

CHAPTER 21

INTERNATIONAL BUILDING CODE

Article

- 21-01 International Building Code--Adoption--Modifications, §§21-0101 to 21-0102.
- 21-02 Light and Ventilation of Buildings, Omitted.
- 21-03 Safety Regulations for Moving and Construction of Buildings, §21-0301.
- 21-04 Dangerous Buildings, §§21-0401 to 21-0412.
- 21-05 Television Masts, Towers, and Antennas, §§21-0501 to 21-0505.
- 21-06 Flood Plain Management, §§21-0601 to 21-0604.
- 21-07 Wind Energy Conversion Systems, §§21-0701 to 21-0710.

ARTICLE 21-01

INTERNATIONAL BUILDING CODE--ADOPTION--MODIFICATIONS

Section

- 21-0101 International Building Code adopted.
- 21-0102 Modification of International Building Code.
- 21-0103 to 21-0113 Repealed.

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 2006 edition of the International Building Code of the International Conference of Building Officials 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.

Source: 2450 (1989), 2616 (1992), 2757 (1995), 2867 (1998), 4183 (2001), 4406 (2004), 4595 (2007).

21-0102. Modification of International Building Code.--The International Building Code as adopted in §1-0101 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 the city of Fargo hereinafter referred to as “this code.”

Section 101.4.1 is hereby amended to read as follows:

Section 101.4.1 – Electrical. Wherever the term “ICC Electrical Code” is used in the International Building Code, it shall mean the National Electric Code together with the North Dakota State Wiring Standards.

Section 101.4.4 is hereby amended to read as follows:

Section 101.4.4 – Plumbing. Wherever the term “International Plumbing Code” and/or the “International Private Sewage Disposal Code” is used in the International Building Code, it shall mean the North Dakota State Plumbing Code.

Section 101.4.7 is hereby amended to read as follows:

Section 101.4.7 Flood Plain. Wherever reference is made to flood plain considerations, construction requirements or Section 1612, it shall mean the Fargo Flood Plain Management ordinance together with the Flood Proofing Code of the city of Fargo, North Dakota.

Section 104.8 is hereby amended to include a new final paragraph as follows:

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 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 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 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 105.2 is hereby amended to read as follows:

Section 105.2 -- Work exempt from permit. ....

Building:

\* \* \*

2. Fences not over 8.5 feet high.

\* \* \*

6. Sidewalks and driveways.

\* \* \*

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

12. Window awnings.

14. Reroofing.

Section 106.3.1 is amended to read as follows:

106.3.1. Approval of construction documents. When the building official .....One set of construction documents so reviewed shall be retained by the Building Official.

Section 108.2 is hereby amended to read as follows:

Section 108.2 -- 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 the 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 106.3.4.2, an additional plan review fee shall be charged in an amount not to exceed 50% of the building permit fee established in Section 108.2.

Section 109.3.3 is hereby deleted in its entirety.

Section 109.3.7 is hereby deleted in its entirety.

Section 305.2 is hereby amended to read as follows:

305.2. Day care. The use of a building or structure, or portion thereof, for educational, supervision or personal care services for more than twelve children older than 2½ years of age, shall be classified as a Group E occupancy.

Section 308.3.1 is hereby amended to read as follows:

308.3.1. Child care facility. A child care facility that provides care on a 24-hour basis to more than twelve children 2½ years of age or less shall be classified as Group I-2.

Section 308.5 is hereby amended to read as follows:

Section 308.5. Group I-4, day care facilities. ....A facility such as the above with

twelve or fewer persons shall be classified as a Group R-3 or shall comply with the International Residential Code.....

Section 308.5.2 is hereby amended to read as follows:

308.5.2. Child care facility. A facility that provides supervision and personal care on less than a 24-hour basis for more than twelve children 2½ years of age or less shall be classified as Group I-4.

Exception: A child day care facility that provides care for more than twelve but no more than 100 children 2½ years or less of age, when the rooms where such children are cared for are located on the level of exit discharge and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.

Section 310.1 is hereby amended to read as follows:

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I, including:

Buildings that do not contain more than two dwelling units.

Adult facilities that provide accommodations for five or fewer persons of any age for less than 24 hours.

Child care facilities that provide accommodations for twelve or fewer persons of any age for less than 24 hours.

Congregate living facilities with 16 or fewer persons.

Adult and child care facilities that are within a single-family home are permitted to comply with the *International Residential Code*.

Section 406.1.4 Paragraph 1 is hereby amended to read as follows:

1. . . . Openings from a private garage directly into a room used for sleeping purposes shall not be permitted.

Section 705.6 is hereby amended to add an Exception 6 as follows:

6. Fire walls installed within detached structures of Group U occupancy may terminate at the underside of the roof sheathing provided such walls are not required to be fire resistive construction due to proximity to property lines.

The exception to Section 711.3 is hereby amended to add a final sentence to read as follows:

..... sprinkler system in accordance with Section 903.3.1.1. The roof/ceiling assembly of a Group R-2 apartment house otherwise required to be one hour fire-rated construction may be protected at it's ceiling with a single layer of 5/8" fire code sheetrock provided the building is protected with an automatic sprinkler system

complying with Section 903.3.1.1. For the purpose of use of this exception only, use of Exception 1 and 2 of Section 2-6 of NFPA 13-R will not be allowed.

Section 801.1.3 is hereby amended to read as follows:

Section 801.1.3. **Applicability.** For buildings in flood hazard areas, interior finishes, trim and decorative materials below the design flood elevation shall be flood-damage-resistant materials in accordance with the requirements of the Fargo Flood Proofing Code.

Section 903.3.1.1 is hereby amended to add a new second paragraph to read as follows:

903.3.1.1 NFPA 13 sprinkler systems.

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 and requires written documentation from the code official. Combustible storage shall not be allowed in these unoccupied tenant spaces if sprinkler heads are installed at ceiling height. Signage shall be provide outlining the storage restrictions.

Section 903.3.1.2.1 is hereby deleted in its entirety.

Section 907.2.10.1.1 is hereby amended to add a new number 4 to read as follows:

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

Section 907.2.10.1.2 is hereby amended to add a new number 4 to read as follows:

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

Section 1009.1 is hereby amended to add a new Exception 5 to read as follows:

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.

Section 1009.3, Exception 4, is hereby amended to read as follows and Exception 6 is added:

4. In occupancies in Group R-3, as applicable in Section 101.2, within dwelling units in occupancies in Group R-2, as applicable in Section 101.2, and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, the maximum riser height shall be 8 inches and the minimum tread depth shall be 9 inches, the minimum winder tread depth at the walk line shall be 10 inches, and the minimum winder tread depth shall be 6 inches. A nosing not less than 0.75 inch but not more than 1.25 inches shall be provided on stairways with solid risers where the tread depth is less than 11 inches.
5. \* \* \*
6. Stairways used 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 handrail on one side only.

Section 1009.10 is hereby amended to amend Exception 5 as shown and add Exceptions 6 and 7 as follows:

1009.10 Handrails. Stairways shall have handrails on each side and shall comply with Section 1012. Where glass is used to provide the handrail, the handrail shall also comply with Section 2407.

Exceptions:

1. Aisle stairs . . . handrails.  
\* \* \*
5. Changes in room elevations of three or fewer risers within dwelling units and sleeping units in Group R-2 and R-3 occupancies do not require handrails.
6. Vehicle service pit stairways are exempt from the rules for stairway railing and guards, if they would prevent a vehicle from moving into a position over the pit.
7. 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 handrail on one side only.

Section 1026.1 Exception 1 is hereby amended as follows:

1. In other than Group R-3 occupancies, buildings equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1.

Section 1104.4 Exception 1 is hereby amended as follows:

1104.4 Multilevel buildings and facilities. At least one accessible route shall connect each accessible level, including mezzanines, in multilevel buildings and facilities.

Exceptions:

1. An accessible route shall not be required in facilities that are less than three stories or that have an area of not more than 3,000 square feet (278.7 m<sup>2</sup>) per story. This

exception shall not apply to:

- 1.1. Multiple tenant facilities . . . .

Section 1107.6.2.1 is hereby amended to read as follows:

1107.6.2.1 Apartment houses, monasteries and convents. Type B units shall be provided in apartment houses, monasteries and convents in accordance with Sections 1107.6.2.1.1 and 1107.6.2.1.2.

Section 1207 is hereby deleted in its entirety.

Chapter 13 is hereby deleted in its entirety.

Section 1403.5 is hereby deleted in its entirety.

Section 1403.6 is hereby deleted in its entirety.

Section 1406.3 is hereby amended to add a new exception 5 to read as follows:

5. Private balconies and similar appendages serving individual dwelling units on buildings of Type V construction.

Section 1507.2.6 is hereby amended to read as follows:

Fasteners. Fasteners for asphalt shingles shall be galvanized, stainless steel, aluminum, or copper roofing nails, minimum 12 gage 0.105 inch (2.67 mm) shank with a minimum 0.375 inch-diameter (9.5 mm) head, of a length to penetrate through the roofing materials and a minimum of 0.75 (19.1 mm) into the roof sheathing or other fasteners as approved by the building official and shingle manufacturer. Where the roof sheathing is less than 0.75 inch (19.1 mm) thick, the nails shall penetrate through the sheathing. Fasteners shall comply with ASTM F 1667.

Section 1510 is hereby deleted and relocated as Appendix L.

Section 1601.1 is hereby amended to add the following as a new second paragraph.

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 exception is hereby amended to read as follows:

Exception: Basement walls extending not more than 9 feet below grade and supporting flexible floor systems shall be permitted to be designed for active pressure.

Section 1612 is hereby deleted in its entirety:

Section 1704.1 is hereby amended to add a new paragraph 4 to read as follows:

4. The frequency and amount of special inspections shall be as determined by the design professional of record. The continuous and periodic inspections referenced in Tables 1704.3, 1704.4, 1704.5.1, and 1704.5.3 shall be considered as guidelines for that determination.

Section 1803.3 is hereby deleted and the following section enacted:

Section 1803.3 Surface drainage. 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.

Section 1803.4 is hereby deleted in its entirety and subsequent sections renumbered accordingly.

Section 1805.2.1 is hereby amended to add a new, final paragraph to the exception as follows:

Free-standing buildings used as Group U occupancies for the storage of private or pleasure-type motor vehicles constructed in accordance with Sections 406.1.1 and 406.1.2.

Section 2901 shall be amended to reference the North Dakota State Plumbing Code instead of the International Plumbing Code.

Table 2902.1 is hereby amended as shown in the replacement Table 2902.1 following.  
**THIS TABLE WILL MATCH THE NORTH DAKOTA STATE PLUMBING CODE AND ITS FOOTNOTES.**

Section 2902.2 Exception 2 is hereby amended to read as follows:

2. Separate facilities shall not be required in structures or tenant spaces with a total occupant load, including both employees and customers, of 10 or less.

Section 3109 is hereby deleted and moved to Appendix M.

**[P] TABLE 2902.1**  
**MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES<sup>a</sup>**  
**(See Sections 2902.2 and 2902.3)**

No.	Classification	Occupancy	Description	Water Closets		Lavatories		Bathtubs or Showers	Drinking Fountains	Other
				Male	Female	Male	Female			
1	Assembly (see Sections 2902.2, 2902.4, and 2902.4.1)	A-1 <sup>d</sup>	Theaters and other buildings for the performing arts and motion pictures	1 per 125	1 per 65	1 per 200		--	1 per 500	1 service sink
		A-2 <sup>d</sup>	Nightclubs, bars, taverns, dance halls and buildings for similar purposes	1 per 40	1 per 40	1 per 75		--	1 per 500	1 service sink
			Restaurants, banquet halls and food courts	1 per 60	1 per 60	1 per 200		--	1 per 500	1 service sink
		A-3 <sup>d</sup>	Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums	1 per 125	1 per 65	1 per 200		--	1 per 500	1 service sink
			Passenger terminals and transportation facilities	1 per 500	1 per 500	1 per 750		--	1 per 1,000	1 service sink
			Places of worship and other religious services	1 per 150	1 per 75	1 per 200		--	1 per 1,000	1 service sink

No.	Classification	Occupancy	Description	Water Closets		Lavatories		Bathtubs or Showers	Drinking Fountains	Other
				Male	Female	Male	Female			
		A-4	Coliseums, arenas, skating rinks, pools and tennis courts for indoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,500 and 1 per 60 for the remainder exceeding 1,500	1 per 200	1 per 150	--	1 per 1,000	1 service sink
		A-5	Stadiums, amusement parks, bleachers and grandstands for outdoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,500 and 1 per 60 for the remainder exceeding 1,500	1 per 200	1 per 150	--	1 per 1,000	1 service sink
2	Business (see Sections 2902.2, 2902.4 and 2902.4.1)	B	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industrial and similar uses	1 per 40		1 per 80		--	1 per 100	1 service sink
3	Educational	E	Educational facilities	1 per 50		1 per 50		--	1 per 100	1 service sink
4	Factory and industrial	F-1 and F-2	Structures in which occupants are engaged in work fabricating, assembly or processing of products or materials	1 per 100		1 per 100			1 per 400	1 service sink
5	Institutional	I-1	Residential Care	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink

No.	Classification	Occupancy	Description	Water Closets		Lavatories		Bathtubs or Showers	Drinking Fountains	Other
				Male	Female	Male	Female			
		I-2	Hospitals, ambulatory nursing home patients <sup>b</sup>	1 per room <sup>c</sup>		1 per room <sup>c</sup>		1 per 15	1 per 100	1 service sink
			Employees, other than residential care <sup>b</sup>	1 per 25		1 per 35		--	1 per 100	--
			Visitors, other than residential care	1 per 75		1 per 100		--	1 per 500	--
		I-3	Prisons <sup>b</sup>	1 per cell		1 per cell		1 per 15	1 per 100	1 service sink
		I-3	Reformatories, detention centers and correctional centers <sup>b</sup>	1 per 15		1 per 15		1 per 15	1 per 100	1 service sink
		I-4	Adult day care and child care	1 per 15		1 per 15		--	1 per 100	1 service sink
6	Mercantile (see Section 2902.2, 2902.4, 2902.4.1 and 2902.4.2)	M	Retail stores, service stations, shops, salesrooms, markets and shopping centers	1 per 300		1 per 600		--	1 per 1,000	1 service sink
7	Residential	R-1	Hotels, motels, boarding houses (transient)	1 per sleeping unit		1 per sleeping unit		1 per sleeping unit	--	1 service sink
	Residential	R-2	Dormitories, fraternities, sororities and boarding house (not transient)	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		R-2	Apartment house	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	--	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per 2 dwelling units

No.	Classification	Occupancy	Description	Water Closets		Lavatories		Bathtubs or Showers	Drinking Fountains	Other
				Male	Female	Male	Female			
		R-3	One- and two-family dwellings	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	--	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per 20 dwelling units
		R-4	Residential care/assisted living facilities	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
8	Storage (see Sections 2902.2, 2902.4 and 2902.4.1)	S-1 S-2	Structures for the storage of goods, warehouses, storehouses and freight depots, low and moderate hazard	1 per 100		1 per 100			1 per 1,000	1 service sink

- a. The fixtures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by this code.
- b. Toilet facilities for employees shall be separate from facilities for inmates or patients.
- c. A single-occupant toilet room with one water closet and one lavatory serving not more than two adjacent patient rooms shall be permitted where such room is provided with direct access from each patient room and with provisions for privacy.
- d. The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.

Source: 2450 (1989), 2616 (1992), 2757 (1995), 2867 (1998), 4183 (2001), 4293 (2003), 4304 (2003), 4406 (2004), 4428 (2004), 4595 (2007).

21-0103 to 21-0113.--Repealed by Ord. No. 2757 (1995), effective August 7, 1995.

## ARTICLE 21-02

### LIGHT AND VENTILATION OF BUILDINGS

Note: Article 2 of chapter 21 of the 1952 Revised Ordinances (sections 21-0201 to 21-0210) is

repealed by omission from the 1965 Revised Ordinances.

This former article contained definitions, restrictions, and regulations relating to provision for light and ventilation and other requirements in the construction of buildings, and the subject matter of the article is covered in the Uniform Building Code adopted under § 21-0101.

## ARTICLE 21-03

### SAFETY REGULATIONS FOR MOVING AND CONSTRUCTION OF BUILDINGS

#### Section

21-0301        Regulating the moving and construction of buildings.

21-0301. Regulating the moving and construction of buildings.--Any person, firm, or corporation engaged in any moving or building operations or making any excavations for any purposes, whatever, upon or adjoining any public street, alley, or sidewalk, requiring the use of any portion of any street, alley, or sidewalk, shall cause a red light to be placed in a conspicuous place in front of such obstruction, from sunset until sunrise, each night during the time such obstruction remains, to warn passersby of danger, in order to prevent accidents.

A sidewalk or passageway at least three feet wide shall be kept in front of any building during the process of its construction, which temporary sidewalk shall extend from the side of the permanent sidewalk in front of each lot adjoining the sides of the lot on which such building is being erected and shall be laid around the space to be used for the materials for building said buildings, but shall be laid wholly within that part of the street which is so permitted to be used for such building material, which temporary sidewalk shall, at all times, be kept clear for the passage of persons over the same, and no person shall leave any materials, tools, implements, or machinery thereon. Said temporary sidewalk shall be constructed of two-inch planks laid lengthwise on good and sufficient sleepers laid three feet apart.

The respective ends of said temporary sidewalk shall be laid even with the sidewalk to which it is attached, and there shall be a fence four feet high built from the line of the curb to the street line on both sides of any place where the sidewalk shall be removed or obstructed by such building operations.

No person shall occupy any street or the sidewalks for building purposes without first having completed such sidewalk and fence; and during the time of such occupation of said street for such building operation, such person or persons shall maintain and keep in repair said temporary sidewalk and fence. Such temporary sidewalk may be dispensed with on paved streets, but the approaches to the permanent sidewalk adjoining such building operation must be put down in all cases.

The gutter or waterway of any street, avenue, or alley shall not at any time be obstructed by any building material so as to prevent the free passage of water in and along the same.

No person, firm, or corporation owning, or engaged in the moving of, and dwelling house shall move or attempt to move such dwelling house to any location in the city of Fargo unless adequate advance arrangements have been made to put promptly such dwelling house in proper condition for use and occupancy and in full conformity with all of the ordinances of the city within a reasonable time after moving operations have been completed; and in no event shall a reasonable time be considered to be more than 60 days from the date of moving.

Source: 1952 Rev. Ord. 21-0301.

## ARTICLE 21-04

### DANGEROUS BUILDINGS

#### Section

21-0401	Definitions.
21-0402	Standards for repair, vacation, or demolition.
21-0403	Dangerous buildings--Nuisances.
21-0404	Duties of building inspector.
21-0405	Duties of board of city commissioners.
21-0406	Violations--Penalty for disregarding notices or orders.
21-0407	Duties of the city attorney.
21-0408	Owner absent from the city.
21-0409	Duties of fire department.
21-0410	Duties of the police department.
21-0411	Duties of the health department.
21-0412	Appeal.

21-0401. Definitions.--All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings":

1. Those whose interior walls or other vertical structural members lean, list, or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

2. Those which, exclusive of the foundation, show 33% or more of damage or deterioration of the supporting members or members, or 50% of damage or deterioration of the nonsupporting enclosing or outside walls or covering.

3. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

4. Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the city.

5. Those which have become, or are, so dilapidated, decayed, unsafe or unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause or aggravate sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein.

6. Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

7. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.

8. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

9. Those which because of their condition are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of this city.

10. Those buildings existing in violation of any provision of the Building Code, zoning ordinances, any provision of the Fire Prevention Code or other ordinances of this city.

Source: 1952 Rev. Ord. 21-0401.

21-0402. Standards for repair, vacation, or demolition.-- The following standards shall be followed in substance by the board of city commissioners in ordering repair, vacation, or demolition:

- A. If the “dangerous building” can reasonably be repaired so that it will no longer exist in violation of the terms of this article, it shall be ordered repaired.
- B. If the “dangerous building” is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.
- C. In any case where a “dangerous building” is 50% damaged, decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer be in violation of the terms of this article, it shall be demolished. In all cases where a “dangerous building” is a fire hazard existing or erected in violation of the terms of this article or any ordinance of this city or statute of the state of North Dakota, it shall be demolished.

Source: 1952 Rev. Ord. 21-0402.

21-0403. Dangerous buildings--Nuisances.--All “dangerous buildings” within the terms of § 21-0401 are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided.

Source: 1952 Rev. Ord 21-0403.

21-0404. Duties of building inspector.--The building inspector shall:

- A. Inspect or cause to be inspected semiannually, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing, or loft buildings for the purpose of determining whether any conditions exist which render any of such places a “dangerous building” within the terms of § 21-0401 of this article.
- B. Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this article.
- C. Inspect any building, wall, or structure reported (as hereinafter provided for) by the fire or police departments of this city as probably existing in violation of the terms of this article.
- D. Notify in writing the owner, occupant, lessee, mortgagee, and all other persons having an interest in said building, as shown by the records in the office of the register of deeds of the county of Cass, of any building found by him to be a “dangerous building” within the standards set forth in § 21-0401 of this article, that: (1) the owner must vacate, or repair, or demolish said building in

accordance with the terms of the notice and this article; (2) the owner or occupant must vacate said building or may have it repaired in accordance with the notice and remain in possession. Provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding 30 days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.

- E. Set forth in the notice provided for in subsection (D) hereof a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a “dangerous building” and an order requiring the same to be put in such condition as to comply with the terms of this ordinance within such length of time, not exceeding 30 days, as is reasonable.
- F. Report to the board of city commissioners any noncompliance with the “notice” provided for in subsections (D) and (E) hereof.
- G. Appear at all hearings conducted by the board of city commissioners and testify as to the condition of “dangerous buildings.”
- H. Place a notice on all “dangerous buildings” reading as follows: “This building has been found to be a ‘dangerous building’ by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with.”

Source: 1952 Rev. Ord. 21-0404.

21-0405. Duties of board of city commissioners.--The board of city commissioners shall:

- A. Upon receipt of a report of the building inspector as provided for in § 21-0404, subsection (F), give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before it on the date specified in the notice to show cause why the building or structure reported to be a “dangerous building” should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building inspector’s notice provided for herein in § 21-0404, subsection (E).
- B. Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer relative to the “dangerous building.”
- C. Make written findings of fact from the testimony offered pursuant to subsection (B) as to whether or not the building in question is a “dangerous building” within the terms of § 21-0401.
- D. Issue an order based upon findings of fact made pursuant to subsection (C) hereof commanding the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to repair, vacate, or demolish any

building found to be a “dangerous building” within the terms of this article and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said “dangerous building.”

- E. If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in subsection (D) hereof, within 10 days, the board of city commissioners shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards hereinbefore provided for in § 21-0402 of this article, and shall, with the assistance of the city attorney, cause the costs thereof to be assessed back against the property in the manner provided by law, or in the alternative, cause the costs of such repair, vacation, or demolition to be recovered in a suit at law against the owner or other proper party.
- F. Report to the city attorney the names of all persons not complying with the order provided for in subsection (D) of this section.

Source: 1952 Rev. Ord. 21-0405.

21-0406. Violations--Penalty for disregarding notices or orders.--The owner of any “dangerous building” who shall fail to comply with any notice or order to repair, vacate, or demolish said building given by any person authorized by this article to give such notice or order shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding \$100 for each offense and every day subsequent to such notice in which the said owner shall fail to comply with any notice or order as above stated shall be deemed a separate offense.

The occupant or lessee in possession who fails to comply with any notice to vacate and who fails to repair said building in accordance with any notice given as provided for in this article shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding \$100 for each offense and every day subsequent to such notice in which the said owner shall fail to comply with any notice or order as above stated shall be deemed a separate offense.

Any person removing the notice provided for in § 21-0404, subsection (H) shall be guilty of a misdemeanor and upon conviction shall be fined not exceeding \$100 for each offense.

Source: 1952 Rev. Ord. 21-0406.

21-0407. Duties of the city attorney.--The city attorney shall:

- A. Prosecute all persons failing to comply with the terms of the notices provided for in § 21-0404, subsections (D) and (E) and the order provided for in § 21-0405, subsection (D).
- B. Appear at all hearings held by the board of city commissioners in regard to “dangerous buildings.”
- C. Take such other legal action as is necessary to carry out the terms and provisions of this article.

Source: 1952 Rev. Ord. 21-0407.

21-0408. Owner absent from the city.--All notices or orders provided for herein shall be sent by registered mail to such owner, occupant, lessee or mortgagee, and all other persons having an interest in said building, to the last known address of each, and a copy of such notice shall be posted in a

conspicuous place on the “dangerous building” to which it relates. Such mailing and posting shall be deemed adequate service.

Source: 1952 Rev. Ord. 21-0408.

21-0409. Duties of fire department.--The employees of the fire department shall make a report in writing to the building inspector of all buildings or structures which are, may be, or are suspected to be “dangerous buildings” within the terms of this article. Such reports must be delivered to the building inspector within 24 hours of the discovery of such buildings by any employee of the fire department.

Source: 1952 Rev. Ord. 21-0409.

21-0410. Duties of the police department.--All employees of the police department shall make a report in writing to the building inspector of any buildings or structures which are, may be, or are suspected to be “dangerous buildings” within the terms of this article. Such reports must be delivered to the building inspector within 24 hours of the discovery of such building by any employee of the police department.

Source: 1952 Rev. Ord. 21-0410.

21-0411. Duties of the health department.--All employees of the health department shall make a report in writing to the building inspector about any buildings or structures which are, may be, or are suspected to be “dangerous buildings” and which, because of their condition, are untenable, unsanitary, or dangerous to the health, morals, safety, or general welfare of the occupants or the people of this city. Such reports must be delivered within 24 hours of the discovery of such buildings by any employee of the health department.

Source: 1952 Rev. Ord. 21-0411.

21-0412. Appeal.--The board of city commissioners shall serve upon the owner, occupant, mortgagee, lessee, and all other persons having an interest in any such building so ordered repaired, vacated, or demolished a copy of its order, such notice to be served upon such owner, occupant, mortgagee, or lessee within 10 days after the issuance of such order. Such owner, occupant, mortgagee or lessee shall thereafter have 30 days from the date of the service of such order upon him in which to appeal from such order to the district court of Cass County, North Dakota, or to take such other legal steps to enjoin the enforcement of such order as he may deem proper.

Any person desiring to appeal from any order issued by the board of city commissioners under and by virtue of this article shall file an undertaking in the sum of at least \$500 to be approved by the city auditor and conditioned that the appellant will prosecute the appeal without delay and will pay all costs that may be adjudged against him in the district court. Such undertaking shall be payable to the city of Fargo.

Source: 1952 Rev. Ord. 21-0412.

## ARTICLE 21-05

### TELEVISION MASTS, TOWERS, AND ANTENNAS

Section

21-0501	Permit required.
21-0502	Application for permit.
21-0503	Technical requirements for masts, towers, or antennas.
21-0504	Removal of masts, towers, or antennas--Order of city engineer.
21-0505	Penalty.

21-0501. Permit required.--No person, firm, company, or corporation shall erect or install an outside television mast, tower, or antenna in the city of Fargo without having first obtained a permit therefor from the office of the city engineer.

Source: 1952 Rev. Ord. 21-0501, 903 (1953).

21-0502. Application for permit.--Any person, firm, company, or corporation desiring to erect or install a television mast, tower, or antenna over 10 feet high shall make written application to the city engineer for a permit therefor, setting forth and describing the mast, tower, and antenna to be erected, stating the height, the nature of the material of which it is to be constructed, and the manner in which it is to be attached to the building, and such application shall be accompanied by a fee of \$1.

Source: 1952 Rev. Ord. 21-0502, 903 (1953).

21-0503. Technical requirements for masts, towers, or antennas.--All television masts, towers, or antennas in the city of Fargo shall meet the following requirements:

- A. An Underwriters Laboratories approved lightning arrestor or its equivalent is required of all antenna lead-ins unless the lead-in is of the metal-shielded type, with the metal shield properly grounded.
- B. Lead-in conductors attached to buildings shall be so installed that they cannot swing within two feet of conductors carrying 250 volts or less, or within 10 feet of conductors carrying more than 250 volts. The clearance between lead-in conductors and any conductor forming part of lightning-rod system shall be not less than six feet. That part of the lead-in that comes in contact with the building shall be supported at intervals of not more than 15 feet.
- C. Conductive supporting poles, masts, or structures supporting antennas shall be permanently and effectively grounded with a minimum of No. 10 copper or No. 8 aluminum wire. Poles or masts which are themselves the sole antenna are, of course, exempt from this rule.
- D. No television mast, pole, tower, or antenna shall be mounted or attached to a chimney.
- E. Poles or masts over 12 feet in height must be guyed with three or more wires to one position. Masts or poles 20 feet to 30 feet must be guyed to a minimum of two positions with the uppermost guy wires to be within two feet of the top of the pole or tower. The angle of the guys must not be less than 30E degrees from the vertical mast and wire used shall be of the stranded, rustproof type. Anchors shall be of equal strength or stronger than the combined wires connected to them. All guys fastened to the ground shall be protected by a sufficient safety guard to a minimum of eight feet vertically from the ground.
- F. All self-supporting towers, poles, or masts over 10 feet in height shall be

- designed and installed to withstand an actual wind velocity of 90 miles per hour.
- G. Metal supporting poles, masts, towers, or other structures located on buildings provided with lightning protection must have an interconnection between the grounding conductors and the lightning surge conductors.
  - H. Plumbing vent stacks or natural gas piping shall not be used to ground antenna masts, poles, or towers; instead all grounding conductors shall be attached, preferably to a cold water pipe supplied by an underground water distribution system, with the water meter properly jumpered. Where not available, grounding conductors shall be attached to a standard driven ground rod six feet or longer. No pole, mast, tower, or structure used to support antenna shall be so located that in falling it might fall across a utility distribution line over 250 volts unless that mast, pole, tower, or structure has a double-strength guy in such a position so as to keep that pole, mast, tower, or structure from failing across such utility line.
  - I. All towers, masts, poles, or antenna attached to a building shall be noncombustible and corrosive resistant.

Source: 1952 Rev. Ord. 21-0503, 903 (1953).

21-0504. Removal of masts, towers, or antennas--Order of city engineer.--Any television mast, tower, pole, or antenna installed contrary to the provisions of this ordinance shall be taken down and removed upon the written order of the city engineer and the failure of the owner or occupant of the premises upon which said mast, tower, pole, or antenna is located to comply with any such order within five days of the receipt thereof shall constitute a violation of this ordinance.

Source: 1952 Rev. Ord. 21-0504, 903 (1953).

21-0505. Penalty. Every person, firm, company, or corporation violating any of the provisions of this chapter shall upon conviction be punished by a fine not to exceed \$100 or by imprisonment not to exceed 90 days, or both such fine and imprisonment, in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof. Each day any person, firm, company, or corporation shall violate any of the provisions of this article shall constitute a separate offense.

Source: 1952 Rev. Ord. 21-0505, 903 (1953).

## ARTICLE 21-06

### FLOOD PLAIN MANAGEMENT

Section	
21-0601	Definitions.
21-0602	General provisions.
21-0603	Administration.
21-0604	Provisions for flood hazard reduction.

21-0601. Definitions.--

1. "Area of jurisdiction" shall mean the area within the corporate limits of the city, the area which is served by the city of Fargo utilities, and any area in which the city has statutory planning and zoning authority.

2. "Area of special flood hazard" means the land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year.

3. "Base flood" means the flood having a 1% chance of being equaled or exceeded in any given year.

4. "Development" means any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

5. "Elevation" shall mean height, above mean sea level, measured in feet.

6. "FEMA" shall mean the Federal Emergency Management Agency.

7. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

a. The overflow of inland waters and/or

b. The unusual and rapid accumulation or runoff of surface waters from any source.

8. "FIRM" means the Flood Insurance Rate Map which is the official map on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

9. "Flood Insurance Study" means the official report provided by FEMA that includes flood profiles, the Flood Boundary - Floodway Map, and the water surface elevation of the base flood.

10. "Floodproofing" means any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.

11. "Floodproofing Code" means the revised Floodproofing Code of the City of Fargo, North Dakota, as prepared by Moore Engineering, Inc., and dated December 9, 1975, as clarified by a policy statement, together with illustrative exhibits, adopted by the city effective as of the date of adoption of this ordinance; and approved by FEMA.

12. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.75 feet.

13. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

14. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. This term also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

15. "Manufactured home park" or "subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale and shall include mobile home parks

as defined in § 25-2401 of the Fargo Municipal Code.

16. “New construction” means structures for which the start of construction occurred on or after the effective date of this ordinance.

17. “Start of construction” means the date the building permit was issued for any construction or substantial improvement, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

18. “Structure” means a walled and roofed building or manufactured home that is principally above ground.

19. “Substantial improvement” means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

- a. Before the improvement or repair is started, or
- b. If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term “substantial improvement” does not include:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure living conditions, or
- b. Any alteration of a structure listed on the National Register of Historic Places or a state or local inventory or register of historic places.

20. “Variance” means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

Source: 2325 (1987), 2939 (1998).

#### 21-0602. General Provisions.--

- A. Applicability--This ordinance shall apply to all areas of special flood hazard within the area of jurisdiction of the city.
- B. Identification of affected area--The areas of special flood hazard identified by FEMA in the most recent Flood Insurance Study for the City of Fargo, North Dakota, with the accompanying FIRM is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and FIRM are on file at the office of the city auditor in Fargo, North Dakota.
- C. Compliance--No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations.

- D. Abrogation and greater restrictions--This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- E. Interpretation--In the interpretation and application of this ordinance, all provisions shall be:
  - 1. Considered as minimum requirements;
  - 2. Liberally construed in favor of the governing body; and,
  - 3. Deemed neither to limit nor repeal any other powers granted under state statutes.
- F. Warning and disclaimer of liability--The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such area will be free from flooding or flood damages. This ordinance shall not create liability on the part of the city of Fargo, any officer or employee thereof, or FEMA for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Source: 2325 (1987), 2706 (1994).

21-0603. Administration--

- A. Development--Permit required--A building permit shall be obtained before construction or development begins within any area of special flood hazard. Application for such building permit shall be made on forms furnished by the building inspector and shall include, but not be limited to, the following:
  - 1. Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question;
  - 2. Existing or proposed structures, fill, storage of materials, and drainage facilities;
  - 3. Elevation of the lowest floor of all structures;
  - 4. Elevation to which any structure has been floodproofed;
  - 5. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in § 21-0604 of this article; and,
  - 6. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- B. Building Inspector--The building inspector is hereby appointed to administer and implement this ordinance by granting or denying building permit applications in accordance with the provisions of this article. The duties of the building inspector shall include, but not be limited to, the following:
  - 1. Review all applications for building permits to determine that

- the permit requirements of this ordinance have been satisfied.
2. Review all applications for building permits to determine that all necessary permits have been obtained from federal, state, or local governmental agencies from which prior approval is required.
  3. Review all applications for building permits to determine if the proposed structure or development is located in the floodway. If located in the floodway, assure that the encroachment provisions of § 21-0604 are met.
- C. Use of Other Data--When base flood elevation data has not been provided in accordance with § 21-0602 of this article, the building inspector shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state or other source to establish criteria for requiring that new construction, substantial improvements, or other development in Zone A are constructed in accordance with § 21-0604 of this article.
- D. Maintenance of information--
1. The building inspector shall obtain and record the elevation of the lowest floor of all new or substantially improved structures; and whether or not the structure contains a basement.
  2. For all new or substantially improved floodproofed structures, the building inspector shall:
    - a. Verify and record the actual elevation to which the structure has been floodproofed.
    - b. Maintain the floodproofing certifications of registered professional engineers or architects as hereinabove provided.
    - c. Maintain for public inspection, all records pertaining to the provisions of this ordinance.
- E. Alteration of watercourses--
1. The building inspector shall notify adjacent communities and the North Dakota State Water Commission prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
  2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- F. FIRM Boundaries--Interpretation--The building inspector shall interpret, when needed, the exact location of the boundaries of the areas of special flood hazards and shall make adjustments when necessary to resolve conflicts between mapped boundaries and actual field conditions. The person contesting the location of any boundary shall be given a reasonable opportunity to appeal the interpretation of the building inspector as hereinafter provided.
- G. Appeals--Variances--
1. The board of adjustment shall hear and decide appeals from

decisions or determinations made by the building inspector in the enforcement or administration of this article.

2. The board of adjustment shall consider requests for variances from the requirements of this ordinance.
3. Any person aggrieved by the decision of the board of adjustment may appeal such decision to the board of city commissioners of the city of Fargo.
4. Any person aggrieved by the decision of the board of city commissioners may appeal such decision to the North Dakota district court, pursuant to law.
5. In determining appeals or requests for variances, the board of adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
  - a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity to the facility of a waterfront location, where applicable;
  - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - g. The compatibility of the proposed use with the existing and anticipated development;
  - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.

6. Upon consideration of the foregoing factors and the purpose of this article, the board of adjustment may attach such conditions to the granting of variances as it may deem appropriate and necessary to effectuate the intent of this article.
  7. The building inspector shall maintain the records of all appeal actions, including technical information, and report any variances to FEMA.
- H. Conditions for variances--
1. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, providing items (a-k) in subsection (G)(5) above have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases.
  2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or any state or local inventory or register of historic places without regard to the procedures set forth in the remainder of this section.
  3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
  4. Variances shall be issued only upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  5. Variances shall be issued only upon:
    - a. A showing of good and sufficient cause;
    - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
    - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

Source: 2325 (1987), 2408 (1988), 2939 (1998).

21-0604. Provisions for flood hazard reduction.--

A. General standards--In all areas of special flood hazard, the following standards shall apply:

1. Anchoring

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and shall be capable of resisting the hydrostatic and hydrodynamic loads.
- b. All manufactured homes which are placed or substantially improved must be elevated and anchored to resist flotation, collapse or lateral movement and shall be capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring shall include, but are not limited to, the following:
  - i. Over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, provided that manufactured homes less than 50 feet long shall have one additional tie per side.
  - ii. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, provided that manufactured homes less than 50 feet long shall have four additional ties per side;
  - iii. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

Any additions to a manufactured home shall be similarly anchored.

2. Construction materials and methods

- a. All new construction and substantial improvements shall be constructed with materials which are resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Utilities
  - a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
  - b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
  - c. On-site waste disposal systems shall be located to avoid impairment or contamination during flooding.
4. Subdivisions
  - a. All proposed subdivisions shall be consistent with the need to minimize flood damage.
  - b. All subdivisions shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
  - c. All subdivisions shall have adequate drainage provided to reduce exposure to flood damage.
  - d. Base flood elevation data shall be provided for proposed subdivisions and other development proposals which contain at least 50 lots or five acres (whichever is less).
5. Specific standards--In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 21-0602 or 21-0603, the following provisions are required:
  - a. New construction and substantial improvement of any structure shall:
    - i. Conform to structural and technical provisions set forth in the floodproofing code.
    - ii. Be floodproofed so that the structure is watertight up to two and five-tenths feet (2.5') above the base flood level with walls impermeable to passage of water. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design methods of construction are in accordance with accepted standards of practice; provided, that such review and certification shall not be required if the construction complies with the floodproofing code.
    - iii. Have structural components capable of

resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- A minimum of two openings having a total net area of not less than one square inch per square foot of enclosed area subject to flooding shall be provided;
  - The bottom of all openings shall be no higher than one foot above grade.
  - Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
6. Manufactured homes--Manufactured homes which are placed or substantially improved shall be set on a permanent foundation and shall be elevated so that the lowest floor is at or above the base flood elevation and is securely anchored as hereinabove provided.
7. Floodways--The following provisions shall apply to any development or construction in the floodway:
- a. Any development or construction is prohibited unless a registered professional engineer certifies that such development or construction shall not result in any increase in flood levels during the occurrence of the base flood discharge.
  - b. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

Source: 2325 (1987), 2939 (1998).

ARTICLE 21-07

WIND ENERGY CONVERSION SYSTEMS

Section	
21-0701	Definitions.
21-0702	Permit required.
21-0703	Location.
21-0704	Permit application--Plans required--Fees.
21-0705	Issuance of permit--Procedure.
21-0706	Construction requirements.
21-0707	Restricted area construction--Requirements.
21-0708	System interconnect.
21-0709	Compliance with codes.
21-0710	Miscellaneous regulations.

21-0701. Definitions.--

1. Tower Clear Area (TCA) is a circular area around the base of a tower supporting a wind energy conversion system with the base of the tower at its center. The radius of the circular area shall be equal to the height of the tower, including any devices or appurtenances attached to the top of the tower.

2. Wind Energy Conversion System (WECS) is a mechanical device which is designed for the purpose of converting wind energy into electrical or mechanical power.

Source: 2166 (1984).

21-0702. Permit required.--No person shall install or construct a WECS in the corporate limits of the city of Fargo without first having applied for and obtained a permit from the building inspector as hereinafter provided.

Source: 2166 (1984).

21-0703. Location.--No WECS shall be installed or constructed within the corporate limits of the city of Fargo except in areas which are zoned C-2, general commercial district; M-1, light industrial district; M-2, heavy industrial district; or in any area pursuant to special use permit granted pursuant to § 20-0322 of the Revised Ordinances of 1965 of the city of Fargo.

Source: 2166 (1984).

21-0704. Permit application--Plans required--Fees.-- Application for a permit to install or construct a WECS shall be made to the building inspector of the city of Fargo in a form to be approved by said building inspector. Said application shall be accompanied by payment of the license fee in an amount which shall be established by resolution of the board of city commissioners. The application shall be accompanied by plans and specifications containing the following information:

- A. Dimensional representation of the tower or towers, including the conversion system, base, and footing design.
- B. A plot plan certified by a registered land surveyor indicating the following:

1. Property lines.
2. Location of the proposed tower or towers.
3. Location of existing structures on the site and on adjacent property.
4. Location of all above-ground utilities.
5. Location of all underground utility lines within the TCA.
6. Boundaries of all utility easements within the TCA.

Source: 2166 (1984).

21-0705. Issuance of permit--Procedure.--Upon submission of an application for a permit, the building inspector shall examine said application and, if the proposed WECS complies with all the terms and provisions of this ordinance, shall issue the permit. Provided, that if there is any property within the TCA which is not zoned in accordance with § 21-0703 of this article, or if the proposed installation is on a lot which is adjacent to a residential zone, no permit may be issued without prior approval of the planning commission as hereinafter provided. Application for approval of the planning commission shall be made by the applicant by submission of a duplicate copy of his application to the planning commission office. Upon receipt of such application, the planning commission shall consider the matter at its next regularly scheduled meeting and shall either approve or deny the application. In the event the planning commission does not take action on the application within 40 days of date of submission, the application shall be deemed to be approved and the building inspector may issue the permit if all other requirements have been met.

Source: 2166 (1984).

21-0706. Construction requirements.--All WECS installations shall meet the following requirements:

- A. WECS towers shall be designed to withstand winds of 100 mph or greater, or requirements of the International Building Code, whichever is greater.
- B. Height of WECS installations shall not exceed limits as established by Federal Aviation Administration regulations.
- C. All WECS shall be equipped with overspeed devices.
- D. All electrical transmission lines from the WECS shall be underground.
- E. The WECS installation shall be located so that any overhead electric distribution lines carrying voltage in excess of 240 volts to ground will be located outside of the TCA.
- F. Except as hereinafter provided, the WECS installation shall be located so that the TCA will fall entirely within the property on which the installation is to be constructed and so that no part of any building on the premises will be located within the TCA.

Source: 2166 (1984), 4594 (2007).

21-0707. Restricted area construction--Requirements.--In the event that compliance with the clearance requirements of § 21-0706(F) above is impossible, the applicant shall submit the following information:

- A. Details of the structural components of the tower, including the base and

footings.

- B. Design data, shop drawings, structural calculations, together with installation and operating instructions for the WECS.
- C. Certification by the manufacturer, or by a licensed architect or a registered professional engineer, that the tower, as designed, will withstand windloads of 100 mph or greater or requirements established by the International Building Code, whichever is greater.

Upon furnishing of the foregoing information, the building inspector shall issue a permit as provided herein.

Source: 2166 (1984), 4594 (2007).

21-0708. System interconnect.--A WECS, if interconnected to an electric utility distribution system, shall meet all requirements of the electric utility company for such connection and in addition, shall include a manual disconnect which complies with the National Electric Code.

Source: 2166 (1984).

21-0709. Compliance with codes.--Construction, design and installation of a WECS shall comply with all local, state and national electrical, safety and building codes which are in effect at the time of installation.

Source: 2166 (1984).

21-0710. Miscellaneous regulations.--In addition to the foregoing, a WECS which is installed or constructed pursuant to this article shall be subject to the following restrictions:

- A. A WECS shall be subject to present and future noise limitations pursuant to ordinances of the city of Fargo.
- B. A WECS which is installed pursuant to this article shall be located and installed in compliance with all Federal Aviation Administration regulations concerning clearance.
- C. Climbing access to WECS towers shall be limited by constructing climbing apparatus at a minimum of 12 feet above ground or, by constructing a fence around the tower which is at least six feet in height.
- D. WECS shall not be permitted to generate power as a commercial enterprise which is defined and regulated by the North Dakota Public Service Commission.

Source: 2166 (1984).

CHAPTER 21.1

INTERNATIONAL RESIDENTIAL CODE

Article

21.1-01 International Residential Code--Adoption--Amendments, §§ 21.1.-0101 to 21.1-0102

ARTICLE 21.1-01

Section

21.1-0101 Adoption of International Residential Code by Reference

21.1-0102 Amendment to International Residential Code

21.1-0101. Adoption of International Residential Code by Reference.--There is hereby adopted by reference by the Board of City Commissioners, for the purpose of prescribing regulations governing standards, relative to housing in the city of Fargo, that certain code known as the International Residential Code recommended and compiled by the International Conference of Building Officials, being particularly the 2006 Edition thereof, a copy of which is on file in the office of the City Auditor, and the same is hereby adopted and incorporated as fully as if set out in length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city.

Source: 4184 (2001), 4205 (2002), 4411 (2004), 4596 (2007).

21.1-0102. Amendment to International Residential Code.--The International Residential Code as adopted in Section 21.1-0101 is hereby changed and amended as follows:

Section R101.1 is hereby amended to read as follows:

R101.1 --Titles. These provisions shall be know as the Residential Code for One- and Two-Family Dwellings of the city of Fargo, and shall be cited as such and will be referred to herein as “this code.”

Section R104.8 is hereby amended to read as follows:

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 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 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 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 R104.10.1 is hereby deleted in its entirety.

Section R105.2 is hereby amended to read as follows:

R105.2 -- Work exempt from permit.....

Building:

1. One-story detached accessory structures, provided the floor area does not exceed 120 square feet.
2. Fences not over 8.5 feet high.
- \* \* \*
7. Swimming pools.
8. Swings and other playground equipment.
9. Window awnings supported by an exterior wall which do not require additional support.

Section R106.1.3 is hereby deleted in its entirety.

Section R112.2.1 is hereby deleted in its entirety.

Section R112.2.2 is hereby deleted in its entirety.

Section R201.3 is hereby amended to read as follows:

Section R201.3 – Terms defined in other codes. Where terms are not defined in this code such terms shall have meanings ascribed to them as in other code publications of the International Code Council. Wherever the term ‘International Plumbing Code’ and/or ‘International Private Sewage Disposal Code’ is used in the International Residential Code, it shall mean the North Dakota State Plumbing Code. Wherever the term ‘ICC Electrical Code’ is used in the International Residential Code, it shall mean the National Electrical Code together with the North Dakota State Wiring Standards. Wherever reference is made to flood plain requirements, it shall mean the Fargo Flood Plain Management Ordinance together with the Fargo Flood Proofing Code.

Section R301.2.4 is hereby deleted in its entirety.

Table R302.1 amend final column as follows:

Minimum Fire Separation Distance

- 0 feet
- 3 feet
- 2 feet
- 3 feet
- < 3 feet
- 3 feet
- 5 feet
- < 5 feet
- 5 feet

Section R307.1 is hereby amended to read as follows:

Section R307.1 – Space required. Fixtures shall be spaced as per Figure R307.2, with the exception of the clearance in front of water closets and bidets which shall be at least 24 inches.

Section R310.1 is hereby amended to read as follows:

Section R310.1 – Emergency escape and rescue required. Basements and every sleeping room shall have at least one operable emergency and rescue opening. Such opening shall open directly into a public street, public alley, yard or court. Where basements contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Where emergency escape and rescue openings are provided they shall have a sill height of not more than 44 inches (1118 mm) above the floor. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with Section 310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside. Emergency escape and rescue openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with Section R310.2.

Exceptions:

1. Basements used only to house mechanical equipment and not exceeding total floor area of 200 square feet (18.58 m<sup>2</sup>)
2. Below grade emergency escape and rescue windows may have a maximum sill height of 48 inches.

Section R310.2.1 is hereby amended to read as follows:

Section R310.2.1 -- Ladder and steps. Window wells with a vertical depth greater than 44 inches (1118 mm) shall be equipped with a permanently affixed ladder or steps usable with the window in the fully open position or, install a minimum 30"x16" permanently attached platform in the window well, that will reduce the vertical depth of the window well to no more than 42 inches below the top of the window well and that will not impede the operation of the window. Ladders or steps required by this section shall not be required to comply with Sections R311.5 and R311.6. Ladders or rungs shall have a inside width of at least 12 inches (305 mm), shall project at least 3 inches (76 mm) from the wall and shall be spaced not more than 18 inches (457 mm) on center vertically for the full height of the window well.

Exception: Terraced window wells with a maximum of 24" per vertical rise and minimum of 12" horizontal projections on each level shall also be allowed in accordance with Figures 310.2.1(1) and 310.2.1(2).

Section R311.4.3 is hereby amended to add exception 4 to read as follows:

Exceptions:

\*\*\*\*

4. A floor or landing is not required at the exterior side of sliding doors and in-swinging doors opening onto a patio, and in-swinging doors opening into an attached garage.

Section R311.5.3.1 is hereby amended to read as follows:

Section R311.5.3.1 -- Riser height. The maximum riser height shall be 8 inches. The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

Section R311.5.3.2 is hereby amended to read as follows:

Section R311.5.3.2 -- Tread depth. The minimum tread depth shall be 9 inches the tread depth shall be measured. . . . Winder treads shall have a minimum tread depth of 9 inches measured. . . .

Section R311.5.4 is hereby amended to read as follows:

Section R311.5.4 -- Landings for stairways. There shall be a floor or landing at the top and bottom of each stairway.

Exceptions:

1. A floor or landing is not required at the top of an interior flight of stairs, including stairs in an enclosed garage, provided a door does not swing over the stairs.

2. A floor or landing is not required at the top of an exterior flight of stairs serving sliding doors and in-swinging doors opening onto a patio.

Section R313.2 is hereby amended to read as follows:

Section R313.2 -- Location. Smoke alarms shall be installed in the following locations:

\* \* \*

3. On each additional story of the dwelling, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level. In dwelling units where the ceiling height of a room open to the hallway serving the bedrooms exceeds that of the hallway by 24 inches (610 mm) or more, smoke detectors shall be installed in the hallway and in the adjacent room.

Section R324 is hereby deleted in its entirety.

Section R401.1 is hereby amended to read as follows:

R401.1 Application. The provisions of this chapter shall control the design and construction of the foundation and foundation spaces for all buildings. In addition to the provisions of this chapter, the design and construction of foundations in areas prone to flooding shall meet the provisions of the Fargo Flood Proofing Code and any other applicable requirements of the city of Fargo. Wood foundations shall be designed and installed in accordance with AF&PA Report No. 7.

Section R401.3 is hereby amended to read as follows:

R401.3 Drainage. 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.

Section R403.1.4.1, Exceptions 1, 2 and 3, are hereby amended to read as follows:

Section R403.1.4.1 -- Frost protection.

Exceptions:

1. Protection of freestanding accessory structures of light framed construction shall not be required.
2. Protection of freestanding, accessory structures with an area of 400 square feet (37 m<sup>2</sup>) or less, of other than light-framed construction shall not be required.

3. Decks need not be provided with footings that extend below the frost line.

Section R404.1.1 is hereby amended to read as follows:

Section R404.1.1 -- Masonry foundation walls. Concrete masonry and clay masonry foundation walls shall be constructed as set forth in Tables R404.1.1(1), R404.1.1(2), or Tables R404.1.1(3) and Figures 404.1(1) and 404.1(2) and shall also comply with the provisions of Sections R606, R607 and R608.

Section R404.1.2 is hereby amended to read as follows:

Section R404.1.2 -- Concrete foundation walls. Concrete foundation walls shall be constructed as set forth in Tables R404.1.1(5), R404.1.1(6), and R404.1.1(7), and Figures R404.1.1(6) and R404.1.1(7) and shall also comply with the provisions of this section and the applicable provisions of Section R402.2.

Table R404.1.1(6) is added as follows:

Table R404.1.1(6)  
Foundation Wall Reinforcing

Active Pressure = 45pcf

<b>Minimum Reinforcement for Concrete Foundation Walls</b>		
Wall Height (h) feet	Wall Thickness (t) inches	Vertical Reinforcing
8	8	#4 @ 24" o.c. #5 @ 40" o.c.
	10	#4 @ 30" o.c. #5 @ 50" o.c.
9	8	#4 @ 18" o.c. #5 @ 28" o.c.
	10	#4 @ 24" o.c. #5 @ 36" o.c.
10	10	#4 @ 16" o.c. #5 @ 26" o.c.

Notes:

1. Chart is based on an active soil pressure of 45 pounds per cubic foot (pcf).
2. Reinforcing steel shall be ASTM A615 Fy – 60,000 pounds per square inch (psi).
3. The vertical reinforcing bars are to be located on the inside face.
4. Minimum concrete strength  $F_c^1 = 3,000$  pounds per square inch (psi).
5. Backfill shall not be placed until first floor framing and sheathing is installed and fastened or adequately braced and the concrete floor slab is in place or the wall is adequately braced.

Table R404.1.1(7) is added as follows:

Table R404.1.1(7)  
Foundation Wall Reinforcing

Active Pressure = 65 pcf

<b>Minimum Reinforcement for Concrete Foundation Walls</b>		
Wall Height (h) Feet	Wall Thickness (t) Inches	Vertical Reinforcing
8	8	#4 @ 18" o.c. #5 @ 26" o.c. #6 @ 40" o.c.
	10	#4 @ 24" o.c. #5 @ 36" o.c. #6 @ 52" o.c.
9	8	#4 @ 12" o.c. #5 @ 18" o.c. #6 @ 26" o.c.
	10	#4 @ 16" o.c. #5 @ 24" o.c. #6 @ 36" o.c.
10	10	#4 @ 12" o.c. #5 @ 18" o.c. #6 @ 24" o.c.

Notes:

1. Chart is based on an active soil pressure of 65 pounds per cubic foot (pcf).
2. Reinforcing steel shall be ASTM A615 Fy – 60,000 pounds per square inch (psi).
3. The vertical reinforcing bars are to be located on the inside face.
4. Minimum concrete strength  $F_c^1 = 3,000$  pounds per square inch (psi).
5. Backfill shall not be placed until first floor framing and sheathing is installed and fastened or adequately braced and the concrete floor slab is in place or the wall is adequately braced.

Tables R404.1(1), R404.1(2) and R404.1(3), together with its illustration, are hereby deleted in their entirety.

Figures R404.1.1(6) and R404.1.1(7) are adopted as shown:

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FIGURE R404.1.1(6)

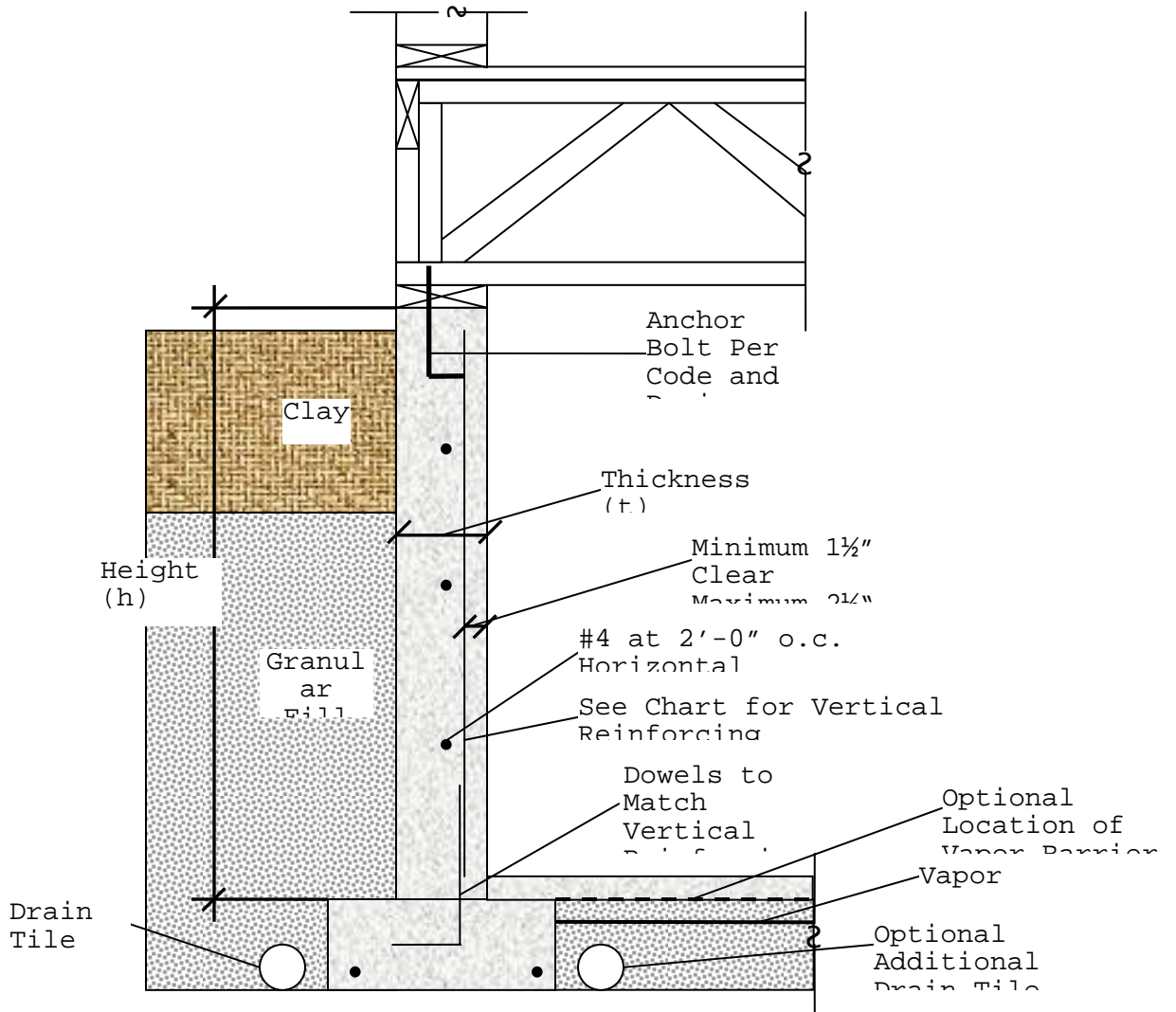
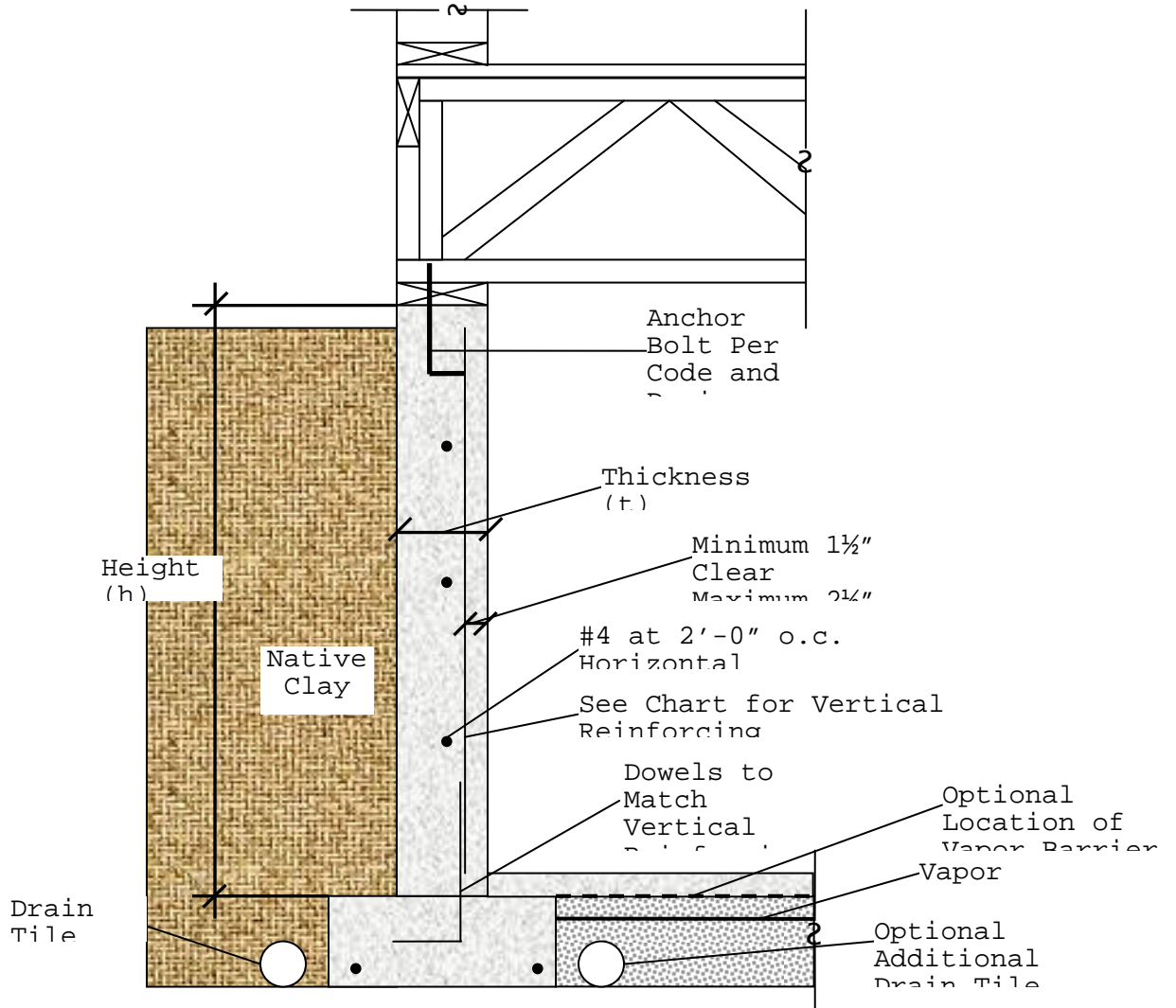


FIGURE R404.1.1(7)



Section R405.2.3 is hereby amended to read as follows:

Section R405.2.3 -- Drainage system. In other than Group I soils, a sump shall be provided to drain the porous layer and footing. The sump shall be at least 18 inches in diameter or 16 inches square, shall extend at least 24 inches (610 mm) below the bottom of the basement floor and shall be capable of positive gravity or mechanical drainage to remove any accumulated water. The drainage system shall discharge into an approved sewer system or to daylight.

Section R506.2.3 is hereby amended to add an exception 4 to read as follows:

Exceptions:

\* \* \*

4. Attached garages.

Section R703.6.2 is hereby amended to read as follows:

Section R703.6.2 – Plaster. Plastering with portland cement plaster shall be not less than three coats when applied over metal lath or wire lath and shall be not less than two coats when applied over masonry, concrete, pressure-preservative treated wood or decay-resistant wood as specified in Section R319.1 or gypsum backing. If the plaster surface is completely covered by veneer or other facing material or is completely concealed, plaster application need be only two coats, provided the total thickness is as set forth in Table R702.1(1). Approved decorative coatings applied to a concrete or masonry surface shall be installed in accordance with the manufacturer's installation instructions.

Section R808.1, the final sentence is hereby amended to read:

Section R808.1 -- Combustible insulation.

.... Recessed lighting fixtures installed in the building thermal envelope shall meet the requirements of the National Electrical Code and North Dakota State Wiring Standards.

Section R903.5 and Figure R903.5 are hereby deleted.

Section R905.2.5 is hereby amended to read as follows:

Fasteners for asphalt shingles shall be galvanized steel, stainless steel, aluminum or copper roofing nails, minimum 12 gage [0.105 inch (2.67 mm)] shank with a minimum 3/8 inch (9.5 mm) diameter head, ASTM F 1667, of a length to penetrate through the roofing materials and a minimum of 3/4 inch (19.1 mm) into the roof sheathing or other fasteners as approved by the building official and shingle manufacturer. Where the roof sheathing is less than 3/4 inch (19.1 mm)

thick, the fasteners shall penetrate through the sheathing. Fasteners shall comply with ASTM F 1667.

Section R907 is hereby deleted in its entirety and relocated to the Appendices as Appendix R.

Chapter 11 is hereby deleted in its entirety and relocated to appendices as Appendix S.

Section M1301.1.1 is hereby deleted in its entirety.

Section M1401.5 is hereby deleted in its entirety.

Section M1502.6 hereby amended to read as follows:

Section M1502.6 Length limitation. The maximum length of a clothes dryer exhaust duct shall not exceed 25 feet (7620 mm), including two 90-degree elbows, from the dryer location to the wall or roof termination. The maximum length of the duct shall be reduced 2.5 feet (762 mm) for each additional 45-degree (0.8 rad) bend and 5 feet (1524 mm) for each additional 90-degree bend. The maximum length of the exhaust duct does not include the transition duct. ...

Section M1601.3.1 is hereby amended as follows:

Section M1601.3.1 Joints and seams. When located outside of conditioned space, joints of duct systems shall be made substantially airtight by means of tapes, mastics, gasketing, or other approved closure systems. ....

Section M1601.3.4 is hereby amended to add item number 4 as follows:

Section M1601.3.4 -- Duct insulation.

4. All portions of the air distribution system shall be installed in accordance with Section M1601 and be insulated to an installed R-4.2 when system components are located within the building but outside of conditioned space, and R-8 when located outside of the building. When located within a building envelope assembly, at least R-8 shall be applied between the duct and that portion of the assembly furthest from conditioned space.

Section M1601.3.8 is hereby deleted in its entirety.

Section M1603 is hereby added to read as follows:

M1603 -- Minimum Duct Size

M1603.1 General. The minimum unobstructed total area of supply and return air ducts from a warm-air furnace shall be in accordance with the manufacturer's installation instructions, but shall not be less than 2 square inches (1290 MM sq) for each 1,000 Btu/h (293W) output rating of the furnace. The minimum unobstructed total area of the supply and return air ducts from a central air-conditioning unit and/or heat pump shall be in accordance with the manufacturer's installation instructions, but shall be not less than 6 square inches (3870 mm sq) for each 1,000 Btu/h (293W) nominal cooling output rating. Dampers, grilles, or registers installed for the purpose of controlling the supply airflow shall not be considered as obstructions.

Section M1701.6 is hereby deleted in its entirety.

Section M1703.2 is hereby amended to read as follows:

Section M1703.2 -- Two openings or ducts. Outside combustion air shall be supplied through openings or ducts, as illustrated in Figures M1703.2(1), M1703.2(2), M1703.2(3) and M1703.2(4). One opening shall be within 12 inches (305mm) of the top of the enclosure, and one within 12 inches (305mm) of the bottom of the enclosure. Openings are permitted to connect to spaces directly communicating with the outdoors, such as ventilated crawl spaces. The same duct or opening shall not serve both combustion air openings. The duct servicing the upper opening shall be level or extend upward from the appliance space.

Section M1703.3 is hereby deleted in its entirety.

Figures M1703.2(3), M1703.2(4) and M1703.3 are hereby deleted in their entirety.

Section M1801.1 is hereby amended to read as follows:

Section M1801.1 -- Venting required. Fuel-burning appliances shall be vented to the outside in accordance with their listing and label and manufacturer's installation instructions. ....

Section M2001.4 is hereby deleted in its entirety.

Section M2101.3 is hereby amended to read as follows:

Section M2101.3 -- Protection of potable water. The potable water system shall be protected from backflow in accordance with the provisions listed in the North Dakota State Plumbing Code.

Section M2101.10 is hereby amended to read as follows:

Section M2101.10 -- Tests. New hydronic piping shall be isolated and tested hydrostatically at a pressure of not less than 100-pounds per square inch (psi)

(689 kPa) for a duration of not less than 15 minutes.

Section M2201.6 is hereby deleted in its entirety.

Section G2404.7 is hereby deleted in its entirety.

Section G2406.2 is hereby amended to delete exceptions 3 and 4.

\* \* \*

Figures G2407.6.1(1) AND G2407.6.1(2) are hereby deleted in their entirety.

Figure G2407.6.2 is hereby amended to delete the reference to an alternate opening location.

Section G2407.11 is hereby amended to delete item number 5 and renumber subsequent item as follows:

Section G2407.11 (304.11) -- Combustion air ducts. Combustion air ducts shall comply with all the following:

Section G2413.5 is hereby amended to read as follows:

Section G2413.5 (402.5) Allowable pressure drop. The design pressure loss in any piping system under maximum probable flow conditions, from the point of delivery to the inlet connection of the appliance, shall be such that the supply pressure at the appliance is greater than the minimum pressure required for proper appliance operation but such pressure loss shall not be greater than .5 inch water column.

Section G2417.4.1 is hereby amended to read as follows:

Section G2417.4.1 (406.4.3) -- Test pressure. The test pressure to be used shall not be less than one and one-half times the proposed maximum working pressure, but not less than 25 psig, irrespective of design pressure. Where the test pressure exceeds 125 psig, the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe.

Section G2419.2 is hereby amended to read as follows:

Section G2419.2 -- Drips. Where wet gas exists, a drip shall be provided at any point in the line of pipe where condensate could collect.

Section G2425.8 is hereby amended by deletion of item number 7.

Section G2425.12 is hereby amended to read as follows:

Section 2425.12 Residential and low-heat appliances flue lining systems. Flue lining systems for use with residential-type and low-heat appliances shall be limited to the following:

1. Clay flue lining complying with the requirements of ASTM C 315 or equivalent when each appliance connected into the masonry chimney has a minimum input rating greater than 400,000 Btu/h. Clay flue lining shall be installed in accordance with Chapter 10.
2. Listed chimney liner systems complying with UL 1777.
3. Other approved materials that will resist, without cracking, softening, or corrosion, flue gases and condensate at temperatures up to 1800 F (982 C).
  - a. Aluminum (1100 or 3003 alloy or equivalent) not less than 0.032 inches thick up to 8 inches in diameter.
  - b. Stainless steel (304 or 430 alloy or equivalent) not less than 26 gauge (0.018 inches thick) to 8 inches in diameter or not less than 24 gauge (0.024 inches thick) 8 inches in diameter and larger.

When a metal liner is used other than a listed chimney liner a condensation drip tee shall be installed and supported in an approved manner.

Section G2426.7 is hereby amended to read as follows:

#### Section G2426.7

. . . and shall extend a minimum of 1.5 inches (38.5 mm) above sole plates, below top plates and to each side of a stud, joist or rafter.

Section G2427.5.2 is hereby amended to read as follows:

G2427.5.2 -- Masonry chimneys. Masonry chimneys shall be built and installed in accordance with this code and shall be lined with approved clay flue lining, a listed chimney lining system, or other approved material that will resist corrosion, erosion, softening or cracking from vent gases at temperatures up to 1,800 F (982 C). Masonry chimneys shall be lined in accordance with Section G2425.12.

Section G2439.5.1 is hereby amended to read as follows:

Section G2439.5.1 (614.6.1) -- Maximum length. The maximum length of a clothes dryer exhaust duct shall not exceed 25 feet (7620 mm), including two 90-degree elbows, from the dryer location to the wall or roof termination. The maximum length of the duct shall be reduced 2.5 feet (762 mm) for each additional 45-degree (0.79 rad) bend and 5 feet (15224 mm) for each additional 90-degree bend. The maximum length of the exhaust duct does not include the transition duct.

\* \* \*

Section G2442.6 is hereby amended to read as follows:

Section G2442.6 (618.6) -- Screen. Required outdoor air inlets shall be covered with a screen having  $\frac{1}{4}$  inch (6.4 mm) openings. Required outdoor air inlets serving a nonresidential portion of a building shall be covered with screen having openings larger than  $\frac{1}{4}$  inch (6.4 mm) and not larger than  $\frac{1}{2}$  inch.

Section G2445 is hereby deleted in its entirety.

Chapters 25 through 42 are hereby deleted in their entirety.

Source: 4184 (2001), 4205 (2002), 4305 (2003), 4411 (2004), 4431 (2004), 4596 (2007), 4697 (2009).

CHAPTER 21.2

INTERNATIONAL EXISTING BUILDING CODE

Article

21.2-01 International Existing Building Code--Adoption--Amendments, §§ 21.2.-0101 to 21.2-0102

ARTICLE 21.2-01

Section

21.2-0101 Adoption of International Existing Building Code by Reference  
21.2-0102 Amendment to International Existing Building Code

21.2-0101. Adoption of International Existing Building Code by reference.--There is hereby adopted by reference by the board of city commissioners, for the purpose of prescribing regulations governing standards, relative to existing buildings in the city of Fargo, that certain code known as the International Existing Building Code recommended and compiled by the International Code Council, 2006 edition, a copy of which is on file in the office of the city auditor, and the same is hereby adopted and incorporated as fully as if set out in length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city.

Source: 4289 (2002), 4407 (2004), 4597 (2007).

21.2-0102. Amendment to International Existing Building Code.--The International Existing Building Code as adopted in Section 21.2-0101 is hereby changed and amended as follows:

101.1 Title. These regulations shall be known as the Existing Building Code of the city of Fargo hereinafter referred to as “this code.”

104.2.1.1 Building evaluation. The code official is authorized to require and existing building to be investigated and evaluated at the owner’s expense by a registered design professional...

Section 104.8 is hereby amended to add a new final paragraph to read as follows:

104.8 Liability.

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:

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. Sidewalks, retaining walls, and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below and that are not part of an accessible route.
2. Painting, ..... over 69 inches (1753 mm) in height.
7. Fences.
8. Exterior swimming pools not located on a building roof.
9. Water tanks supported directly on grade.
10. Reroofing.

Section 201.3 is hereby amended to add the following:

Wherever the term “International Plumbing Code” and/or the “International Private Sewage Disposal Code” is used in the International Building Code, it shall mean the North Dakota State Plumbing Code. Wherever the term “ICC Electrical Code” is used in the International Building Code, it shall mean the National Electric Code together with the North Dakota State Wiring Standards. Wherever the term “Flood Hazard Area” is used, it shall mean the Fargo Flood Plain Management ordinance together with the Flood Proofing Code of the city of Fargo, North Dakota.

Section 302.1.1, Section 306.2, Section 501.4, Section 506.2.5, Section 601.3, Section 1003.5 and Section 1101.4 are hereby deleted in their entirety.

Section 1201.2 is hereby amended by adding a new second paragraph to read as follows:

1201.2 Conformance.

Buildings to be moved within this jurisdiction shall comply with provisions of this Chapter. Buildings to be moved into this jurisdiction shall comply with the provisions of the International Codes for new buildings and shall be certified as to that compliance by an agency approved by the code official.

Section 1202.6 is hereby deleted in its entirety.

Section 1301.2 is hereby amended to read as follows:

1301.2 Applicability. Structures existing prior to 1952 in which there is work . . .  
.

Source: 4289 (2002), 4597 (2007).