

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 5215

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Article 21-01 of Chapter 21 of the Fargo Municipal Code is hereby repealed in its entirety.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

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Section

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 2018 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:

Section 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:

Section 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 104.2.1 is hereby deleted in its entirety.

Section 104.8.1 is hereby amended to read as follows:

Section 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

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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:

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:

* * *

2. Fences not over 7 feet ~~(2134 mm)~~ 8.5 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*.~~

* * *

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

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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:

Section 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:

Section 109.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems or *alterations* requiring a *permit*, a fee for each *permit* and plan review shall be paid as required, in accordance with the schedule as established by resolution of 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 108.2.

Section 110.3.3 is hereby deleted in its entirety.

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Section 110.3.11.1 is hereby deleted in its entirety.

Section 305.2 is hereby amended to read as follows:

Section 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:

Section 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:

Section 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 as follows:

Section 308.5 Institutional Group I-4, day care 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 as follows:

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Section 308.5.1 Classification as Group E. A child 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:

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* and 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 final sentence of paragraph 1 is hereby deleted to read as follows:

* * *

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

Section 802.4 is hereby deleted in its entirety.

Section 903.3.1.1 is hereby amended to read as follows:

Section 903.3.1.1 NFPA 13 sprinkler systems. Where the provisions of this code require that a building or portion thereof be equipped throughout with an *automatic sprinkler system* in accordance with this section, sprinklers shall be installed throughout in accordance with NFPA 13 except as provided in Sections 903.3.1.1.1 and 903.3.1.1.2. Sprinkler heads in unoccupied mall tenant spaces may be installed at ceiling height if allowed by the code official. Permission will be granted on an individual basis. Combustible storage shall not be allowed in these unoccupied tenant spaces if sprinkler heads are installed at the ceiling height. Signage shall be provided outlining the storage restriction.

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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 fire code official. Approved standpipe hose valves and connection shall be provided where required.

Section 907.2.3 is hereby amended to read as follows:

Section 907.2.3 Group E. A manual fire alarm system that initiates the occupant notification signal utilizing an emergency voice/alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group E occupancies. When *automatic sprinkler systems* or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system. Where approved by the fire code official, a building's emergency communication system interfaced with the fire alarm system in accordance with NFPA 72 is acceptable.

* * *

Section 907.2.10.1 is hereby amended to read as follows:

Section 907.2.10.1 Group R-1. Single- or multiple-station smoke alarms shall be installed in all of the following locations in Group R-1:

* * *

4. In *dwelling units* where the ceiling height of a room open to the hallway serving the *sleeping units* exceeds that of the hallway by 24 inches (610 mm) or more, smoke alarms shall be installed in the hallway and in the adjacent room.

Section 907.2.10.2 is hereby amended to read as follows:

Section 907.2.10.2 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 units exceeds that of the hallway by 24 inches (610 mm) or more, smoke alarms shall be installed in the hallway and the in the adjacent room.

Section 1010.1.9.4 is hereby amended to read as follows:

Section 1010.1.9.4 Locks and latches. Locks and latches shall be permitted to prevent operation of doors where any of the following exist:

* * *

7. Egress doors from occupied roofs, or doors that are used to gain access to the interior of the building shall be allowed to lock from the outside if all of the following are provided.

7.1 Compliance with all aspects of Section 1010.1.9.4 item #2

7.2 Compliance with 1009.8

7.3 The door locks shall unlock on actuation of the automatic sprinkler system and automatic fire detection system and the door locking system shall be installed to have the capability of being unlocked by a switch located at the Fire Command center.

Section 1011.1 Exceptions are hereby amended to read as follows:

Section 1011.1 Exceptions:

1. Within rooms or spaces used for assembly purposes, stepped aisles shall comply with Section 1029.

2. Stairways used only to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public need not comply with Sections 1011.2 through 1011.13.

Section 1011.2 Exceptions are amended to read as follows:

Section 1011.2 Exceptions:

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* * *

4. Stairways used only to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public.

Section 1011.5.2 Exceptions are hereby amended to read as follows:

Section 1011.5.2 Exceptions:

* * *

3. In Group R-3 occupancies; within *dwelling units* in occupancies 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* in Group R-2 occupancies; the maximum riser height shall be ~~7¾ inches (197 mm)~~ 8 inches; the minimum tread depth shall be ~~10 inches (254 mm)~~ 9 inches; the minimum *winder* tread depth at the walkline shall be 10 inches (254 mm); and the minimum *winder* tread depth shall be 6 inches (152 mm). A *nosing* projection not less than ¾ inch (19.1 mm) but not more than 1 ¼ inches (32 mm) shall be provided on *stairways* with solid risers where the tread depth is less than 11 inches (279 mm).

* * *

6. Stairways used only to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public are permitted to have a maximum 8-inch riser height and minimum 9-inch tread depth.

Section 1011.11 Exceptions are hereby amended to read as follows:

Section 1011.11 Exceptions:

* * *

5. Stairways used only to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public.

6. Vehicle service pit stairways are exempt from the rules for stairway railings and guards if they would prevent a vehicle from moving into a position over the pit.

Section 1015.2 is hereby amended to read as follows:

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Section 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 (762mm) measured vertically to the floor or grade below at any point within 36 inches (914mm) horizontally to the edge of the open side above the floor or grade below or if within 36 inches (914mm) 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 1607.8.

Section 1104.4 Exceptions are hereby amended to read as follows:

Section 1104.4 Exceptions:

1. An *accessible route* is not required to *stories, basements, and mezzanines and occupied roofs* that have an aggregate area of not more than 3,000 square feet (278.7 m²), are located above ~~and~~ or below *accessible levels* and are below the third story.

* * *

Section 1202.1 is hereby amended to read as follows:

Section 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 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 1202.4.4 is hereby deleted in its entirety.

Section 1206 is hereby deleted in its entirety.

Sections 1402.6 and 1402.7 are hereby deleted in their entirety.

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Sections 1403.6 and 1403.7 are hereby deleted in their entirety.

Section 1601.1 is hereby amended to read as follows:

Section 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:

Section 1610.1 Exception: Foundation walls extending not more than 8 feet (2438 mm) 9 feet 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 and the following section 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.

Section 1804.5 is hereby deleted in its entirety.

Section 1805.1.2.1 is hereby deleted in its entirety.

Section 1809.5 Exceptions are hereby amended as follows:

Section 1809.5 Exceptions:

* * *

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

Section 2901.1 is hereby amended to read as follows:

Section 2901.1 Scope. The provisions of this chapter and the *International Plumbing Code* North Dakota State 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 1209. Private sewage disposal systems shall conform to the *International Private Sewage Disposal Code* North Dakota State Plumbing Code. The *International Fire Code*, the *International Property Maintenance Code* and the *International Plumbing Code* North Dakota State Plumbing Code shall govern the use and maintenance of plumbing components, appliances, equipment and systems. The *International Existing Building Code* and the *International Plumbing Code* North Dakota State Plumbing Code shall govern the *alteration, repair, relocation, replacement and addition* of plumbing components, *appliances, equipment* and systems.

Section 3313 is hereby deleted in its entirety.

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)

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

Attest:

/s/
Steven Sprague, City Auditor

First Reading:	7-29-19
Second Reading:	8-12-19
Final Passage:	8-12-19
Publication:	8-26-19