

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 5347

AN ORDINANCE REPEALING AND RE-ENACTING ARTICLE 21-01
OF CHAPTER 21 OF THE FARGO MUNICIPAL CODE
RELATING TO THE INTERNATIONAL BUILDING CODE

WHEREAS, the electorate of the City of Fargo has adopted a home rule charter in accordance with Chapter 40-05.1 of the North Dakota Century Code; and

WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the City shall have the right to implement home rule powers by ordinance; and

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such purpose; and

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance;

NOW, THEREFORE,

Be it Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. Repeal.

Article 21-01 of Chapter 21 of the Fargo Municipal Code is hereby repealed in its entirety.

Section 2. Re-enactment.

Article 21-01 of Chapter 21 of the Fargo Municipal Code is hereby re-enacted to read as follows:

ARTICLE 21-01
INTERNATIONAL BUILDING CODE -- ADOPTION – MODIFICATIONS

Section

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21-0101 International Building Code adopted.
21-0102 Modification of International Building Code.

21-0101. International Building Code adopted.—The erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the city of Fargo, North Dakota, shall meet with the provisions of the rules and regulations of the 2021 Edition of the International Building Code of the International Code Council as the same are now established in said code, a copy of which is on file in the office of the building inspector for the city of Fargo, with the exception of the sections hereinafter set forth affecting local conditions in the city of Fargo, which sections shall be substituted for and in lieu of like sections or paragraphs in said International Building code; and the board of city commissioners of said city of Fargo, by this section hereby approves and adopts such rules and regulations, as so modified, for use and application in the city of Fargo, North Dakota, and within the extra-territorial zoning jurisdiction of the city.

21-0102. Modification of International Building Code.—The International Building Code as adopted in § 21-0101 is hereby changed and amended as follows:

Section 101.1 is hereby amended to read as follows:

101.1 Title. These regulations shall be known as the Building Code of ~~(NAME OF JURISDICTION)~~ the City of Fargo hereinafter referred to as “this code.”

Section 101.4.3 is hereby amended to read as follows:

101.4.3 Plumbing. The provisions of the ~~International Plumbing Code~~ North Dakota State Plumbing Code shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. The provisions of the ~~International Private Sewage Disposal Code~~ North Dakota State Plumbing Code shall apply to private sewage disposal systems.

Section 103.1 is hereby amended to read as follows:

103.1 Creation of enforcement agency. The Inspections Department ~~[INSERT NAME OF DEPARTMENT]~~ is hereby created and the official in charge thereof shall be known as the building official. The function of the agency shall be the implementation, administration and enforcement of the provisions of this code.

Section 104.2.1 is hereby deleted in its entirety.

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Section 104.8.1 is hereby amended to read as follows:

104.8.1 Legal Defense. Any suit or criminal complaint instituted against an officer or employee because of an act or omission performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection provided by the city's insurance pool and immunities and defenses provided by other applicable state and federal laws and shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code. This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or the city be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

Section 104.10.1 is hereby deleted in its entirety.

Section 105.2 is hereby amended to read as follows:

105.2 Work exempt from permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

Building:

* * * *

2. Fences not over ~~7~~ 8.5 feet high.

* * * *

6. Sidewalks and driveways ~~not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route.~~

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11. Swings and other playground equipment ~~accessory to detached one- and two-family dwellings.~~

12. Window awnings in ~~Group R-3 and U~~ occupancies, ~~supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.~~

14. Reroofing.

Section 107.2.6.1 is hereby deleted in its entirety.

Section 107.3.1 is hereby amended to read as follows:

107.3.1 Approval of construction documents. When the building official issues a permit, the construction documents shall be approved, in writing or by stamp, ~~as “Reviewed for Code Compliance.”~~ One set of construction documents so reviewed shall be retained by the Building Official. ~~The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or a duly authorized representative.~~

Section 109.2 is hereby amended to read as follows:

109.2 Schedule of permit fees. Where a permit is required, a fee for each permit and plan review shall be paid as required, in accordance with the schedule as established by the ~~applicable governing authority~~ Board of City Commissioners. The plan review fees specified in this subsection are separate from, and in addition to, permit fees. When submittal documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittal items as defined in Section 107.3.4.1, an additional plan review fee shall be charged in an amount not to exceed 10% of the building permit fee established in Section 109.2.

Section 110.3.3 is hereby deleted in its entirety.

Section 110.3.12.1 is hereby deleted in its entirety.

Section 305.2 is hereby amended to read as follows:

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305.2 Group E, day care facilities. This group includes buildings and structures or portions thereof occupied by more than ~~five~~ twelve children older than 2 ½ years of age who receive educational, supervision or personal care services for fewer than 24 hours per day.

Section 305.2.2 is hereby amended to read as follows:

305.2.2 ~~Five~~ Twelve or fewer children. A facility having ~~five~~ twelve or fewer children receiving such day care shall be classified as part of the primary occupancy.

Section 305.2.3 is hereby amended to read as follows:

305.2.3 ~~Five~~ Twelve or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having ~~five~~ twelve or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

Section 308.5 is hereby amended to read in part as follows:

308.5 Institutional Group I-4 Daycare facilities. Institutional Group I-4 occupancy shall include buildings and structures occupied by more than ~~five~~ twelve persons of any age who receive custodial care for fewer than 24 hours per day by persons other than parents or guardians; relatives by blood, marriage or adoption; and in a place other than the home of the person cared for. This group shall include, but not be limited to, the following:

Adult day care

Child day care

Section 308.5.1 is hereby amended to read in part as follows:

308.5.1 Classification as a Group E. Every child day care facility that provides care for more than ~~five~~ twelve but not more than 100 children 2 ½ years or less of age, where the rooms in which the children are cared for are located on a level of exit discharge serving such rooms and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.

Section 308.5.3 is hereby amended to read as follows:

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308.5.3 ~~Five~~ Twelve or fewer persons receiving care. A facility having ~~five~~ twelve or fewer persons receiving custodial care shall be classified as part of the primary occupancy.

Section 308.5.4 is hereby amended to read as follows:

Section 308.5.4 ~~Five~~ Twelve or fewer persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit having ~~five~~ twelve or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

Section 406.3.2.1 The last sentence of this section is hereby deleted as follows:

~~Doors shall be self-closing and self-latching.~~

Section 802.4 is hereby deleted in its entirety.

Section 905.1 is hereby amended to add an exception to read as follows:

Exception: The installation of fire hose on standpipes may be omitted when approved by the local fire code official. Approved standpipe hose valves and connections shall be provided where required.

Section 907.2.11.1 is hereby amended to read as follows:

907.2.11.1 Group R-1. Single- or multiple-station smoke alarms shall be installed in all of the following locations in Group R-1:

* * * *

4. In sleeping units where the ceiling height of a room open to the hallway serving the sleeping rooms exceeds that of the hallway by 24 inches or more, smoke alarms shall be installed in the hallway and in the adjacent room.

Section 907.2.11.2 is hereby amended to read as follows:

907.2.11.2 Groups R-2, R-3, R-4 and I-1. Single- or multiple station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of occupant load at all of the following locations:

* * * *

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4. In dwelling units where the ceiling height of a room open to the hallway serving the sleeping room exceeds that of the hallway by 24 inches or more, smoke alarms shall be installed in the hallway and in the adjacent room.

Section 1003.3.1 is hereby amended as follows:

* * * *

An approved barrier shall be provided where the vertical clearance above a circulation path is less than 80 inches (2032 mm) high above the finished floor. ~~The leading edge~~ A portion of such a barrier shall be located 27 inches (686 mm) maximum above the finished floor.

Section 1009.8.1 is hereby amended to read as follows:

1009.8.1 System requirements. Two-way communication systems shall provide communication between each required location and the fire command center or a central control point location approved by the fire department. Where the central control point is not a constantly attended location, the two-way communication system shall have timed, automatic telephone dial-out capability that provides two-way communication with an approved supervising station ~~or 9-1-1~~. The two-way communication system shall include both audible and visible signals.

Section 1011.1 Exceptions are hereby amended to read as follows.

1. Within rooms or spaces used for assembly purposes, stepped aisles shall comply with Section 1030.
2. A stairway complying with section 1011 except where in a B, F, M, S or U that serves an area of 750 sf or less, and is not open to the public, that has a maximum riser height of 8 inches and a minimum tread depth of 9 inches, has a minimum width of 36 inches and has at least one handrail that terminates at the top and bottom riser and otherwise complies with section 1014.

Section 1011.5.2 Exceptions are hereby amended to read as follows:

Section 1011.5.2 Exceptions:

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3. In Group R-3 occupancies; within dwelling units in Group R-2 occupancies; and in Group U occupancies that are accessory to a Group R-3 occupancy or accessory to individual dwelling units; the maximum riser height shall be ~~7 ¾ inches~~ (197 mm) 8 inches; the minimum tread depth shall be ~~10 inches (254 mm)~~ 9 inches; and the minimum winder tread depth shall be 6 inches (152mm). A nosing projection not less than ¾ inch (19.1mm) but not more than 1 ¼ inches (32mm) shall be provided on stairways with solid risers where the tread depth is less than 11 inches (279mm).

Section 1015.2 is hereby amended to read as follows:

1015.2 Where required. Guards shall be located along open-sided walking surfaces, including mezzanines, equipment platforms, aisles, stairs, ramps and landings, that are located more than 30 inches (762 mm) ~~measured vertically to the floor or grade below at any point within 36 inches (914 mm) horizontally to the edge of the open side above the floor or grade below or if within 36 inches (914 mm) horizontally to the edge of the open side of the vertical measurement to the floor or grade below is greater than 48 inches.~~ Guards shall be adequate in strength and attachment in accordance with section 1607.9.

Section 1104.4 Exceptions are hereby amended to read as follows:

Section 1104.4 Exceptions:

1. An accessible route is not required to stories, mezzanines and occupied roofs that have an ~~aggregate~~ area of not more than 3,000 square feet (278.7 m²), or are in a building 2 stories or less above grade plane and are located above ~~and~~ or below accessible levels. This exception shall not apply to:

* * * *

Section 1202.1 is hereby amended to read as follows:

1202.1 General. Buildings shall be provided with natural ventilation in accordance with Section 1202.5, or mechanical ventilation in accordance with the International Mechanical Code.

~~Where the air infiltration rate in a dwelling unit is less than 5 air changes per hour where tested with a blower door at a pressure 0.2 inch w.e. (50 Pa) in accordance with Section R402.4.1.2 of the International Energy Conservation Code Residential Provisions, the dwelling unit shall be ventilated by mechanical means in accordance with~~

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~~Section 403 of the International Mechanical Code. Ambulatory care facilities and Group I-2 occupancies shall be ventilated by mechanical means in accordance with Section 407 of the International Mechanical Code.~~

Section 1204.4.4 is hereby deleted in its entirety.

Sections 1206 is hereby deleted in its entirety.

Section 1402.6 is hereby deleted in its entirety.

Section 1402.7 is hereby deleted in its entirety.

Section 1601.1 is hereby amended to read as follows:

1601.1 Scope. The provisions of this chapter shall govern the structural design of buildings, structures and portions thereof regulated by this code.

It shall not be the responsibility of the building official to determine engineering requirements of this code. Exclusive of the conventional light-frame wood construction provisions referenced in Section 2308, the method to resist loads as referenced in this chapter is the responsibility of a structural engineer or other qualified design professional.

Section 1610.1 exception is hereby amended to read as follows:

Exception: Foundation walls extending not more than 8 2 feet (2438 mm) below grade and laterally supported at the top by flexible diaphragms shall be permitted to be designed for active pressure.

Section 1612 is hereby deleted in its entirety.

Section 1804.4 is hereby deleted in its entirety and the following text enacted:

Section 1804.4 Site Grading. Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection. Lots shall be graded to drain surface water away from foundation walls.

The procedure used to establish the final ground level adjacent to the foundation shall account for additional settlement of the backfill.

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Section 1804.5 is hereby deleted in its entirety.

Section 1805.1.2.1 is hereby deleted in its entirety.

Section 1809.5 is hereby amended to add a new exception as follows:

1809.5 Frost protection. Except where otherwise protected from frost...

* * * *

4. Free-standing buildings used as Group U occupancies for the storage of private or pleasure-type motor vehicles constructed in accordance with Sections 406.3.1.

Section 2901.1 is hereby amended to read as follows:

Section 2901.1 Scope. The provisions of this chapter and the North Dakota State Plumbing Code ~~International Plumbing Code~~ shall govern the design, construction, erection and installation of plumbing components, appliances, equipment and systems used in buildings and structures covered by this code. Toilet and bathing rooms shall be constructed in accordance with Section 1210. Private sewage disposal systems shall conform to the North Dakota State Plumbing Code ~~International Private Sewage Disposal Code~~. The International Fire Code, the International Property Maintenance Code and the North Dakota State Plumbing Code ~~International Plumbing Code~~ shall govern the use and maintenance of plumbing components, appliances, equipment and systems. The International Existing Building Code and the North Dakota State Plumbing Code ~~International Plumbing Code~~ shall govern the alteration, repair, relocation, replacement and addition of plumbing components, appliances, equipment and systems.

Section 3. Penalty.

A person who willfully violates this ordinance is guilty of an infraction. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed \$1,000; the court to have power to suspend said sentence and to revoke the suspension thereof.

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Section 4. Effective Date.

This ordinance shall be in full force and effect from and after its passage, approval and publication.

(SEAL)

Attest:

/s/
Steven Sprague, City Auditor

/s/
Timothy J. Mahoney, M.D., Mayor

First Reading:	5-16-22
Second Reading:	5-31-22
Final Passage:	5-31-22
Publication:	6-8-22