the residential dwelling or commercial building meets the standards set forth in section 4-603 of this article. Such certificate of compliance shall include supporting statements from the architect and/or contractor, if either or both such persons were employed in the design and construction of the new residential dwelling or new commercial building. Receipt by the city utility of such certificate of compliance shall be required for permanent utility service. (Ord. 731, Sec. 2)

4-603. **STANDARDS.** Certificates of compliance required by section 4-602 of this article shall certify that the following heating and cooling standards have been met where applicable:

(a) New residential dwelling shall be constructed so that the total heat loss, based on the ASHRAE Handbook of Fundamentals does not exceed 35 BTUs per square foot per hour of heated floor area of finished living space, at a design temperature differential of 80 degrees Fahrenheit with a maximum of 1½ air changes per hour. Such dwelling must be equipped with storm windows and storm doors or other satisfactory window and door thermal treatment.

(b) New commercial buildings shall be constructed so heat transmission loss of heated areas, based on the ASHRAE Handbook of Fundamentals, does not exceed 35 BTUs per square foot per hour of floor area based on a design temperature differential of 80 degrees Fahrenheit.

(c) The EER of all air conditioners in new residential dwellings and new commercial buildings on and after August 1, 1978, shall be not less than 7.0; the EER of heat pumps in such structures shall be not less than 6.7.

(d) The EER of all air conditioners in new residential dwellings and new commercial buildings on and after November 1, 1979, shall be not less than 8.0; the EER of heat pumps in such structures shall be not less than 7.5.

(e) In the case of a new residential dwelling or new commercial building which is heated and/or cooled in only a portion of the structure, the requirements of this section shall apply only to the heated and/or cooled portion of the structure.

(Ord. 731, Sec. 3)

ARTICLE 7. WIND ENERGY CONVERSION SYSTEMS

4-701. **PERMITS.** No person, corporation or company shall construct any wind energy conversion system (WECS) within the city without first procuring a permit from the city clerk and paying for the permit a sum similar to that which would be required under the building code for a building permit. No permit shall be issued until evidence is presented by

the applicant that the restrictions, rules, and regulations of section 4-702 can be complied with. A permit shall not entitle the applicant to connect the system to the city electrical utility distribution system until such time as the completed system is inspected by the city utility supervisor. (Code 1986)

4-702. RULES, RESTRICTION, AND REGULATIONS FOR CONSTRUCTION OF WECS. Wind energy conversion systems are subject to the following restrictions, rules and regulations. The city must have satisfactory evidence provided by the applicant before construction begins that these regulations will be complied with and sufficient compliance after construction before access to the electrical distribution system of the city is allowed:

(1) Minimum Distance. The minimum distance from all zoning lot lines to any tower, pole, or other support base of the WECS shall be determined by the following table:

<u>Rotor Diameter (feet)</u>	<u>Setback Diameter (feet)</u>
5	100
10	165
15	220
20	270
25	310
30	340
35	365
40	385

Intermediate rotor size distance shall be interpolated. In addition, the height of the total structure, rotor, and base, shall not be greater than the distance to any lot line.

- (2) Interference. The WEC shall not cause interference to microwave communications or radio and television reception in the area. Prior to construction the applicant shall show to the city evidence that the construction as applied for shall not interfere with microwave communication or radio or television reception in the area. Upon complaint by any person near the WECS, use of the WECS shall stop until determination as to the source of the interference with reception can be determined. The WECS shall not be allowed to operate if causing interference with microwave communication or radio or television reception.
- (3) Noise levels. Noise levels measured at the lot line shall not exceed 60 dBA.
- (4) Fencing. To limit climbing access to a WECS tower or other support structure, a six foot high fence that is not suitable for climbing with a locking door shall be placed around the WECS support, or if a tower is utilized, the tower climbing apparatus shall be limited to no lower than 12 feet from the ground.
- (5) Nonmetallic. All blades of a WECS shall be constructed of a nonmetallic substance. If the applicant can prove through written statement of a professional engineer with knowledge of the subject that no electromagnetic interference will result, a metal content of up to 25 percent will be acceptable.
- (6) Aviation Regulations. The WECS shall be located in compliance with the guidelines of the federal aviation regulations with regard to flight regulations. The burden of proof of compliance shall be upon the operator of the WECS or upon the applicant making application.

- (7) Height. The height of the WECS shall not exceed the maximum height restriction in the zone where it is located by more than 20 feet.
 - (8) Proximity to Electrical Lines. No tower shall be located closer to primary electrical lines than the total height of the tower and rotor.
 - (9) Electrical and Structural Safety. Data pertaining to the WECS's safety and structural integrity shall be certified by a licensed engineer and filed with the building permit application. The tower or support and top adaptor shall meet the restrictions that are applicable as to towers and support systems.
 - (10) Interconnections. The WECS, if interconnected to the city electrical utility system, shall meet the requirements for safety and such safety integrity shall be certified to by a licensed electrical engineer, stating that in no way the WECS as constructed, installed, and operated constitute a hazard to either the city electrical utility or to the person working on the utility system or using the utility system.
 - (11) Plot Plan. A plot plan shall be submitted with the application for the building permit showing the style of the construction in detail. The plot plan shall also show the proposed location and height of the WECS, all fencing, and all existing buildings within 400 feet of the proposed construction site. All exterior lot lines and the distances to such lot lines shall be shown.
 - (12) Covenants. The owner-operator shall certify that the WECS does not violate any covenants of record as to the building site.
 - (13) Insurance. The applicant shall provide a certificate of liability insurance insuring the city and the general public in an amount not less than \$500,000. Annually the owner or operator shall present evidence to the city clerk that the liability insurance is in effect for the operation. At any time that there ceases to be liability insurance the WECS shall stop operation until insurance coverage is provided.
 - (14) Operation Prohibited. At any time that the WECS no longer complies with these regulations, whether before, during, or after construction, there shall be no operation of the WECS nor connection to the city utility system.
 - (15) Certified. Any WECS desiring to connect to the city electrical system must first satisfactorily prove to the city that it is a certified Qualifying Facility (QF) as certified by the Federal Energy Regulatory Commission.
- (Code 1986)

4-703. INTERCONNECTION TO THE CITY UTILITY SYSTEM. Notice shall be provided to the city utility supervisor at the time that the WECS is connected with the city distribution system. The WECS owner must agree to comply with standards and regulations established by the utility distribution supervisor. WECS owner must agree to comply with standards and regulations established by the utility distribution supervisor. WECS voltage and phase must match that of the city's established system. The WECS owner-operator shall pay for all necessary meters and associated equipment utilized for billing and installation of any equipment necessary for monitoring customer load and electrical generation. The city may require the WECS owner to furnish and maintain at his or her own cost, relays, breakers, synchronizer, and other control and protective devices as may be required by the city utility supervisor for the proper and safe operation of the WECS. The city further requires the WECS owner to furnish and maintain a disconnecting device and to place such device where accessible to city personnel. (Code 1986)

4-704. CODES. The provisions of this article shall also be deemed supplemental to the electrical and building codes of the city and any other pertinent law or other laws of the city, and all work shall conform to these requirements. (Code 1986)

4-705. LIABILITY. The city utility system shall not be liable for any loss or damage to property or injuries to or death of persons whether suffered by the customer, the owner, the operator, the applicant, or its agents or employees or by any third person, persons, or corporation, resulting from the location, use, or operation of electrical or other equipment located on the WECS owner-operators side of the delivery or from electrical energy present therein or escaping therefrom, and the applicant, owner, or operator all agree to indemnify and save the harmless from any such loss, damages, injuries, or liabilities. (Code 1986)

4-706. PENALTY. Any person who shall violate the provisions of this article shall be fined in any sum not to exceed \$100 and each day of violation shall constitute a separate offense. (Code 1986)