

## **ORDINANCE NO. 1393**

### **AN ORDINANCE AMENDING TITLE XV: LAND USAGE; CHAPTER 150 BUILDING REGULATIONS SECTION 150.03 INTERNATIONAL RESIDENTIAL CODE ADOPTED AND ENACTING THE 2018 INTERNATIONAL RESIDENTIAL CODE AS MODIFIED BY THE CITY OF VERMILLION**

**BE IT ORDAINED**, by the Governing Body of the City of Vermillion, South Dakota that Title XV: Land Usage; Chapter 150, Section 150.03 International Residential Code is repealed and the 2018 International Residential Code is enacted, and the following portions of the 2018 International Residential Code shall be amended, added, or deleted by the City as follows. All other portions of the 2018 International Residential Code as published shall remain the same.

**AN ORDINANCE** of the City of Vermillion adopting the 2018 edition of the International Residential Code as amended, regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures in the City of Vermillion; providing for the issuance of permits and collection of fees therefore; repealing ordinance 1309 of the City of Vermillion and all other ordinances or parts of laws in conflict therewith including existing ordinance section 150.03 and replacing with the following.

#### **§ 150.03 INTERNATIONAL RESIDENTIAL CODE ADOPTED.**

A certain document, 1 copy of which is on file in the office of the Building Official and 1 copy of which is on file in the Vermillion Public Library, designated as the International Residential Code, 2018 Edition, as published by the International Code Council, Inc., be and is hereby adopted as the residential building code of the City of Vermillion in the State of South Dakota for regulating and governing design, construction, quality of materials, erection, installation, alteration, movement, repair, equipment, use and occupancy, location, removal and demolition of 1- and 2-family dwellings and townhouses not more than 3 stories in height with a separate means of egress and their accessory structures, and providing for the issuance of permits and collection of fees therefore. Each and all of the regulations, provisions, penalties, conditions, and terms of the International Residential Code, 2018 Edition, on file in the locations mentioned above are hereby referred to, adopted, and made a part hereof, as if fully set out, with the additions, insertions, deletions, and changes, if any below. The minimum building standards in the International Residential Code, 2018 Edition, shall be applied to any building permit after effective adoption date.

The following additions, deletions, modifications, or amendments to the International Residential Code, 2018 Edition, are hereby incorporated into and made a part of the code.

International Residential Code:

**R101.1 Title.** These provisions shall be known as the Residential Code for One- and Two-family Dwellings of the City of Vermillion, and shall be cited as such and will be referred to herein as "this code".

**R103.2 Appointment.** Not adopted by the City.

**R104.8 Liability.** The Building Official, members of the Board of Appeals, or employees 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 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 afforded all the protection provided by the city's insurance pool and any immunity and defenses provided by other applicable state and federal law. 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.

**R105.1 Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, replace windows or change the occupancy of a building or structure of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit. The building official may exempt permits for minor work.

(a) Replacement windows in existing openings.

All window replacement shall require a building permit. Replacement windows shall conform to the code for new construction whenever possible, including but not limited to light, ventilation, safety glazing and egress. Windows that cannot meet the code for new construction within the existing opening shall utilize the opening to its maximum potential to comply. Double hung windows or sliding windows that limit light, ventilation or egress are required to be changed to a casement style or similar to maximize the opening. Windows located in rental housing shall meet the requirement to provide for the health, safety and welfare of the occupants. Fees for replacement window permits shall be set by Resolution.

Exception: The replacement of glazing only, in nonhazardous location shall not require a permit.

**R105.2 Work Exempt from Permit.** Permits shall not be required for the following. Exemption 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.

Building:

1. One-story detached accessory structures with side walls no greater than 10 feet in height, used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 120 square feet.
2. Retaining walls that are not over 4 feet in height measured from the bottoms of the grade elevation to the top of the wall, unless supporting a surcharge.
3. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to 1.
4. Painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work.
5. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 52 inches deep, are not greater than 9,000 gallons and are installed entirely above ground.
6. Swings and other playground equipment accessory to detached one- and two-family dwellings.
7. Window awnings supported by an exterior wall which do not project more than 54 inches from the exterior wall and do not require additional support.
8. Decks not exceeding 200 square feet in area and not more than 30 inches above grade at any point within 3 feet of the deck.
9. Exterior Siding, Design and installation shall conform to Code.
10. Roofing, Design and installation shall conform to the Code.
11. Sidewalks and driveways. A driveway permit is required from the City Engineer.
12. Temporary motion picture, television, and theater stage sets and scenery.
13. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.

**R106.3.1 Approval of construction documents.** When the Building Official issues a permit, the construction documents shall be approved, in writing or by stamp, as "Approved." One set of construction documents so reviewed shall be retained by the building official.

**R108.2 Schedule of permit Fees.** Fees shall be set by Resolution of the City of Vermillion's Governing Body.

**R108.6 Work Commencing Before Permit Issuance.** Any person who commences work requiring a permit on a building or structure before obtaining the necessary permits shall be subject to a fee established by Resolution of the City of Vermillion's Governing Body and shall be in addition to the required permit fees. Legal and/or civil proceedings may also be commenced.

**R108.7 Delinquent Accounts.** The building official may refuse to issue permits, register rental units or conduct inspections for any person or business that has a delinquent account with any City of Vermillion department or entity.

**R109.4 Approval required.** Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official upon

notification shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the permit holder or an agent of the permit holder wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official. Fees for violations of this requirement shall be set by Resolution.

**R112.1 Application for appeal.** Any person having any record title or legal interest in the dwelling, dwelling unit, rooming unit, or premises directly affected by a decision of the Code Official or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

**R112.1.2 Forms.** Appeals shall be submitted on the forms provided by the Code Official. Applications must be accompanied with the application fee, applications without fees shall not be considered filed until the fee is received.

**R112.1.3 Membership of board.** The Board of Appeals shall consist of the City of Vermillion Governing Body.

**R112.1.4 Chairman.** The Governing Body's presiding member shall serve as the chairman of the Board of Appeals.

**R112.1.5 Disqualification of member.** A member shall not hear an appeal in which that member has a personal, professional or financial interest.

**R112.1.6 Secretary.** The Governing Body shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

**R112.1.7 Notice of Meeting.** The Board of Appeals shall meet upon notice from the chairman within 30 days of the filing of an appeal, or at stated periodic meetings.

**R112.1.8 Open hearing.** All hearings before the board shall be open to the public. The appellant, the appellant's representative, the Code Official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of a minimum of two-thirds of the board membership.

**R112.1.9 Procedure.** The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

**R112.1.10 Postponed hearing.** When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

**R112.1.11 Board decision.** The board shall modify or reverse the decision of the Code Official only by a concurring vote of a majority of the total number of appointed board members.

**R112.1.12 Records and copies.** The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the Code Official.

**R112.1.13 Administration.** The Code Official shall take immediate action in accordance with the decision of the board.

**R112.1.14 Court review.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

**R112.1.15 Stays of enforcement.** Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

**R112.1.165 Fees.** The fee for appeal application will be set by Resolution. Fees are required for appeal requests regardless of the outcome of the request and are nonrefundable.

**R202. Definitions.** Add the following definition.

**Bedroom.** A finished space that affords privacy to the occupant, at least seventy square feet in space with no dimensions less than seven feet. Bedrooms may not be located in a kitchen, dining room, living room, hallway or bathroom.

Exception: Efficiency units or one bedroom units that are designed to be used as shared or group occupancy.

**Outdoor smoking shelters.** An "outdoor smoking shelter" is an attached addition to, or detached structure located on the same lot as the primary structure. Outdoor smoking shelters shall:

Comply with all provisions of the building code, and any other ordinances of the jurisdiction as adopted, regardless of size;

Shelters 120 square feet, or less, in size: may be constructed of any materials permitted by the building code;

Shelters greater than 120 square feet, or more, in size: Shall be constructed of noncombustible materials only;

Have not more three sides or more than seventy-five percent (75%) of the aggregate wall area enclosed;

Shall not be located within 10 feet of the primary entrance or interfere in any way with the operation of any required entrances or exits;

Be lighted with appropriate weatherproof fixtures;

Be no taller than the primary structure; and

Be both aesthetically and structurally similar to the primary structure.

**Table R301.2 (1) Climatic and Geographic Design Criteria**

Ground Snow Load (Footnote l)	40 psf contour
Wind Speed (Footnote d)	90 mph
Topographic Effects (Footnote k)	No
Seismic Design Category (Footnote f)	A
Weathering (Footnote a)	Severe
Termite Damage (Footnote c)	Slight to Moderate
Winter Design Temperature	-11 Degrees Fahrenheit
Ice Barrier Underlayment Requirement (Footnote i)	Yes
Flood Hazards (Footnote g) Vermillion entered the regular phase of the National Flood Insurance in 1975 Map numbers are 46027C0265C and 46027C0270C	
Air Freezing Index (Footnote i)	3,000
Mean Annual Temperature	46 Degrees Fahrenheit
For SI: 1 pound per square foot = 0.0479 kPa, 1 mile per hour = 0.447 m/s	

### R302.13 Fire protection of floors.

Floor assemblies that are not required elsewhere in this code to be fire-resistance rated, shall be provided with a 1/2-inch (12.7 mm) gypsum wallboard membrane, 5/8-inch (16 mm) wood structural panel membrane, or equivalent on the underside of the floor framing member. Penetrations or openings for ducts, vents, electrical outlets, lighting, devices, luminaires, wires, speakers, drainage, piping and similar openings or penetrations shall be permitted.

#### Exceptions:

1. Floor assemblies located directly over a space protected by an automatic sprinkler system in accordance with Section P2904, NFPA 13D, or other approved equivalent sprinkler system.
2. Floor assemblies located directly over a crawl space not intended for storage or for the installation of fuel-fired or electric-powered heating appliances.
3. Portions of floor assemblies shall be permitted to be unprotected where complying with the following:
  - 3.1. The aggregate area of the unprotected portions does not exceed 80 square feet (7.4 m<sup>2</sup>) per story.
  - 3.2. Fireblocking in accordance with Section R302.11.1 is installed along the perimeter of the unprotected portion to separate the unprotected portion from the remainder of the floor assembly.

4. Wood floor assemblies using dimension lumber or structural composite lumber equal to or greater than 2-inch by 10-inch (50.8 mm by 254 mm) nominal dimension, or other approved floor assemblies demonstrating equivalent fire performance.
5. Unfinished basements.

**R309.5 Fire sprinklers.** Not adopted by the city.

**R312.2.1 Window sills.** Not adopted by the City.

**R319.1 Address Numbers.** Not adopted by the City.

CHAPTER 11 [RE] ENERGY EFFICIENCY.

Not adopted by the City.

Chapters 25 through 32.” Not adopted by the City.

Chapters 33 through 43.” Not adopted by the City.

Dated at Vermillion, South Dakota this 3<sup>rd</sup> day of December, 2018.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

By John E. Powell  
John E. (Jack) Powell, Mayor

ATTEST:

By Michael D. Carlson  
Michael D. Carlson, Finance Officer

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Second Reading: December 3, 2018  
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