

ORDINANCE MC50-16
AN ORDINANCE PROVIDING FOR THE ADOPTION OF THE 2015
INTERNATIONAL EXISTING BUILDING CODE AND AMENDMENTS AND
ADDITIONS THERETO; AND FOR THE REPEAL OF ALL ORDINANCES AND
RESOLUTIONS IN CONFLICT THEREWITH.

BE IT ORDAINED BY MINNEHAHA COUNTY, SOUTH DAKOTA:

SECTION 1. Adoption International Existing Building Code 2015.

The International Existing Building Code, 2015 edition, including Chapter A6 of Appendix A, Referenced Standards as published by the International Code Council Inc., and amendments and additions thereto as provided in this ordinance are hereby adopted by Minnehaha County as provided by South Dakota Codified Laws Chapter 7-8-20(17) for regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures in the unincorporated area of Minnehaha County and providing for issuance of permits and collection of fees therefore. The alternate minimum building standards in the 2015 edition of the International Existing Building Code and amendments thereto shall be applied to any building permit issued after September 6, 2016. The adoption of the International Existing Building Code, 2015 edition will become effective September 7, 2016. A printed copy of such code and additions and amendments thereto is on file with the County Auditor.

SECTION 2. Repeal.

Ordinance MC45-13 is hereby repealed.

SECTION 3. Amendments, additions and deletions to the 2015 International Existing Building Code. The following sections and subsections of building code adopted in this article shall be amended, added, or deleted as follows. All other sections or subsections of the 2015 International Existing Building Code shall remain the same.

[A] **101.1 Title.** These regulations shall be known as the *Existing Building Code* of Minnehaha County, hereinafter referred to as “this code.”

[A] **103.1 Enforcement agency.** The Department of Planning and Zoning shall be the enforcement agency and the official in charge thereof shall be known as the Planning Director

[A] **103.2 Appointment.** Not adopted by Minnehaha County.

[A] **103.3 Deputies.** In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the **Planning Director** shall have the authority to appoint a **Chief Building Inspector** (referred to herein as the code official), the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the code official.

[A] 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 civilly or criminally 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.

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 county 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.

[A] 104.8.1 Legal defense. Any suit or criminal complaint 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 County's liability insurance and immunities and defenses provided by other applicable state and federal laws and shall be defended by legal representatives 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.

[A] 104.10.1 Flood hazard areas. The *building official* shall not grant modifications to any provision required in *flood hazard areas* as established by the 2011 Floodplain Management Ordinance for Minnehaha County.

[A] 105.1 Required. Any owner or owner's authorized agent who intends to *repair*, add to, alter, relocate, demolish, or change the occupancy of a building or to *repair*, install, add, alter, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the *code official* and obtain the required permit. The code official or Planning Director may exempt permits for minor work.

[A] 105.1.1 Annual permit. Not adopted by Minnehaha County.

[A] 105.1.2 Annual permit records. Not adopted by Minnehaha County.

[A] 105.5 Expiration. Every *permit* issued shall become invalid 365 days after its issuance. The *code official* is authorized to grant, in writing, one extension of time, for a period not more than 180 days. The extension shall be requested in writing and any fees paid before the original permit expires.

[A] 109.3.1 Footing or foundation inspection. Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. If an inspection is required for concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready-mixed in accordance with ASTM C 94, the concrete need not be on the job.

[A] 110.1 Altered area use and occupancy classification change. No building shall be used or occupied, and change in the existing use or occupancy classification of a building or portion thereof shall not be made until the code official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

[A] 110.2 Certificate issued. After the *code official* inspects the building and does not find violations of the provisions of this code or other laws that are enforced by the Planning and Zoning Department, the *code official* may issue a certificate of occupancy that may contain the following:

1. The building permit number.
2. The address of the structure.
3. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
4. The name of the *code official*.
5. The edition of the code under which the permit was issued.
6. The use and occupancy in accordance with the provisions of the *International Building Code*.
7. The type of construction as defined in the *International Building Code*.
8. The design occupant load in assembly occupancies only.
9. If fire protection systems are provided, whether the fire protection systems are required.
10. Any special stipulations and conditions of the building permit.

[A] 112.1 General. In order to hear and decide appeals of orders, decisions, or determinations made by the code official relative to the application and interpretation of this code there shall be and is hereby created a board of appeals consisting of the members of the Minnehaha County Planning Commission. The Planning Commission acting as the board of appeals may call upon experts in the field of architecture, engineering and construction before making a decision on any appeal coming before them. The board of appeals shall be appointed by the Minnehaha County Board of County Commissioners and shall hold office at its pleasure

[A] 112.2 Limitations on authority. 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 an equally good or better form of construction is proposed. The board shall not have authority relative to the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

[A] 113.3 Prosecution of violation. If the notice of violation is not complied with promptly, the *code official* is authorized to request the legal counsel of the jurisdiction to deem the violation as a strict liability offense and institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

[A] 113.4 Violation penalties. Pursuant to the County's authority South Dakota Codified Laws Chapter 7-18A-2, failure to comply with any of the provisions of this ordinance shall constitute a violation of said ordinance and be punishable by a fine not to exceed the fine established by SDCL 22-6-2(2) for each violation, or by imprisonment for a period not to exceed thirty days for each violation, or by both the fine and imprisonment; in addition the County may institute an action for civil injunctive relief as provided by SDCL Chapter 21-8. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

SECTION R202-DEFINITIONS. Add the following definition:

STRICT LIABILITY OFFENSE. An offense, in which the prosecution in a legal proceeding, is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

302.2 Additional codes. *Alterations, repairs, additions and changes of occupancy* to, or relocation of, *existing buildings* and structures shall comply with the provisions for *alterations, repairs, additions and changes of occupancy* or relocation, respectively, in this code and the *International Energy Conservation Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, Plumbing Code, International Property Maintenance Code, International Private Sewage Disposal Code, International Residential Code* and NFPA 70 as adopted by the State of South Dakota. Where provisions of the other codes conflict with provisions of this code, the provisions of this code shall take precedence.

406.2 Replacement window opening control devices. In Group R-2 or R-3 buildings containing dwelling units, window opening control devices complying with ASTM F 2090 shall be installed where an existing window is replaced and where all of the following apply to the replacement window:

1. The window is operable;
2. The window replacement includes replacement of the sash and the frame;
3. One of the following applies:

3.1. In Group R-2 or R-3 buildings containing dwelling units, the top of the sill of the window opening is at a height less than 36 inches (915 mm) above the finished floor; or

3.2. In one- and two-family dwellings and townhouses regulated by the *International Residential Code*, the top sill of the window opening is at a height less than 24 inches (610 mm) above the finished floor.

4. The window will permit openings that will allow passage of a 4-inch-diameter (102 mm) sphere when the window is in its largest opened position; and

5. The vertical distance from the top of the sill of the window opening to the finished grade or other surface below, on the exterior of the building, is greater than 72 inches (1829 mm).

The window opening control device, after operation to release the control device allowing the window to fully open, shall not reduce the minimum net clear opening area of the window unit to less than the area required by Section 1029.2 of the *International Building Code*.

Exceptions: 1. Operable windows where the top of the sill of the window opening is located more than 75 feet (22 860 mm) above the finished grade or other surface below, on the exterior of the room, space or building, and that are provided with window fall prevention devices that comply with ASTM F 2006.

2. Operable windows with openings that are provided with window fall prevention devices that comply with ASTM F 2090.

607.1 Material. Existing electrical wiring and equipment undergoing *repair* shall be allowed to be repaired or replaced with like material. Minor additions, alterations, and repairs to existing electrical systems or equipment may be installed in accordance with the law in effect at the time the original installation was made, when approved by the electrical inspector.

607.1.4 Group B and I-2 receptacles. Non-“hospital grade” receptacles in patient bed locations of Group B, medical offices and ambulatory health care facilities, and Group I-2 shall be replaced with “hospital grade” receptacles, as required by NFPA 99 and Article 517 of NFPA 70.

607.1.6 New electrical service entrances in existing single-family and multiple-family dwellings. When adding a new service entrance with increased amperage, the existing electrical system shall, at a minimum, comply with the following:

- (1) *Kitchens.* Each kitchen shall have a minimum of one 20-ampere circuit serving a countertop receptacle and a grounded receptacle serving a refrigerator.
- (2) *Overcurrent device location.* Each occupant shall have access to his branch circuit overcurrent devices without going outdoors or through another occupancy.

- (3) *Habitable areas.* All habitable areas, other than closets, kitchens, basements, garages, hallways, laundry areas, utility areas, storage areas, and bathrooms, shall have a minimum of two duplex receptacle outlets, or one duplex receptacle outlet and one ceiling or wall-type lighting outlet.
- (4) *Minimum lighting outlets.* At least one lighting fixture shall be provided in every habitable room, bathroom, hallway, stairway, attached garage, and detached garage with electrical power, in utility rooms and basements where such spaces are used for storage or contain equipment requiring service, and to illuminate outdoor entrances and exits.
- (5) *Ground fault circuit interrupters.* Ground fault circuit interrupter protection shall be provided for all receptacles in bathrooms, above kitchen counters, attached and detached garages provided with power, at readily accessible receptacles within 6 feet of sinks, unfinished basements, and at outdoor locations. The exceptions of the *National Electrical Code* 210.8(A) 3 and 5 shall apply.
- (6) *Laundries.* Each laundry shall be provided with at least one separate 20-ampere circuit.
- (7) *Heat sources.* Any heat source shall be provided with a separate circuit.
- (8) *Exposed wiring methods.* All exposed wiring methods shall be installed in accordance with the applicable *National Electrical Code* article.

609.1 Materials. Plumbing materials and supplies shall not be used for repairs that are prohibited in the *Uniform Plumbing Code*.

702.6 Materials and methods. All new work shall comply with the materials and methods requirements in the *International Building Code*, *International Residential Code*, *International Energy Conservation Code*, *International Mechanical Code*, *International Fuel Gas Code*, *NFPA 70*, and the *Uniform Plumbing Code*, as applicable, that specify material standards, detail of installation and connection, joints, penetrations, and continuity of any element, component, or system in the building.

[M] 702.6.2 International Mechanical Code. The following sections of the *International Mechanical Code* shall constitute the mechanical materials and methods requirements for Level 1 alterations.

1. All of Chapter 3, entitled “General Regulations,” except Sections 303.7 and 306.
2. All of Chapter 8, entitled “Chimneys and Vents.”
3. All of Chapter 9, entitled “Specific Appliances.”

[R] 702.6.3 International Residential Code. The following sections of Part V—Mechanical of the *International Residential Code* shall constitute the residential mechanical and fuel gas materials and methods requirements for Level 1 alterations.

1. All of Chapter 13, entitled “General Mechanical System Requirements,” except Section M1305.
2. All of Chapter 18, entitled “Chimneys and Vents.”
3. All of Sections G2431 through G2453 governing the appliances and equipment specifically identified therein.

805.3.1.2.1 Fire escape access and details. Fire escapes shall comply with all of the following requirements:

1. Occupants shall have unobstructed access to the fire escape without having to pass through a room subject to locking.
2. Access to a new fire escape shall be through a door, except that windows shall be permitted to provide access from single dwelling units or sleeping units in Group R-1, R-2 and I-1 occupancies or to provide access from spaces having a maximum occupant load of 10 in other occupancy classifications.

2.1. The window shall have a minimum net clear opening of 5 square feet (0.46 m²) where located at grade.

2.2. The minimum net clear opening height shall be 24 inches (610 mm) and net clear opening width shall be 20 inches (508 mm).

2.3. The bottom of the clear opening shall not be greater than 48 inches (1219 mm) above the floor.

2.4. The operation of the window shall comply with the operational constraints of the *International Building Code*.

3. Newly constructed fire escapes shall be permitted only where exterior stairways cannot be utilized because of lot lines limiting the stairway size or because of the sidewalks, alleys, or roads at grade level.

4. Openings within 10 feet (3048 mm) of fire escape stairways shall be protected by fire assemblies having minimum 3/4-hour fire resistance ratings.

Exception: Opening protection shall not be required in buildings equipped throughout with an approved automatic sprinkler system.

5. In all buildings of Group E occupancy, up to and including the 12th grade, buildings of Group I occupancy, rooming houses and childcare centers, ladders of any type are prohibited on fire escapes used as a required means of egress.

810.1 Minimum fixtures. Where the occupant load of the story is increased by more than 20 percent, plumbing fixtures for the story shall be provided in quantities specified in Chapter 29, Plumbing Systems of the *International Building Code* based on the increased occupant load.

1010.1 Increased demand. Where the occupancy of an *existing building* or part of an *existing building* is changed such that the new occupancy is subject to increased or different plumbing fixture requirements or to increased water supply requirements in accordance with the *Uniform*

Plumbing Code, the new occupancy shall comply with the intent of the respective *Uniform Plumbing Code* provisions.

1010.2 Food-handling occupancies. If the new occupancy is a food-handling establishment, all existing sanitary waste lines above the food or drink preparation or storage areas shall be panned or otherwise protected to prevent leaking pipes or condensation on pipes from contaminating food or drink. New drainage lines shall not be installed above such areas and shall be protected in accordance with the *Uniform Plumbing Code*.

1010.3 Interceptor required. If the new occupancy will produce grease or oil-laden wastes, interceptors shall be provided as required in the *Uniform Plumbing Code*.

1010.5 Group I-2. If the occupancy group is changed to Group I-2, the plumbing system shall comply with the applicable requirements of the *Uniform Plumbing Code*.

**TABLE 1012.4
MEANS OF EGRESS HAZARD CATEGORIES**

Relative Hazard	Occupancy Classification
1 (Highest Hazard)	H, I-2, I-3, I-4
2	I-1, R-1, R-2, R-4
3	A, E, M
4	B, F-1, S-1, R-3
5 (Lowest Hazard)	F-2, S-2, U

**TABLE 1012.5
HEIGHTS AND AREAS HAZARD CATEGORIES**

Relative Hazard	Occupancy Classification
1 (Highest Hazard)	H, I-2, I-3, I-4
2	A-1, A-2, A-3, A-4, I-1, R-1, R-2, R-4
3	E, F-1, S-1, M
4	B, F-2, S-2, A-5, R-3, U

1012.4.1 Means of egress for change to higher hazard category. When a change of occupancy classification is made to a higher hazard category (lower number) as shown in Table 1012.4, the means of egress shall comply with the requirements of Chapter 10 of the *International Building Code*.

Exceptions: 1. Stairways shall be enclosed in compliance with the applicable provisions of Section 903.1.

2. Existing stairways including handrails and guards complying with the requirements of Chapter 9 shall be permitted for continued use subject to approval of the *code official*.
3. Any stairway replacing an existing stairway within a space where the pitch or slope cannot be reduced because of existing construction shall not be required to comply with the maximum riser height and minimum tread depth requirements.
4. Existing corridor walls constructed on both sides of wood lath and plaster in good condition or 1/2- inch-thick (12.7 mm) gypsum wallboard shall be permitted. Such walls shall either terminate at the underside of a ceiling of equivalent construction or extend to the underside of the floor or roof next above.
5. Existing corridor doorways, transoms and other corridor openings shall comply with the requirements in Sections 805.5.1, 805.5.2 and 805.5.3.
6. Existing dead-end corridors shall comply with the requirements in Section 805.6.
7. An existing operable window with clear opening area no less than 4 square feet (0.38 m²) and minimum opening height and width of 22 inches (559 mm) and 20 inches (508 mm), respectively, provided the operable window has a sill height of not more than 48 inches (1,219 mm) above the floor, shall be accepted as an emergency escape and rescue opening.

1012.6.2 Exterior wall rating for change of occupancy classification to an equal or lesser hazard category. When a change of occupancy classification is made to an equal or lesser hazard category as shown in Table 1012.6, existing exterior walls, including openings, shall be accepted.

Exception. Where a property line is platted creating a Group R-3, multifamily dwelling (town house), the walls separating the dwelling units shall be constructed to provide a continuous fire separation using construction materials consistent with the existing wall or complying with the requirements for a new structure. The fire-resistive elements are not required to be continuous between concealed floor spaces, although there shall be provided a draft stop, located above and in line with the dwelling unit separation walls.

1301.2 Conformance. 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.

Exceptions:

1. Manufactured homes used as a dwelling and located in a licensed manufactured home park.

2. Structures used as a temporary office or shelter on a construction or development site when approved by the building official.
3. Structures used as a temporary business office for a period as specified in Section [A] 108.1 of the International Building Code when approved by the building official and provided it meets the applicable accessibility requirements of this code.
4. Manufactured homes used as a sales office at a location where such homes are offered for sale provided it meets the applicable accessibility requirements of this code.

1401.2 Applicability. Structures existing prior to March 11, 1968, in which there is work involving *additions, alterations or changes of occupancy* shall be made to conform to the requirements of this chapter or the provisions of Chapters 5 through 13. The provisions of Sections 1401.2.1 through 1401.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, I-2, M, R and S. These provisions shall not apply to buildings with occupancies in Group H or I-1, I-3 or I-4.

Adopted this 2nd day of August, 2016.

MINNEHAHA COUNTY

Chair, Board of County Commissioners

ATTEST:

County Auditor

1 st Reading	June 28, 2016
Legal Ad. – Argus Leader	July 4, 2016
Garretson Gazette	July 7, 2016
Minnehaha Messenger	July 7, 2016
Public Hearing	August 2, 2016
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