

## **ORDINANCE 1392**

### **AN ORDINANCE AMENDING TITLE XV: LAND USAGE; CHAPTER 150 BUILDING REGULATIONS SECTION 150.02 INTERNATIONAL BUILDING CODE ADOPTED AND ENACTING THE 2018 INTERNATIONAL BUILDING 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City of Vermillion, South Dakota that Title XV: Land Usage; Chapter 150 Section 150.02 International Building Code is repealed and the 2018 International Building Code is enacted, and the following portions of the 2018 International Building Code adopted in this article shall be added,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 Building Code as published shall remain the same.

**AN ORDINANCE** of the City of Vermillion adopting the 2018 edition of the International Building 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 herewith including existing ordinance section 150.02 and replacing with the following.

#### **§ 150.02 INTERNATIONAL BUILDING CODE ADOPTED.**

A certain document, 1 copy of which is on file in the office of the City Building Official, a copy of which is on file at the Vermillion Public Library, designated as the International Building Code, 2018 Edition, including Appendix J, as published by the International Code Council, Inc., is hereby adopted for the erection, construction, enlargement, alteration, moving, removal, demolition, conversion, occupancy, height, area, 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 for the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of the structures as herein provided, 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 Building 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 in the ordinance, with the additions, insertions, deletions, and changes if any, prescribed below. The minimum building standards of International Building Code, 2018 Edition, and amendment thereto shall be applied to any building permit issued after the effective adoption date.

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

International Building Code modifications:

**[A] 101.1 Title.**

These regulations shall be known as the Building Code of the City of Vermillion, hereinafter referred to as “this code.”

**[A] 101.4.3 Plumbing.** All references to the International Plumbing Code shall refer to the provisions of the Uniform Plumbing Code. The provisions of The Uniform Plumbing Code as modified by the state of South Dakota shall apply to the installation of plumbing systems, including design, construction, installation, improvement, extension and alteration of materials, piping, venting, fixtures, appliances and appurtenances in relation to plumbing and plumbing systems. Permits and inspection for plumbing work shall be obtained through the State Plumbing Commission.

**2701.1 Scope.**

The provisions of this chapter and NFPA 70 shall govern the design, construction, erection and installation of the electrical components, appliances, equipment and systems used in buildings and structures covered by this code. The International Fire Code, the International Property Maintenance Code and NFPA 70 shall govern the use and maintenance of electrical components, appliances, equipment and systems. The International Existing Building Code and NFPA 70 shall govern the alteration, repair, relocation, replacement and addition of electrical components, appliances, or equipment and systems.

Chapter 27 ELECTRICAL 2701.L1 Scope

The provisions of the National Electric Code as adopted by the State of South Dakota shall apply to the installation of electrical systems, including equipment, appliances, fixtures, fittings and/or appurtenances thereto. All references to the International Electrical Code shall refer to the National Electrical Code. Permits and inspections for electrical work shall be obtained through The State Electrical Commission.

**[A] 104.8 Liability.** The Building 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.

**105.1 Permit 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. Fee shall be set by Resolution of the City of Vermillion Governing Body.

Exceptions:

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

**[A] 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:

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 installation shall conform to the 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.

**[A] 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 "Approved." One set of construction documents so reviewed shall be retained by the building official. The site submittal 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 duly authorized representative.

**[A] 109.2 Schedule of permit fees.**

On buildings, structures or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the City of Vermillion. Fees shall be set by resolution of the City of Vermillion's Governing Body.

**[A] 109.4 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.

**[A] 109.7 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 department.

**[A] 110.3 Required Inspection.** The building official shall indicate on the building permit the inspections required for each job and upon notification shall make the inspections.

**[A] 110.6 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 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 building official. Fees for violations of this requirement shall be set by Resolution.

**[A] 113.1 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 thereunder 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.

**113.2 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.

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

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

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

**113.6 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.

**113.7 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.

**113.8 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.

**113.9 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.

**113.10 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.

**113.11 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.

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

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

**113.14 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.

**113.15 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.

**113.16 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.

**114.4 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 Building 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.

Chapter 2 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.

**[A] 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.

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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