

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. 4875

AN ORDINANCE AMENDING ARTICLE 21.2-01 OF CHAPTER 21.2  
OF THE FARGO MUNICIPAL CODE RELATING TO  
THE INTERNATIONAL EXISTING 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. Amendment.

Article 21.2-01 of Chapter 21.2 of the Fargo Municipal Code is hereby amended to read as follows:

CHAPTER 21.2

INTERNATIONAL EXISTING BUILDING CODE

Article

21.2-01

International Existing Building Code--Adoption--Amendments, §§ 21.2.-0101 to 21.2-0102

ARTICLE 21.2-01

Section

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- 21.2-0101 Adoption of International Existing Building Code by Reference  
21.2-0102 Amendment to International Existing Building Code

21.2-0101. Adoption of International Existing Building Code by reference.--There is hereby adopted by reference by the board of city commissioners, for the purpose of prescribing regulations governing standards, relative to existing buildings in the city of Fargo, that certain code known as the International Existing Building Code recommended and compiled by the International Code Council, ~~2009~~2012 edition, a copy of which is on file in the office of the city auditor, and the same is hereby adopted and incorporated as fully as if set out in length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city, and within the extra-territorial jurisdiction of the city.

21.2-0102. Amendment to International Existing Building Code.--The International Existing Building Code as adopted in Section 21.2-0101 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 *Existing Building Code* of the ~~[NAME OF JURISDICTION]~~ City of Fargo hereinafter referred to as “this code.”

**Section 104.2.1.1** is hereby amended to read as follows:

**104.2.1.1 Building evaluation.** The *code official* is authorized to require an *existing building* to be investigated and evaluated at the owner’s expense by a registered design professional based on the circumstances agreed upon at the preliminary meeting. The design professional shall notify the *code official* if any potential nonconformance with the provisions of this code is identified.

**Section 104.8** is hereby amended to read as follows:

**104.8 Liability.** The code official, member of the Board of Appeals, or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability

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for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The code 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 deleted in its entirety.

**Section 105.2** is hereby amended to read as follows:

**Section 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:

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7. Reroofing.

**Section 201.3** is hereby amended to read as follows:

**201.3 Terms defined in other codes.** Where terms are not defined in this code and are defined in the other *International Codes*, such terms shall have the meanings ascribed to them in those codes.

Wherever the term “International Plumbing Code” and/or the “International Private Sewage Disposal Code” is used it shall mean the North Dakota State Plumbing Code. Wherever the term “ICC Electrical Code” is used it shall mean the National Electric Code together with the North Dakota State Wiring Standards, North Dakota Administrative Code

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Chapter 24-02-01. Wherever the term “Flood Hazard Area” is used, it shall mean the Fargo Flood Plain Management ordinance together with the Flood Proofing Code, Fargo Municipal Code Section 21-0601, of the city of Fargo, North Dakota.

**Section 601.3** is hereby deleted in its entirety.

**Sections 706.3, 706.3.1, and 706.3.2** are hereby deleted in their entirety.

**Section 1103.5** is hereby deleted in its entirety.

**Section 1201.4** is hereby deleted in its entirety.

**Section 1301.2** is hereby amended to read as follows:

**1301.2 Conformance.** ~~Buildings to be moved within this jurisdiction shall comply with provisions of this chapter. Buildings to be moved into this jurisdiction shall comply with the provisions of the International Codes for new buildings and shall be certified as to that compliance by an agency approved by the code official. The building shall be safe for human occupancy as determined by the International Fire Code and the International Property Maintenance Code. Any repair, alteration, or change of occupancy undertaken within the moved structure shall comply with the requirements of this code applicable to the work being performed. Any field fabricated elements shall comply with the requirements of the International Building Code or the International Residential Code as applicable.~~

**Section 1401.2** is hereby amended to read as follows:

[B] 1401.2 **Applicability.** Structures existing prior to ~~{DATE TO BE INSERTED BY THE JURISDICTION. NOTE: IT IS RECOMMENDED THAT THIS DATE COINCIDE WITH THE EFFECTIVE DATE OF BUILDING CODES WITHIN THE JURISDICTION}~~ 1952, in which there is work involving additions, alterations or changes of occupancy shall be made to conform...

Section 2. 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

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shall be punished by a fine not to exceed \$1,000.00; the court to have power to suspend said sentence and to revoke the suspension thereof.

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Section 3. Effective Date.

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

s/  
Dennis R. Walaker, Mayor

(SEAL)

Attest:

s/  
Steven Sprague, City Auditor

First Reading: 08-05-2013  
Second Reading: 08-19-2013  
Final Passage: 08-19-2013  
Publication: 08-26-2013