

NEBRASKA ADMINISTRATIVE CODE

TITLE 107, NEBRASKA ADMINISTRATIVE CODE, CHAPTERS 1-5

STATE ENERGY OFFICE

RULES AND REGULATIONS CONCERNING THE NEBRASKA  
ENERGY CODE

NEBRASKA ADMINISTRATIVE CODE

TITLE 107 – STATE ENERGY OFFICE

NUMERICAL TABLE OF CONTENTS

<u>CHAPTER</u>	<u>SUBJECT</u>	<u>STATUTORY AUTHORITY</u>	<u>PAGE</u>
1	INTRODUCTION	81-1612	1-1
2	DEFINITIONS	81-1609	2-1
3	APPLICABILITY	81-1614, 81-1615	3-1
4	LOCAL CODE ADOPTION	81-1611, 81-1618	4-1
5	CODE ENFORCEMENT	81-1611, 81-1616 to 81-1618, 81-1622, 81-1625	5-1
6	REPEALED		

NEBRASKA ADMINISTRATIVE CODE

TITLE 107 – STATE ENERGY OFFICE

ALPHABETICAL INDEX

<u>SUBJECT</u>	<u>CHAPTER NUMBER</u>	<u>PAGE</u>
APPLICABILITY	3	3-1
DEFINITIONS	2	2-1
INTRODUCTION	1	1-1
LOCAL CODE ADOPTION	4	4-1
CODE ENFORCEMENT	5	5-1

## NEBRASKA ADMINISTRATIVE CODE

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Title 107 STATE ENERGY OFFICE

Chapter 1 – INTRODUCTION

**001** In 1980, the Unicameral passed LB 954 which established the Nebraska Building Energy Conservation Standard, which was ASHRAE 90-75. In 1983, the Legislature replaced the Nebraska Building Energy Conservation Standard with the Nebraska Energy Standard, which was the 1983 Model Energy Code. In 2004, LB 888, which was unanimously passed by the Legislature, had two goals: 1) replace the 2000 International Energy Conservation Code (IECC) with the 2003 IECC for state-owned buildings; and 2) replace 1983 Model Energy Code with the 2003 IECC in the Nebraska Energy Code which applies to all buildings across the state. LB 329, which updates the Nebraska Energy Code from the 2003 IECC to the 2009 IECC and ASHRAE 90.1-2007, was passed by the state's Unicameral Legislature on April 8, 2011 and signed by the Governor on April 14, 2011

**002** The following Rules and Regulations pertain to the procedures to be used to comply with the law by the State Energy Office, local code authorities, building designers, contractors, owners, and all other interested parties. These Rules and Regulations implement the provisions of the law regarding the Nebraska Energy Code.

**003** The amendments to Title 107, Nebraska Administrative Code, Chapters 1-6, are effective on and after August 27, 2011.

NEBRASKA ADMINISTRATIVE CODE

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Title 107 STATE ENERGY OFFICE

Chapter 2 – DEFINITIONS

**001 Addition** means an extension or increase in the height, conditioned floor area, or conditioned volume of a building or structure.

**002 Architect or Engineer** means any person licensed as an architect or professional engineer under the *Engineers and Architects Regulation Act*.

**003 Building** means any new structure, renovated building, or addition which, is used or intended for supporting or sheltering any use or occupancy, but not including any structure which has a consumption of traditional energy sources for all purposes not exceeding the energy equivalent of three and four-tenths British Thermal units per hour or one watt per square foot.

**004 Contractor** means the person or entity responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building.

**005 Economically Justified** means the initial cost is less than the present discounted value of resulting savings over the life of a component or requirement using future actual dollars and a market rate of interest.

**006 Equivalent or Equivalent Code** means standards that meet or exceed the requirements of the Nebraska Energy Code.

**007 Floor Area** means the total area of the floor or floors of a building, expressed in square feet, which is within the exterior faces of the shell of the structure which is heated or cooled.

**008 Local Code** means a lighting and thermal efficiency ordinance, resolution, code or standard which has been adopted by a county, city or village and which meets the requirements set forth in Neb. Rev. Stat. § 81-1618.

**009 Nebraska Energy Code** means the 2009 International Energy Conservation Code (IECC). The 2009 IECC is available at <http://www.iccsafe.org/Store/Pages/Category.aspx?cat=ICCSafe&category=330&parentcategory=Store%20Products>. The 2009 IECC may also be obtained by telephoning the International Code Council at 1-800-786-4452. ASHRAE 90.1-2007, referenced in the 2009 IECC, is available at [http://www.techstreet.com/standards/ashrae/90\\_1\\_2007\\_i\\_p/?product\\_id=1536065;ashrae\\_auth\\_token=](http://www.techstreet.com/standards/ashrae/90_1_2007_i_p/?product_id=1536065;ashrae_auth_token=), or by calling ASHRAE at 1-800-527-4723.

**010 Office** means the State Energy Office.

**011 Prime Contractor** means the person(s) or entity(s) who has a contract with the owner and falls within the definition of contractor listed in Neb. Rev. Stat. § 81-1609. Prime contractor may also mean a property owner who performs the work of a prime contractor or performs the work him/herself.

**012 Renovation** means alterations on an existing building which will cost more than fifty percent of the replacement cost of such building at the time work is commenced or which was not previously heated or cooled, for which a heating or cooling system is now proposed, except that the restoration of historical buildings shall not be included.

**013 Residential Building** means a building three stories or less that is used primarily as one or more dwelling units.

**014 Traditional Energy Sources** means electricity, petroleum-based fuels, uranium, coal, and all nonrenewable forms of energy.

## NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: April 20, 1984

Title 107 STATE ENERGY OFFICE

Chapter 3 – APPLICABILITY

**001** All new buildings, or renovations of/or additions to any existing buildings on which construction is initiated on or after August 27, 2011 except those excluded by section 002 of this chapter, shall be constructed so as to comply with the Nebraska Energy Code or a local code that is equivalent to the Nebraska Energy Code as defined in Neb Rev. Stat. § 81-1618.

**002** The following buildings are exempt from the requirements of the Nebraska Energy Code:

**002.01** Any building which has a peak design rate of energy usage for all purposes of less than one watt, or three and four-tenths British Thermal Units per hour, per square foot of floor area.

**002.02** Any building which is neither heated nor cooled.

**002.03** Any building or portion thereof which is owned by the United States of America.

**002.04** Any manufactured home as defined by Neb. Rev. Stat. § 71-4603.

**002.05** Any modular housing unit as defined by subdivision (1) of Neb. Rev. Stat. § 71-1557.

**002.06** Any building or structure that is:

**002.06a** listed on the State or National Register of Historic Places,

**002.06b** designated as a historic property under local or state designation law or survey,

**002.06c** certified as a contributing resource with a National Register-listed or locally designated historic district, or

**002.06d** with an opinion or certification that the property is eligible to be listed on the state or National Register of Historic Places either individually or as a contributing building to a historic district by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places.

NEBRASKA ADMINISTRATIVE CODE

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Title 107 STATE ENERGY OFFICE

Chapter 4 – LOCAL CODE ADOPTION

**001** Any county, city or village may adopt and enforce a lighting and thermal efficiency ordinance, resolution, code, or standard. Such ordinance, resolution, code or standard shall be deemed equivalent to the Nebraska Energy Code if it does not result in energy consumption greater than would result from the strict application of the Nebraska Energy Code and is reasonably consistent with the intent of Neb. Rev. Stat. § 81-1608 to 81-1626. Any building or portion thereof subject to the jurisdiction of and inspected by such county, city or village shall be deemed to comply with Neb. Rev. Stat § 81-1608 to 81-1626 if it meets the standards of such ordinance, resolution, code or standards. Such county, city or village may by ordinance or resolution prescribe a schedule of fees sufficient to pay the costs incurred pursuant to Neb. Rev. Stat. § 81-1608 to 81-1626.

**002** The clerk of a county, city or village which adopts a local code pursuant to this law shall notify the Office of the adoption of such code. The letter of notification shall include:

**002.01** the technical basis of the local code,

**002.02** the ordinance or resolution number and date of passage, and

**002.03** the code jurisdiction limits.

**003** Any county, city or village which adopts and enforces a lighting and thermal efficiency ordinance, resolution, code, or standard may waive a specific requirement of the Nebraska Energy Code when meeting such requirement is not economically justified. The following procedures shall apply:

**003.01** The local code authority shall submit to the Office its analysis for determining that a specific requirement is not economically justified.

**003.02** The Office shall review such analysis and transmit its findings and conclusions to the local code authority within 20 working days of receipt of the submission from the local code authority.

**003.03** The local code authority shall submit to the Office its explanation as to how the original code or any revised code addresses the issues raised by the Office. After submission to the Office the local code authority may proceed to enforce its ordinance, resolution, code, or standard.

**004** Any county, city or village which adopts and enforces, or is considering adopting and enforcing the Nebraska Energy Code, may request initial technical assistance from the Office. This initial assistance shall include training in building technology and enforcement procedures related to implementation of the Nebraska Energy Code, and the development of training programs suitable for presentation by local government officials, educational institutions, and other persons.

**004.01** Subsequent requests for training shall be fulfilled at a fee that pays for the Office's costs for such training.

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: April 5, 2005

Title 107 STATE ENERGY OFFICE

Chapter 5 – CODE ENFORCEMENT

**001** The Office and any local code authority may conduct inspections and investigations as are necessary to ensure that new buildings, additions, and/or renovations are actually being constructed in accordance with the Nebraska Energy Code or local code that is equivalent to the Nebraska Energy Code as defined in Neb. Rev. Stat. § 81-1618. Such inspections shall:

**001.01** be made at reasonable hours, and

**001.02** be conducted only after permission has been granted by the owner or occupant or after a warrant has been issued pursuant to Neb. Rev. Stat § 29-830 to § 29-835.

**002** If the Director of the Office or the local code authority finds, within two years from the date a building is first occupied, that the building, at the time of construction, did not comply with the Nebraska Energy Code or equivalent code adopted by a county, city or village in effect at such time, the Director or local code authority may order the owner or prime contractor to take those actions necessary to bring the building into compliance with the Nebraska Energy Code or local code that is equivalent to the Nebraska Energy Code as defined in Neb. Rev. Stat. § 81-1618.

**003** The Office shall investigate complaints in which it is alleged that the county, city or village is not effectively enforcing its local code, or that the code is not equivalent to the Nebraska Energy Code, and shall order the county, city or village to take corrective action if such complaints are substantiated by the investigation.

**003.01** A building owner may submit a written request that the office undertake a determination pursuant to section 003 of this chapter. Such request shall include a list of reasons why the building owner believes such a determination is necessary.

**003.02** A building owner aggrieved by the office's determination, or refusal to make such determination, may appeal such determination or refusal as provided in the Administrative Procedure Act.

**003.03** The Office may charge an amount sufficient to recover the cost of providing such determination.

**004** The Office shall not inspect construction nor intervene in any other way in the process of building design and/or construction within the jurisdiction of any county, city or village which has adopted and is enforcing a local code, except as set forth in section 003 of this chapter.

**005** In all parts of the State except those areas within the jurisdiction of a county, city or village which has adopted and is enforcing a local code, that is equivalent to the Nebraska Energy Code as defined in Neb. Rev Stat. § 81-1618, the following requirements shall apply:

**005.01** If an architect or engineer is not retained in designing the building, then the prime contractor(s) shall be responsible for causing the building to be constructed in accordance with the Nebraska Energy Code.

**005.02** If an architect or engineer is retained in designing the building, then the architect or engineer shall be responsible for designing the building in accordance with the Nebraska Energy Code, and shall indicate that the building design meets the Nebraska Energy Code by placing his or her state registration seal on the construction drawings. The prime contractor(s) shall then be responsible for causing the building to be constructed in accordance with the plans prepared by the architect or engineer.

**005.03** The Prime Contractor(s) shall be responsible for conducting the Duct Tightness test as outlined in 403.2.2, and the Air Barrier and Insulation Inspection Component Criteria, Table 402.4.2, of the 2009 IECC. The Prime Contractor(s) shall maintain verification (substantiation, confirmation, proof) of the tests and inspections for two years from the date a building is first occupied. This verification shall be made available to the Office if requested.

**006** The Office shall investigate complaints by building owners regarding substandard construction in areas outside the jurisdiction of a local code, and shall order corrective action where warranted, as set forth in Neb. Rev. Stat. § 81-1616.

**007** Failure to comply with § 81-1608 to 81-1626 or ordering, instructing, or directing another not to comply with sections 81-1608 to 81-1626 shall be a Class IV misdemeanor.

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: ~~April 20, 1984~~

Title 107 STATE ENERGY OFFICE

Chapter 6 STATE ENFORCEMENT

~~**001** In all parts of the State except those areas within the jurisdiction of a county, city or village which has adopted and is enforcing a local code, the following requirements shall apply:~~

~~**001.01** If an architect or engineer is not retained in designing the building, then the prime contractor(s) shall be responsible for causing the building to be constructed in accordance with the Nebraska Energy Code.~~

~~**001.02** If an architect or engineer is retained in designing the building, then the architect or engineer shall be responsible for designing the building in accordance with the Nebraska Energy Code, and shall indicate that the building design meets the Nebraska Energy Code by placing his or her state registration seal on the construction drawings. The prime contractor(s) shall then be responsible for causing the building to be constructed in accordance with the plans prepared by the architect or engineer.~~

~~**002** The Office may conduct such inspections as are necessary to ensure that new buildings, additions, and/or renovations are actually being constructed in accordance with the Nebraska Energy Code, and shall order corrective action where warranted. Such inspections shall:~~

~~**002.01** be made at reasonable hours, and~~

~~**002.02** be conducted only after permission has been granted by the owner or occupant or after a warrant has been issued pursuant to Neb. Rev. Stat. § 29-830 to § 29-835.~~

~~**003** If the Office finds, within two years of the date a building is first occupied, that the building, at the time of construction, did not comply with the Nebraska Energy Code, the Office may order the owner or prime contractor to take those actions necessary to bring the building into compliance.~~

~~**004** The Office shall investigate complaints by building owners regarding substandard construction in areas outside the jurisdiction of a local code, and shall order corrective action where warranted, as set forth in Neb. Rev. Stat. § 81-1616.~~