

ORDINANCE NO. 1390

AN ORDINANCE AMENDING TITLE IX: GENERAL REGULATIONS; CHAPTER 92 FIRE PREVENTION AND PROTECTION SECTION 92.04 FIRE CODE ADOPTED AND ENACTING THE 2018 INTERNATIONAL FIRE CODE AS MODIFIED BY THE CITY OF VERMILLION, SOUTH DAKOTA.

BE IT ORDAINED, by the Governing Body of the City of Vermillion, South Dakota that Title IX: General Regulations; Chapter 92, Section § 92.04 Fire Code is repealed and the 2018 International Fire Code is enacted, and the following portions of the 2018 International Fire Code adopted in this article shall be added, deleted, modified or amended, or not adopted as follows. All other sections or subsections of the 2018 International Fire Code as published shall remain the same.

AN ORDINANCE of the City of Vermillion adopting the 2018 edition of the International Fire Code as amended, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises.

§ 92.04 INTERNATIONAL FIRE CODE 2018 EDITION ADOPTED

The Governing Body of the City of Vermillion does ordain as follows:

That a certain document, one copy of which is on file in the office of the Fire Chief and one copy of which is on file in the Vermillion Public Library, being marked and designated as the International Fire Code, 2018 edition, as published by the International Code Council, be and is hereby adopted as the Fire Code of the City of Vermillion, in the State of South Dakota regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the City of Vermillion are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance. The following additions, deletion, modification or amendment to the International Fire Code 2018 edition, listed by Fire Code section 92.04 are hereby incorporated into and made part of the code.

Section 2. That the following sections are hereby revised:

101.1 Title. These regulations shall be known as the *Fire Code* of the City of Vermillion, hereinafter referred to as “the code.”

103.1 General. The department of fire prevention is established within the jurisdiction and the official in charge thereof shall be known as the Fire Chief. The function of the department shall be the implementation, administration and enforcement of the provisions of the code.

103.2 Appointment. Not adopted by the City.

103.4 Liability. The Fire 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 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 immunities and defenses provided by other applicable state and federal law 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 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 city, its officers and employees, be held as assuming any such liability by reason of the inspections authorized by this code or any permits or certificates issued under this code.

106.1 Schedule of Permits. Fees shall be set by Resolution of the City of Vermillion Governing Body

106.2 Schedule of permit fees.

A fee for each permit shall be paid as required and shall be set by resolution of the City of Vermillion's Governing Body.

106.3 Work commencing before permit issuance. Any person who commences any work, activity or operation regulated by this code before obtaining the necessary permits shall be subject to an 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.

107.2.2 Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Fire Code Official. The Fire Code Official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent 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 fire Code Official. Fees for violations of this requirement shall be set by Resolution.

[A] 109.1 Application for appeal. Any person having any record title or legal interest in the dwelling, dwelling unit, rooming unit, or premises. Any person directly affected by a decision of the Code Official or a notice or order issued under the 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 the Code do not fully apply, or the requirements of the code are adequately satisfied by other means.

[A] **109.2 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.

[A] **109.3 Membership of board.** The Board of Appeals shall consist of the City of Vermillion Governing Body.

[A] **109.4 Chairman.** The Governing Body's presiding member shall serve as the chairman of the Board of Appeals.

[A] **109.5 Disqualification of member.** A member shall not hear an appeal in which that member has a personal, professional or financial interest.

[A] **109.6 Secretary.** The chief administrative officer 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.

[A] **109.7 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.

[A] **109.8 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.

[A] **109.9 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.

[A] **109.10 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.

[A] **109.11 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.

[A] **109.12 Records and copies.** The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the Code Official.

[A] **109.13 Administration.** The Code Official shall take immediate action in accordance with the decision of the board.

[A] 109.14 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.

[A] 109.15 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.

[A] 109.16 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.

110.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the Fire Official, or of a permit or certificate issued under the provisions of this code, shall be subject a fine set by Resolution in addition to any and all other penalties as prescribed by law.

110.5 Delinquent Accounts. The Fire Official may refuse to issue permits, or conduct inspections for any person or business that has a delinquent account with any City department.

903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exceptions:

1. Group R-2 occupancies with four or fewer units.
2. Group R-3 occupancies

912.2.2 Existing buildings. On existing buildings, the Fire Department connection shall be indicated by an approved sign mounted on the street front or on the side of the building. Such signs shall have the letters "FDC" at least 6 inches high and words in letters at least 2 inches high or an arrow to indicate the location. All such signs shall be subject to the approval of the Fire Code Official.

5704.2.9.6.1 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks outside of buildings is prohibited is the corporate limits of the City of Vermillion).

5706.2.4.4 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks is prohibited corporate limits of the City of Vermillion).

5806.2 (geographic limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited corporate limits of the City of Vermillion).

6104.2 (geographic limits in which the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas corporate limits of the City of Vermillion).

Dated at Vermillion, South Dakota this 3rd 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



First Reading: November 19, 2018
Second Reading: December 3, 2018
Publish: December 14, 2018
Effective: January 3, 2019