

STATE OF NEBRASKA)
)
LANCASTER COUNTY)

**NOTICE OF RULE-MAKING HEARING
NEBRASKA STATE FIRE MARSHAL**

NOTICE is hereby given that The State Fire Marshal Agency will be holding a public hearing on Tuesday November 30, 2021 at 11:00 a.m. at the State Fire Marshal Agency 246 South 14th Street, Suite 1, Lincoln, NE 68509 in the North Conference Room.

This hearing will receive public testimony regarding the amendments to Title 153 Chapter 21 Review and Approval of Plans and Fees Assessed. The Agency is amending this chapter to included updates to an electronic plans submittal process and a new fee schedule for the plans reviews. Additional changes include a removal of outdated references, old dates, and a word reduction for clarity and ease of use.

The fiscal impact statement may be obtained and inspected at the State Fire Marshal's Office in Lincoln. This hearing is being conducted under the provisions of *Neb. Rev. Stat.* § 84-907, which provides that draft copies of the proposed rules are available for public examination at the State Fire Marshal's Main Office 246 S. 14th Street, Suite 1, Lincoln NE and the Office of the Secretary of State, 1201 N Street, Suite 120, Lincoln NE.

All interested persons are invited to attend and testify at the hearing. Interested persons may also submit written comments to the State Fire Marshal prior to the hearing, and these comments will be made a part of the hearing record at the time of the hearing. If auxiliary aids or reasonable accommodations are needed to review any proposals or to participate at the hearing, please contact Regina Shields, the Agency Legal Counsel. Ms. Shields can be reached at (402) 471-9477 or at regina.shields@nebraska.gov or by mailing a request to 246 S. 14th Street, Suite 1, Lincoln, NE 68508.

**Nebraska State Fire Marshal
Christopher Cantrell, Fire Marshal**

DRAFT/FINAL FISCAL IMPACT STATEMENT

Agency: State Fire Marshal	
Title: 153	Prepared by: Regina Shields
Chapter: Chapter 21	Date prepared: 9/29/21
Subject: Plans Review and Fees	Telephone:402-471-9477

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	()	(x)	()
Increased Costs	()	()	()
Decreased Costs	()	()	(x)
Increased Revenue	(x)	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & Description of Impact:

The average, hourly salary and benefits cost for a plans examiner is \$32.97. The Base appropriation needed to fund this division in FY2020-21 is \$279,275 of which \$230, 633 is related to salary and benefit costs. In Calendar year 2018 the total revenue generated from plan reviews was \$125,900; in 2019 was \$117,048; and in Calendar year 2020 \$117,412. The three-year average of revenue generated by plan reviews is \$120,120.

The plan structure to be set in regulation would charge a set fee of \$2.50 for every \$10,000 in estimated project cost, with a maximum fee of \$500.00. If the \$2.50 model had been used in 2018 the Agency would have received \$127,195; in 2019 \$126,758; and in 2020 \$121,998. This gives a three-year average of \$125,317.

There will be some fluctuation each year based on the number of plans submitted, as well as the costs of the projects being submitted. The \$2.50 fee allows the Agency to remain very close to the historical revenue figures received, thus maintaining the amounts needed to fund a portion of the program.

The shift to the \$2.50 fee per \$10,000 of projected project cost will lessen fee impact to the many small projects the Agency receives such as shop drawings, basic fire alarm drawings, and minor remodeling and renovation projects conducted by the building owner. The \$500.00 fee cap remains so no project will be charged more than that amount, just as it was under the previous structure. The current model is cumbersome and often results in miscalculations by the public for the fee. The new system will allow for a much clearer, simple way to figure plan review costs, thus saving time for both staff and customers.

Title 153 - STATE FIRE MARSHAL

Chapter 21 REVIEW AND APPROVAL OF PLANS, SPECIFICATIONS, AND OTHER DATA, AND THE FEES ASSESSED THEREFOR

01. Statement of Purpose. ~~The purpose of this~~ This Chapter is to implement the provisions of Section 81-505.01, R.R.S. (1983 Supp. Neb. Rev. Stat. 81-505.01 (2021) dealing with review and approval of plans, specifications, and other data and the fees assessed therefor.

02. Definitions. Unless otherwise specified, definitions of words or terms contained in this Chapter shall be the same as match those set forth in Chapter 3 of this Title.

02.01. State Fire Marshal shall also mean appropriate State Fire Marshal delegated authority.

02.02. ~~Plans, specifications and other data shall also include construction documents, shop drawings, product data or any other data means all information necessary to determine compliance with rules and regulations of the State Fire Marshal.~~

03. Review and Approval of Plans, Specifications and Other Data.

03.01 Scope and Application. No person, partnership or corporation shall will erect, construct, enlarge, alter, repair, improve, or convert, any building or structure regulated by the State Fire Marshal as defined in Chapter 3 of this Title, ~~except as specified in Section 003.02 of this Chapter,~~ or cause the same to be done without first submitting plans for review and approval by the State Fire Marshal ~~or appropriate State Fire Marshal delegated authority.~~

The State Fire Marshal may review, upon request in writing to the owner or his authorized representative for a specific project, plans, specifications, and other data for conformance with any other rules and regulations adopted by the State Fire Marshal. When such reviews take place as a result of a request by the State Fire Marshal or as a voluntary service, appropriate fees shall be assessed according to the schedule set forth in Section 004 of this Chapter.

~~Shop drawings for Fire Alarm, Fire Sprinkler, Product Data and/or other fire control system shall be~~ 03.01A Each Fire Protection Feature (fire alarm, fire sprinkler, fire main, or specifications) plan will be individually submitted to and reviewed by the State Fire Marshal. as a separate review application. An additional plan review fee will be assessed accordingly.

~~03.01.~~ 03.01B Exempted Work. A building plans review will not be required for ~~one and two family dwellings or any apartment buildings with less than five living three dwelling units, as defined in Title 153, Nebraska Administrative Code, Chapter 11, or any project or work for which the review of plans is not~~

necessary in order to comply with the rules and regulations of the State Fire Marshal.

03.01C The State Fire Marshal may waive the submission of plans, specifications and other data if he ~~it is~~ finds found that the nature of the work applied for is such that a review of plans is not necessary to obtain compliance with the rules and regulations of the State Fire Marshal.

~~Exemption~~ 03.01D ~~Such waiver from the review and approval of plans regulations shall~~ does not be deemed to grant authorization for any work to be done or systems to be operated, in any manner, in violation of the provisions of the State Fire Marshal or any other applicable laws, rules, regulations or ordinances.

03.02. Procedure for Plans Review.

~~003.032A.~~ Application Process. To submit plans for review, the applicant will complete and submit a Plan Submittal Application that includes:

03.02A1 plans of sufficient clarity to indicate the location, nature, and extent of the work proposed. These plans will show in detail that the proposed work will conform to the rules and regulations of the State Fire Marshal Agency.

03.02A2 Any other data and/or information necessary to complete the review.

03.02A3 Appropriate fees as determined by Section 4. shall first file an application in writing. Every such application shall:

~~003.03A1.~~ Identify and describe the work to be performed for which the application is made.

~~003.03A2.~~ Describe the land on which the proposed work is to be performed by street address or similar description which will readily identify and definitely locate the proposed building or work.

~~003.03A3.~~ Indicate the use or occupancy for which the proposed work is intended.

~~003.03A4.~~ Be accompanied by plans, specifications and other data as required by Section ~~003.03B~~ of this Chapter.

~~003.03A5.~~ State the valuation in terms of construction costs which may be actual, estimated or a constructional contract, or any new building or structure, or any addition, remodeling or alteration to an existing building, including permanent equipment.

~~003.03A6. Be signed by the owner, or his authorized representative, vendor or supplier, who may be required to submit evidence of his authority.~~

~~003.03A7. Give such other data and/or information as may be required by the State Fire Marshal.~~

~~003.032A81. Submit appropriate fees as determined by Section 004.~~

003.03B. Form for Plans, Specifications, and Other Data.

~~003.03B1. Plans, specifications and other data shall be prepared according to standard architectural and engineering practices and shall consist of the original or duplicated work, and be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that the proposed work will conform to the rules and regulations of the State Fire Marshal.~~

~~003.03B2. The State Fire Marshal shall require plans, specifications and other data to be prepared by an engineer or architect legally qualified to practice in the State for all buildings, structures or portions thereof, unless such are exempted by Section 81-853, R.R.S. 1943.~~

~~003.03B3. Plans, specifications, and other data shall be submitted in one or more sets with each application for plans review.~~

03.043 Plans Approval Issuance.

03.043A. Issuance. If the State Fire Marshal finds that the work described in a Plan Submittal Application an application for plans review and the plans, specifications and other data filed therewith conforms to the rules and regulations of the State Fire Marshal and that the fees specified in Section 004 of this Chapter have been paid, ~~he shall issue~~ a plans approval will be issued to the applicant.

Approval may be granted 03.03A1 When conditional to items are noted on the plans review approval, with final approval subject to satisfactory correction completion of such items will be required to be addressed or corrected prior to and final approval inspection by the State Fire Marshal.

03.03A2 When the State Fire Marshal issues the plans review approval, the shall endorse by written notification and/or stamp the plans and specifications will be endorsed by written notification and /or stamped "APPROVED". Such approved plans, including the plans review approval, specifications and other data

~~shall will not be changed, modified or altered by the submitting party, without authorization from the State Fire Marshal and all All work shall will be done in accordance with the approved plans and plans review approval. Sseparate approved changes, if any needed, will be submitted to the State Fire Marshal as an addendum or revision.~~

~~003.04A1. Preliminary Plans. The State Fire Marshal may issue approval for preliminary plans, allowing construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been submitted regarding the remaining portion of the building to be completed, which comply with the rules and regulations of the State Fire Marshal. The holder of such preliminary plans approval shall proceed at his/her own risk without assurance that the plans approval for the entire building or structure will be granted.~~

~~003.04A2. Retention of Plans. One set of approved plans, specifications and other data shall be retained by the State Fire Marshal for a period of not less than 90 days from the date of completion of the work covered therein.~~

~~003.043A3. Validity of Plans Approval. The issuance of plans approval shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of these rules and regulations. Any plans approval presuming to give authority to violate or cancel any provisions of these rules and regulations shall be invalid.~~

The issuance of plans review approval based upon plans, specifications and other data shall does not prevent the State Fire Marshal from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations carried on thereunder, when in violation of any rule or regulation of the State Fire Marshal.

~~003.043A4. Expiration of Plans Approval. Every plans approval issued by the State Fire Marshal shall will expire by limitation and become null and void if the building or work authorized by such permit approval is not commenced within 180 days from the date of such plans review approval, unless extended by the State Fire Marshal. ~~or if the building or work authorized by such plans approval is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new plans approval must be obtained, and the fee therefor shall be one-half the amount required for a new plans approval for such work, provided~~~~

~~no changes have been made or will be made in the original plans and specifications for such work; and, provided further, that such suspension or abandonment has not exceeded one year. If changes have been made or time has exceeded one year, a new plan review shall be performed and a full plan review shall be performed and a full plan review fee assessed in accordance with Section 004 of this Chapter.~~

03.03A5 Disapproval of Plans Where the State Fire Marshal has not issued a plans review approval, specifications, shop drawings or other data, the State Fire Marshal shall notify in writing to the applicant will be notified in writing of the reasons for such disapproval.

~~The State Fire Marshal may extend the time to begin construction activity by the applicant for a period not exceeding 180 days upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No plans approval shall be extended more than once.~~

~~003.04A5. Expiration of Plan Review. Applications for which no plans approval is issued within 180 days following the date of application, shall expire by limitation and plans, specifications and other data submitted for review may thereafter be returned to the applicant or destroyed by the State Fire Marshal. The State Fire Marshal may extend the time for action by the applicant for a period not exceeding 180 days upon request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.~~

003.043A6. Suspension or Revocation. The State Fire Marshal may, in writing to the owner or his owner's authorized representative, suspend or revoke a plans review approval issued in error or on the basis of incorrect information supplied, or in for violation of any regulation or any of the provisions of the State Fire Marshal.

04. Fees for Review and Approval of Plans, Specifications and Other Data.

04.01. Table Fees to be assessed per the listed formula.

A review fee of \$2.50 will be assessed for every \$10,000.00 of total value of the proposed structure or improvement, up to a maximum review fee of \$500.00.

TOTAL VALUE OF PROPOSED

STRUCTURE OR IMPROVEMENT — FEE

\$ 1.00 — \$ 5,000.00	\$5.00
\$ 5,001.00 — \$ 25,000.00	\$5.00 for the first \$5,000.00 plus \$2.00 for each additional \$5,000.00 or fraction thereof.
\$25,001.00 — \$ 50,000.00	\$15.00 for the first \$25,000.00 plus \$2.00 for each additional \$5,000.00 or fraction thereof.
\$50,001.00 — \$100,000.00	\$25.00 for the first \$50,000.00 plus \$1.00 for each additional \$5,000.00 or fraction thereof.
\$100,001.00 — \$200,000.00	\$35.00 for the first \$100,000.00 plus \$1.00 for each additional \$10,000.00 or fraction thereof.
\$200,001.00 — more	\$50.00 for the first \$200,000.00 plus \$1.00 for each additional \$10,000.00 or fraction thereof, except that the total fee shall not exceed \$100.00.

04.02. “Total Value of Proposed Structure or Improvement” shall be defined as is the actual costs, contract price, or bid construction costs. For the purposes of a timely plan review, cost estimates may be used to assess the fee prior to actual bidding and construction. Only \leq Significant increased changes in the actual costs deviating from as compared to the cost estimate submitted will result in a modified fee being assessed to the submitting party from the original assessment. When considering bid estimates, all bid alternates increasing the cost of the contract price must will be included for determining the fee whether the alternates are accepted or not.

~~004.03 The assessment fee for reviewing preliminary plans will be credited towards the final plan fee assessment. Any increase in the construction cost estimates shall result in an appropriate increase in fees in accordance with Section 004 of this Chapter.~~

04.03. An new additional plans review fee will be assessed at the full rate according to the schedule set forth in Section 004.01 of this Chapter for all plans resubmitted, whether as a result of: 1) a disapproval; 2) by the State-Fire Marshal for noncompliance with the rules and regulations of the State-Fire Marshal or incompleteness; 3) or because of major revision by the owner/ or his designated representative.

04.04. All fees are to be paid by check, money order, or approved voucher. Other state agencies or governmental subdivisions may be allowed to be billed upon a monthly basis. State agencies and state colleges will be billed on an IBT. All other fees are to be paid via check or on-line electronic

payment.

~~04.05. Fees shall be collected by the State Fire Marshal's delegated authorities and monies collected shall be deposited in the treasuries benefitting such delegated authorities.~~

~~04.06. Upon the State Fire Marshal's office receiving and verifying the assessed fee, a written receipt will be issued to the owner or his authorized representative upon request.~~

~~04.075 Fee Refunds. The State Fire Marshal may authorize the refunding of that portion of any fee paid hereunder which was erroneously paid or collected. The State Fire Marshal shall not authorize the refunding of any fee paid except upon written application filed by the original applicant not later than 90 days after the date of fee payment.~~

~~05. Certificate of Occupancy. The State Fire Marshal or appropriate delegated authority shall issue a Certificate of Occupancy in accordance with Section 002 of Chapter 22 of this Title, when after a final inspection of the completed structure it is found to be in compliance with the rules and regulations of the State Fire Marshal and other laws which are enforced by the State Fire Marshal.~~