

TITLE V.

BUILDINGS

CHAPTERS:

- 5-01. International Building Code.
- 5-02. Dangerous Buildings.
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- 5-04. Flood Damage Prevention.
- 5-05. International Property Maintenance Code.
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CHAPTER 5-01

INTERNATIONAL BUILDING CODE

Source: Ord. 737, Sec. 1 (2005); Ord. 877, Sec. 1 (2011)

SECTIONS:

- 5-0101. Adoption of International Building Code.
- 5-0102. Modifications of International Building Code.
- 5-0103. Penalty.
- 5-0104. Appeals

5-0101. Adoption of International Building Code. 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 West Fargo, North Dakota, shall meet with the provisions of the rules and regulations of the 2018 edition of the International Building Code, of the International Code Council 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 West Fargo, with the exception of the sections hereinafter set forth affecting local conditions in the City of West 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 West Fargo, by this section hereby approves and adopts such rules and regulations, as so modified, for use and application in the City of West Fargo, North Dakota, as well as for any area within the extraterritorial zoning jurisdiction of the City. Provided, that any amendments of the 2018 edition of the International Building Code may be adopted by the City by resolution.

Source: Ord. 1006, Sec. 1 (2014); Ord. 1081, Sec. 1 (2017), Sec. 1 (2021)

5-0102. Modification of International Building Code. The International Building Code as adopted in Section 5-0101 is hereby changed and amended as follows:

SECTION 101.1 is hereby amended to read as follows:

[A] 101.1 Title. These regulations shall be known as the *Building Code* of ~~{NAME OF JURISDICTION}~~ City of West Fargo, hereinafter referred to as "this code."

SECTION 101.4.3 is hereby amended to read as follows:

[A] 101.4.3 Plumbing. The provisions of the ~~International Plumbing Code~~ North Dakota State Plumbing Code shall apply to the installation, alteration, repair and

replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. The provisions of the ~~International Private Sewage Disposal Code~~ North Dakota State Plumbing Code shall apply to private sewage disposal systems.

SECTION 104.2.1 is hereby deleted in its entirety.

SECTION 104.8 is hereby amended to read as follows:

[A] 104.8 Liability. The *building official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be ~~civilly or criminally~~ 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 provide by other applicable state and federal laws and shall be defended by legal representatives of the jurisdiction until the final termination of the proceedings. The *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 104.8.1 is hereby amended to read as follows:

[A]104.8.1 Legal defense. Any suit or criminal complaint 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 immunities and defenses provided by other applicable local, state or federal laws ~~defended by~~

~~legal representatives 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

SECTION 104.10.1 is hereby deleted in its entirety.

SECTION 105.2 is hereby amended to read as follows:

[A] 105.2 Work exempt from permit. Exemptions ...

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 120 square feet (11 m²).

2. Fences not over ~~7~~ 8.5 feet (~~2134~~ 2591 mm) high.

3. Oil derricks. ...

~~6. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route. ...~~

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

~~12. Window awnings in Group R-3 and U occupancies supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.~~

13. Non-fixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

14. Reroofing.

SECTION 107.2.6.1 is hereby deleted in its entirety.

SECTION 107.3.1 is hereby amended to read as follows:

[A] 107.3.1 Approval of construction documents. When the *building official* issues a *permit*, the *construction documents* shall be *approved*, in writing or by stamp, as "Reviewed for Code Compliance." One set of *construction documents* so reviewed shall be retained by the *building official*. ~~The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the *building official* or a duly authorized representative.~~

SECTION 109.2 is hereby amended to read as follows:

[A] 109.2 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 ~~applicable governing authority~~ 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 110.3.3 is hereby deleted in its entirety and subsequent sections renumbered accordingly.

SECTION 110.3.11.1 is hereby deleted in its entirety.

SECTION 113 is hereby deleted in its entirety.

SECTION 201.3 is hereby amended to read as follows:

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in ~~the *International Energy Conservation Code, International Fuel Gas Code, International Fire Code, International Mechanical Code or International Plumbing Code*~~ other referenced codes as adopted by the jurisdiction, such terms shall have the meanings ascribed to them as in those codes.

SECTION 305.2 is hereby amended to read as follows:

305.2 Group E, day care facilities. This group includes buildings and structures or portions thereof occupied by more than ~~five~~ twelve children older than 2 1/2 years of age who receive educational, supervision or *personal care services* for fewer than 24 hours per day.

SECTION 305.2.2 is hereby amended to read as follows:

305.2.2 ~~Five~~ Twelve or fewer children. A facility having five or fewer children receiving such day care shall be classified as part of the primary occupancy.

SECTION 305.2.3 is hereby amended to read as follows:

305.2.3 ~~Five~~ Twelve or fewer children in a dwelling unit. A facility such as the above within a *dwelling unit* and

having ~~five~~ twelve or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the *International Residential Code*.

SECTION 308.5 is hereby amended to read as follows:

308.5 Institutional Group I-4, day care facilities. Institutional Group I-4 occupancy shall include buildings and structures occupied by more than ~~five~~ twelve persons of any age who receive *custodial care* for fewer than 24 hours per day by persons other than parents or guardians, relatives by blood, marriage or adoption, and in a place other than the home of the person cared for. This group shall include, but not be limited to, the following:

Adult day care
Child day care

SECTION 308.5.1 is hereby amended to read as follows:

308.5.1 Classification as Group E. A child day care facility that provides care for more than ~~five~~ twelve but not more than 100 children 2 1/2 years or less of age, where the rooms in which the children are cared for are located on a *level of exit discharge* serving such rooms and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.

SECTION 308.5.3 is hereby amended to read as follows:

308.5.3 ~~Five~~ Twelve or fewer persons receiving care. A facility having ~~five~~ twelve or fewer persons receiving *custodial care* shall be classified as part of the primary occupancy.

SECTION 308.5.4 is hereby amended to read as follows:

308.5.4 ~~Five~~ Twelve or fewer persons receiving care in a dwelling unit. A facility such as the above within a *dwelling unit* and having ~~five~~ twelve or fewer persons receiving *custodial care* shall be classified as a Group R-3 occupancy or shall comply with the *International Residential Code*.

SECTION 406.3.2.1 is hereby amended to read as follows:

406.3.2.1 Dwelling unit separation. The private garage shall be separated from the *dwelling unit* and its *attic* area by means of gypsum board, not less than 1/2 inch (12.7 mm) in thickness, applied to the garage side. Garages beneath habitable rooms shall be separated from

all habitable rooms above by not less than a 5/8-inch (15.9 mm) Type X gypsum board or equivalent and 1/2-inch (12.7 mm) gypsum board applied to structures supporting the separation from habitable rooms above the garage. Door openings between a private garage and the *dwelling unit* shall be equipped with either solid wood doors or solid or honeycomb core steel doors not less than 13/8 inches (34.9 mm) in thickness, or doors in compliance with Section 716.5.3 with a fire protection rating of not less than 20 minutes. ~~Doors shall be self-closing and self-latching.~~

SECTION 706.6 is hereby amended to read as follows:

706.6 Vertical continuity. *Fire walls* shall extend from the foundation to a termination point not less than 30 inches (762 mm) above both adjacent roofs.

Exceptions:

1. Stepped buildings in accordance with Section 706.6.1.
2. Two-hour ...

6. Buildings with sloped roofs in accordance with Section 706.6.2.

7. Fire walls installed within detached structures of Group U or Group S-2 occupancies may terminate at the underside of the roof sheathing provided such walls are not required to be fire-resistive construction due to proximity to the property lines.

SECTION 802.4 is hereby deleted in its entirety.

SECTION 903.3.1.1 is hereby amended to read as follows:

[F] 903.3.1.1 NFPA 13 sprinkler systems. Where the provisions of this code require that a building or portion thereof be equipped throughout with an *automatic sprinkler system* in accordance with this section, sprinklers shall be installed throughout in accordance with NFPA 13 except as provided in Sections 903.3.1.1.1 and 903.3.1.1.2. 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. Combustible storage shall not be allowed in these unoccupied tenant spaces if sprinkler heads are installed at the ceiling height. Signage shall be provided where required.

SECTION 905.1 is hereby amended to read as follows:

[F] 905.1 General. Standpipe systems shall be provided in new buildings and structures in accordance with Sections 905.2 through 905.10. In buildings used for high-piled combustible storage, fire protection shall be in accordance with the *International Fire Code*.

Exception: The installation of fire hose on standpipes may be omitted when approved by the fire code official. Approved standpipe hose valves and connection shall be provide where required.

SECTION 907.2.3 is hereby amended to read as follows:

[F] 907.2.3 Group E. A manual fire alarm system that initiates the occupant notification signal utilizing an emergency voice/alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group E occupancies. When *automatic sprinkler systems* or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system. Where approved by the fire code official, a buildings emergency communication system interfaced with the fire alarm system in accordance with NFPA 72 is acceptable.

SECTION 907.2.10.1 is hereby amended to read as follows:

[F] 907.2.10.1 Group R-1. Single- or multiple-station smoke alarms shall be installed in all of the following locations in Group R-1:

1. In sleeping areas.
2. In every room in the path of the *means of egress* from the sleeping area to the door leading from the *sleeping unit*.
3. In each *story* within the *sleeping unit*, including basements. For *sleeping 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.
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 907.2.10.2 is hereby amended to read as follows:

[F] 907.2.10.2 Groups R-2, R-3, R-4 and I-1. Single or multiple-station smoke alarms shall be installed and

maintained in Groups R-2, R-3, R-4 and I-1 regardless of *occupant load* at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each *story* within a *dwelling unit*, including basements but not including crawl spaces and uninhabitable *attics*. In *dwelling*s 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.
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 1010.1.9.4 is hereby amended to add paragraph number 7 to read as follows:

1010.1.9.4 Locks and latches. ...

7. Egress doors from occupied roofs, or doors that are used to gain access to the interior of the building shall be allowed to lack from the outside if all of the following are provided.

7.1 Compliance with all aspects of Section 1010.1.9.4 Item #2

7.2 Compliance with 1009.8

7.3 The door locks shall unlock on actuation of the automatic sprinkler system and automatic fire detection system and the door locking system shall be installed to have the capability of being unlocked by a switch located at the Fire Command Center.

SECTION 1011.1 is hereby amended to read as follows:

1011.1 General. *Stairways* serving occupied portions of a building shall comply with the requirements of Sections 1011.2 through 1011.13. *Alternating tread devices* shall comply with Section 1011.14. *Ships ladders* shall comply with Section 1011.15. *Ladders* shall comply with Section 1011.16.

Exceptions:

1. Within rooms or spaces used for assembly purposes, stepped aisles shall comply with Section 1029.
2. 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 need not to comply with Sections 1011.2 through 1011.13.

SECTION 1011.2 is hereby amended to read as follows:

1011.2 Width and capacity. The required capacity of *stairways* shall be determined as specified in Section 1005.1, but the minimum width shall be not less than 44 inches (1118 mm). See Section 1009.3 for accessible *means of egress stairways*.

Exceptions:

1. *Stairways* serving an *occupant load* of less than 50 shall have a width of not less than 36 inches (914 mm).
2. *Spiral stairways* as provided for in Section 1011.10.
3. Where an incline platform lift or stairway chairlift is installed on *stairways* serving occupancies in Group R-3, or within *dwelling units* in occupancies in Group R-2, a clear passage width not less than 20 inches (508 mm) shall be provided. Where the seat and platform can be folded when not in use, the distance shall be measured from the folded position.
4. 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 1011.5.2 is hereby amended to read as follows:

1011.5.2 Riser height and tread depth. *Stair riser ...*

... treads at the intersections with the walk line and a minimum tread depth of 10 inches (254 mm) within the clear width of the *stair*.

Exceptions:

1. *Spiral stairways ...*
5. In Group I-3 facilities, *stairways* providing access to guard towers, observation stations and control rooms, not more than 250 square feet (23 m²) in area, shall be permitted to have a maximum riser height of 8 inches (203 mm) and a minimum tread depth of 9 inches (229 mm).

6. 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 maximum 8 inch riser height and minimum 9 inch tread depth.

SECTION 1011.11 is hereby amended to read as follows:

1011.11 Handrails. *Stairways shall have handrails on each side and shall comply with Section 1014. Where glass is used to provide the handrail, the handrail shall comply with Section 2407.*

Exceptions:

1. *Stairways within ...*

4. *Changes in room elevations of three or fewer risers within dwelling units and sleeping units in Group R-2 and R-3 do not require handrails.*

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.

6. Vehicle service pit stairways are exempt from the rules for stairway railings and guards if they would prevent a vehicle from moving into a position over the pit.

SECTION 1015.2 is hereby amended to read as follows:

1015.2 Where required. *Guards shall be located along open-sided walking surfaces, including mezzanines, equipment platforms, aisles, stairs, ramps and landings that are located more than 30 inches (762 mm) measured vertically to the floor or grade below at any point within 36 inches (914 mm) horizontally to the edge of the open side above the floor or grade below or if within 36 inches (914 mm) horizontally to the edge of the open side the vertical measurement to the floor or grade below is greater than 48 inches. Guards shall be adequate in strength and attachment in accordance with Section 1607.8.*

SECTION 1104.4 is hereby amended to read as follows:

1104.4 Multistory buildings and facilities. *At least one accessible route shall connect each accessible story and mezzanine in multilevel buildings and facilities.*

Exceptions:

1. *An accessible route is not required to stories, basements, and mezzanines and occupied roofs that have an aggregate area of*

not more than 3,000 square feet (278.7 m²) and are located above ~~and~~ or below accessible levels and are below the third story. This exception shall not apply to:

1.1. Multiple tenant facilities of Group M occupancies ...

SECTION 1202.1 is hereby amended to read as follows:

1202.1 General. Buildings shall be provided with natural ventilation in accordance with Section 1203.4, or mechanical ventilation in accordance with the *International Mechanical Code*.

~~Where the air infiltration rate in a dwelling unit is less than 5 air changes per hour when tested with a blower door at a pressure 0.2 inch w.c. (50 Pa) in accordance with Section R402.4.1.2 of the *International Energy Conservation Code Residential Provisions*, the dwelling unit shall be ventilated by mechanical means in accordance with Section 403 of the *International Mechanical Code*. Ambulatory care facilities and Group I-2 occupancies shall be ventilated by mechanical means in accordance with Section 407 of the *International Mechanical Code*.~~

SECTION 1202.4.4 is hereby deleted in its entirety.

SECTION 1206 is hereby deleted in its entirety.

SECTION 1402.6 is hereby deleted in its entirety.

SECTION 1402.7 is hereby deleted in its entirety.

SECTION 1601.1 is hereby amended to read as follows:

1601.1 Scope. The provisions of this chapter shall govern the structural design of buildings, structures and portions thereof regulated by this code.

It shall not be the responsibility of the building official to determine engineering requirements of this code. Exclusive of the conventional light-framing 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 1603.1 is hereby amended to read as follows:

1603.1 General. *Construction documents* shall show the size, section and relative locations of structural members with

floor levels, column centers and offsets dimensioned. The design loads and other information pertinent to the structural design required by Sections 1603.1.1 through 1603.1.8 shall be indicated on the *construction documents*.

Exception: *Construction documents* for buildings constructed in accordance with the *conventional light-frame construction* provisions of Section 2308 shall indicate the following structural design information:

1. Floor and roof live loads.
2. Ground snow load, *Pg.* ...
- ~~5. Flood design data, if located in flood hazard areas established in Section 1612.3.~~
6. Design load-bearing values of soils.
7. Rain load data

SECTION 1603.1.7 is hereby deleted in its entirety.

SECTION 1610.1 is hereby amended to read as follows:

1610.1 General. Foundation walls and retaining walls...

Exception: Foundation walls extending not more than \pm 9 feet (2438 mm) below grade and laterally supported at the top by flexible diaphragms shall be permitted to be designed for active pressure.

SECTION 1612 is hereby deleted in its entirety.

SECTION 1804.4 is hereby amended to read as follows:

1804.4 Site grading. ~~The ground immediately adjacent to the foundation shall be sloped away from the building at a slope of not less than one unit vertical in 20 units horizontal (5-percent slope) for a minimum distance of 10 feet (3048 mm) measured perpendicular to the face of the wall. If physical obstructions or lot lines prohibit 10 feet (3048 mm) of horizontal distance, a 5-percent slope shall be provided to an approved alternative method of diverting water away from the foundation. Swales used for this purpose shall be sloped a minimum of 2 percent where located within 10 feet (3048 mm) of the building foundation. Impervious surfaces within 10 feet (3048 mm) of the building foundation shall be sloped a minimum of 2 percent away from the building~~ 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.

Exceptions:

- ~~1. Where climatic or soil conditions warrant, the slope of the ground away from the building foundation shall be permitted to be reduced to not less than one unit vertical in 48 units horizontal (2-percent slope).~~

~~2. Impervious surfaces shall be permitted to be sloped less than 2 percent where the surface is a door landing or ramp that is required to comply with Section 1010.1.5, 1012.3 or 1012.6.1.~~

The procedure used to establish the final ground level adjacent to the foundation shall account for additional settlement of the backfill.

SECTION 1804.5 is hereby deleted in its entirety.

SECTION 1805.1.2.1 is hereby deleted in its entirety.

SECTION 1809.5 is hereby amended to read as follows:

1809.5 Frost protection. Except where otherwise protected from frost, foundations and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

1. Extending below the frost line of the locality.
2. Constructing in accordance with ASCE 32.
3. Erecting on solid rock.

Exception: Free-standing buildings meeting all of the following conditions shall not be required to be protected:

1. Assigned to *Risk Category I*.
2. Area of 600 square feet (56 m²) or less for light-frame construction or 400 square feet (37 m²) or less for other than light-frame construction.
3. Eave height of 10 feet (3048 mm) or less.
4. Free-standing buildings used as Group U occupancies for the storage of private or pleasure-type vehicles constructed in accordance with Sections 406.3.1

Shallow foundations shall not bear on frozen soil unless such frozen condition is of a permanent character.

SECTION 2901.1 is hereby amended to read as follows:

[P] 2901.1 Scope. The provisions of this chapter and the ~~International Plumbing Code~~ North Dakota State Plumbing Code shall govern the erection, installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of plumbing equipment and systems. Toilet and bathing rooms shall be constructed in accordance with Section 1210. Plumbing systems and equipment shall be constructed, installed and maintained in accordance with the ~~International Plumbing Code~~ North Dakota State Plumbing Code. Private sewage disposal systems shall conform to the ~~International Private Sewage Disposal Code~~ North Dakota State Plumbing Code.

SECTION 3313 is hereby deleted in its entirety.

Source: Ord. 1006, Sec. 2 (2014); Ord. 1081, Sec. 2 (2017), Ord. 1173, Sec. 2 (2021)

5-0103. Penalty. Any person violating any provision of the International Building Code adopted by this title or any section of this title shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

5-0104. Appeals. A person shall have the right to appeal a decision of the Code Official to the Board of Appeals. The West Fargo City Commission shall be the Board of Appeals. An appeal in writing to the Code Official must be made within 20 days of the decision of the Code Official. The West Fargo City Commission shall hear the appeal within 30 days of the Code Official receiving written notice of the appeal. The Commission may only reverse or modify a decision of the Code Official by a vote of at least three members of the Commission. If not all members of the Commission are present at the hearing, the person appealing the decision may request a postponement, which may extend the 30-day period to hold such a hearing. An application for an appeal shall be based on a claim that the true intent of the Code has been incorrectly interpreted, the provisions of the Code do not fully apply, or an equally good or better form of construction is proposed. The commission shall have no authority to waive requirements of the Code.

CHAPTER 5-02

DANGEROUS BUILDINGS

SECTIONS:

- 5-0201. Definitions
- 5-0202. Standards for Repair, Vacation, or Demolition.
- 5-0203. Dangerous Buildings - Nuisances.
- 5-0204. Duties of Building Administrator.
- 5-0205. Duties of Board of City Commissioners.
- 5-0206. Owner Absent from the City.
- 5-0207. Appeal.
- 5-0208. Penalty.

5-0201. DEFINITIONS. All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings":

- (a) 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.
- (b) Those which, exclusive of the foundation, show thirty-three percent or more of damage or deterioration of the supporting member or members, or fifty percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- (c) 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.
- (d) 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.
- (e) 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.

- (f) 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.
- (g) 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.
- (h) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- (i) 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.
- (j) 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.

5-0202. 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 chapter, 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 fifty percent 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 chapter, 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 chapter or any ordinance of this city or statute of the state of North Dakota, it shall be demolished.

5-0203. DANGEROUS BUILDINGS - NUISANCES. All "dangerous buildings" within the terms or Section 5-0201 are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided.

5-0204. DUTIES OF BUILDING ADMINISTRATOR. The building administrator shall:

- (a) 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 chapter.
- (b) 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 chapter.
- (c) 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 the building administrator to be a "dangerous building" within the standards set forth in Section 5-0201 of this chapter, that: (1) the owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this chapter; (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 thirty days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.
- (d) Set forth in the notice provided for in subsection (c) 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 thirty days, as is reasonable.
- (e) Report to the Board of City Commissioners any noncompliance with the "notice" provided for in subsections (c) and (d) hereof.
- (f) Appear at all hearings conducted by the Board of City Commissioners and testify as to the condition of "dangerous buildings."
- (g) Place a notice on all "dangerous buildings" reading as follows: "This building has been found to be a 'dangerous building' by the building administrator. 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."

5-0205. DUTIES OF BOARD OF CITY COMMISSIONERS.
The Board of City Commissioners shall:

- (a) Upon receipt of a report of the building administrator as provided for in Section 5-0204, subsection (e), 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 administrator's notice provided for herein in Section 5-0204, subsection (d).
- (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 Section 5-0201.
- (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 chapter 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 thirty 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 Section 5-0202 of this chapter. The cost to the City of West Fargo of demolishing, repairing or removing any building or structure under this chapter shall be determined by the Board of City Commissioners after written notice to the property owner of a hearing thereon; and shall then be certified to the County

Auditor as a special assessment levied upon the described property and to be spread upon the taxes against said property.

- (f) Report to the city attorney the names of all persons not complying with the order provided for in subsection (d) of this section.

5-0206. 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.

5-0207. APPEAL. The owner and the occupant shall have thirty (30) days from the date of the order provided for in Section 5-0205 hereof in which to appeal to the Courts from the action of the Board of City Commissioners. The Board of City Commissioners shall not demolish, repair, or remove the building or structure or cause the same to be done during the period of time herein provided for appeal.

5-0208. PENALTY. Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

CHAPTER 5-03

MOVING BUILDINGS

Source: Ord. 841, Sec. 1 (2009)

SECTIONS:

- 5-0301. Permit Required.
- 5-0302. Permit Application.
- 5-0303. Information Contained for Permit Application.
- 5-0304. Building Permit Required.
- 5-0305. House-Mover's License - Requirements.
- 5-0306. Removal of Overhead Wires and Cables - Notice.
- 5-0307. Removal of Attached Wires, Cables and Pipes.
- 5-0308. Permit Required to Move Buildings That Will Injure Trees - Tree Trimming Cost Paid by Mover.
- 5-0309. Moving Buildings Across Railway Tracks.
- 5-0310. Building in Street - Warning Light Required.
- 5-0311. Equipment in Street - Lights Required.
- 5-0312. Hours of Moving Operations - Buildings Not to Stand on Streets Without Written Permission.
- 5-0313. Movers Restricted to Approved Routes.
- 5-0314. Penalty for Violating Article.
- 5-0315. Cost of Rebuilding, Remodeling, or Moving May Be Assessed as Taxes.

5-0301. PERMIT REQUIRED. No person shall move, remove, raise or support free of its foundation, any building or structure within the limits of the City of West Fargo, or cause or hire said work to be done, or assist in said work, unless a permit for said work has been obtained from the City of West Fargo in accordance with the provisions of this chapter. A permit issued by the City of West Fargo shall only be valid for those locations in which the City exercises administrative control.

5-0302. PERMIT APPLICATION. No permit to move, remove, raise or support free of its foundation, any building or structure within the limits of the City of West Fargo shall be issued until written application for permit has been filed with the City Engineer on forms provided by the City of West Fargo, and the application for permit has been approved by the City Administrator. Prior to final approval of an application for permit, the City Administrator shall forward the application to a committee of City Staff for review. The committee shall provide to the City Administrator recommendations to approve, disapprove and set special conditions relating to the issuance of the permit. The City Administrator in granting a moving permit may condition the permit upon the applicant meeting certain conditions such as having a licensed mover move the building, time limits in which the building must be moved, routes that must be followed, posting a bond, and any other similar conditions as deemed advisable by the City Administrator.

Any person denied a moving permit or contesting any conditions placed on the permit, may appeal to the City Commission, who shall review the permit and its conditions at its next regularly scheduled meeting. Applications must be presented to the City Auditor's office at least 10 business days prior to a scheduled move date. The fee will be determined by the committee and be due upon issuance of the permit.

Source: Ord. 876, Sec. 1 (2011)

5-0303. INFORMATION CONTAINED FOR PERMIT APPLICATION. Written application for permit to move, remove, raise or support free of its foundation any building or structure within the limits of the City of West Fargo shall contain the following information concerning the building or structure to be moved, removed, raised or supported:

1. Date of application.
2. Name and address of applicant for permit.
3. Name and address of owner of building.
4. Name and address of person, firm or corporation the applicant for permit will employ to do the moving.
5. Size of building or structure.
6. Age and general description of building or structure.
7. Location of building or structure at time of making application.
8. Proposed new location for building or structure.
9. Route or road along which it is proposed to move the building or structure from present location to proposed new location.
10. Condition of building or structure at time application is made for permit.
11. How long the moving of building or structure is expected to take and when moving is expected to be completed if permit is granted.

Source: Ord. 876, Sec. 2 (2011)

5-0304. BUILDING PERMIT REQUIRED. No moving permit shall be granted for any structure over 120 square feet being moved to a location within the jurisdictional limits of the City of West Fargo unless and until the applicant also receives a building permit from the Building Administrator.

Source: Ord. 876, Sec. 3 (2011)

5-0305. HOUSE-MOVER'S LICENSE - REQUIREMENTS. The City Administrator may require as a condition to the approval of application for permit and issuance of permit under this chapter that the moving be done only by one holding a license for the moving of buildings and structures within the City of West Fargo. No such license shall be granted until the person applying therefor shall have paid to the City Administrator a license fee and shall have given a surety bond payable to the City, in amounts set by

resolution of the City Commission, on a form satisfactory to the City Administrator, and conditioned, among other things, that said party will pay any and all damages which may be caused to any property, either public or private, within the City, whether said damages or injury be inflicted by said party, his employees, agents or workmen; and conditioned also that said party will save and indemnify and keep harmless the said City against all liabilities, judgments, costs and expenses which may in any way accrue against the City in consequence of the granting of such license, and will in all things strictly comply with the provisions of this chapter and with the conditions of any and all permits which may be issued hereunder to said house-mover or one employing him. The City Administrator may also require proof of liability insurance and worker's compensation insurance prior to issuing the license.

Upon the execution of such bond, and its acceptance by the City Administrator, the "house-mover's" license for the moving of buildings and structures within the City of West Fargo shall be issued. All such licenses shall expire one (1) year from date of issue.

5-0306. REMOVAL OF OVERHEAD WIRES AND CABLES - NOTICE.

1. In every case in which a permit shall be issued as herein provided for the removal of any house or structure, when such removal requires the displacement of any overhead electrical or other wire or cable, it shall be the duty of the person, association or corporation owning, operating or controlling such wire or cable to remove or displace the same as far as may be necessary to permit the removal of such house, building or structure.
2. The person to whom a removal permit shall have been issued shall notify the person, association or corporation owning, operating or controlling such wire or cable, to remove or displace the same to facilitate the removal of said house, building or structure and shall exhibit to said person, association or corporation the properly issued permit authorizing the removal of said house, building or structure, and it shall thereupon be the duty of said person, association or corporation, within a reasonable time, not exceeding twenty-four (24) hours thereafter to remove or displace such wires or cables sufficiently to allow the passage of said house, building or structure.

5-0307. REMOVAL OF ATTACHED WIRES, CABLES AND PIPES. The person to whom a removal permit has been issued shall, before raising, moving or removing any building or structure to which electric wires are attached, notify the persons, associations or corporations owning or controlling such electric wiring, cables or piping of the proposed moving of said building or structure. The person, association or corporation so notified shall within a reasonable time, not exceeding twenty-four (24) hours, thereafter,

disconnect and make safe all such electric wiring, cables or piping.

5-0308. PERMIT REQUIRED TO MOVE BUILDINGS THAT WILL INJURE TREES - TREE-TRIMMING COST PAID BY MOVER. No person, firm, or corporation, whether licensed or otherwise, shall move any building or structure along any street, alley or other public way in such a manner as to interfere with or injure any tree, shrub, or other vegetable growth receiving a house moving permit. The application shall specify the building or structure to be moved and the proposed route. All necessary tree-trimming or shrub-trimming costs shall be paid by applicant.

Source: Ord. 876, Sec. 4 (2011)

5-0309. MOVING BUILDINGS ACROSS RAILWAY TRACKS. No house, building, or structure shall be moved across any railway track except at such time as permitted by the person, associations, or corporation owning or controlling such tracks.

5-0310. BUILDING IN STREET - WARNING LIGHT REQUIRED. When any building or structure is being moved across or through any street or alley, a warning light must be in operation at each corner of such building or structure, from sunset to sunrise.

5-0311. EQUIPMENT IN STREET - LIGHTS REQUIRED. All ropes, blocks, winches, windlasses, or other equipment used in the moving of said building or structure must, when obstructing the free use of a street or alley, be protected by suitable warning lights from sunset to sunrise.

5-0312. HOURS OF MOVING OPERATIONS - BUILDINGS NOT TO STAND ON STREETS WITHOUT WRITTEN PERMISSION. Moving operations upon a street or alley shall be carried on continuously for at least eight hours daily, except Sunday, and in such manner as to cause the least inconvenience to the public use of such street or alley. No building shall be left, or be permitted to stand, on any street, alley, or public place in the City without written permission from the Office of Public Works and the Police Department.

Source: Ord. 876, Sec. 5 (2011)

5-0313. MOVERS RESTRICTED TO APPROVED ROUTES. The movement of any building or structure along a public right-of-way shall be restricted to the route approved by the Director of Public Works. The person, firm, company or corporation directing such movement shall provide pilot and follow vehicles, spotters, warning devices, flags and signs to adequately warn the public of the danger and control the movement of traffic along the approved route.

5-0314. PENALTY FOR VIOLATING ARTICLE. Every person, firm, company, or corporation who shall violate any of the terms and provisions of this article shall, upon conviction thereof, be punished by a fine not to exceed \$1,000, or by imprisonment not to

exceed 30 days, or by 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.

5-0315. COST OF REBUILDING, REMODELING, OR MOVING MAY BE ASSESSED AS TAXES. In the event that any person, firm, company, or corporation shall violate any provision of this article and after conviction thereof shall refuse to correct the violation within 15 days after written notice from the building inspector so to do, then and in that event the City may proceed, under the direction of the Director of Public Works, to correct any such violation, including the rebuilding, remodeling, or moving of any house or structure so as to comply with this article; the cost and expenses of such work, as certified by the Director of Public Works to the City Administrator, shall be recoverable in an action against the owner or owners of the real property upon which the structure or house is located, or any person, firm, company or corporation found guilty of a violation of this article, or it shall be certified by the City Administrator as a special tax assessment against the lot or parcel of land upon which said structure or house is located. In August of each year the Board of City Commissioners shall review all such assessments and hear all complaints against the same and approve the same as finally adjusted and such special assessment shall then be certified to the County Auditor to be placed upon the tax roll for that year and be collected as other City taxes.

CHAPTER 5-04

FLOOD DAMAGE PREVENTION

SECTIONS:

- 5-0401. Statutory Authorization.
- 5-0402. Findings of Fact.
- 5-0403. Statement of Purpose.
- 5-0404. Methods of Reducing Flood Losses.
- 5-0405. Adoption of Flood Proofing Code.
- 5-0406. Definitions.
- 5-0407. Land to Which This Ordinance Applies.
- 5-0408. Basis for Establishing the Areas of Special Flood Hazard.
- 5-0409. Compliance.
- 5-0410. Abrogation and Greater Restrictions.
- 5-0411. Interpretation.
- 5-0412. Warning and Disclaimer of Liability.
- 5-0413. Establishment of Development Permit.
- 5-0414. Designation of the Building Administrator.
- 5-0415. Duties and Responsibilities of the Building Administrator.
- 5-0416. Variance Procedure.
- 5-0417. Provisions for Flood Hazard Reduction -- General Standards.
- 5-0418. Provisions for Flood Hazard Reduction -- Specific Standards.
- 5-0419. Floodways.
- 5-0420. Validity.
- 5-0421. Penalty.

5-0401. STATUTORY AUTHORIZATION. The Legislature of the State of North Dakota has in Chapter 40-47 of the North Dakota Century Code delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of City Commissioners of the City of West Fargo, North Dakota does ordain as follows:

SOURCE: Ord. 778, Sec. 1 (2006)

5-0402. FINDINGS OF FACT.

1. The flood hazard areas of West Fargo are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

2. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

5-0403. STATEMENT OF PURPOSE. It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health;
2. To minimize expenditure of public money for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
6. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. To insure that potential buyers are notified that property is in an area of special flood hazard; and
8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

5-0404. METHODS OF REDUCING FLOOD LOSSES. In order to accomplish its purposes, this ordinance includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling filling, grading, dredging, and other development which may increase flood damage;

4. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

5-0405. ADOPTION OF FLOOD PROOFING CODE. There is hereby adopted by the Board of City Commissioners of the City of West Fargo for the purpose of providing minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within the "Floodway and the Special Flood Hazard Area" and certain equipment specifically regulated herein, including permits and penalties, that certain code known as the Flood Proofing Code prepared by Moore Engineering, Inc., of West Fargo, North Dakota, on December 10, 1974, and revised in 1978, of which not less than three (3) copies have been and now are filed in the office of the City Auditor of the City of West Fargo, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this title shall take effect, the provisions thereof shall be controlling in the construction of all buildings and structures therein contained within the jurisdiction of the City of West Fargo.

5-0406. DEFINITIONS. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. "Appeal" means a request for a review of the Building Administrator's interpretation of any provisions of this ordinance or a request for a variance.
2. "Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.
3. "Base flood" or "100-year flood" means the flood having a one percent chance of being equaled or exceeded in any given year.
4. "Base Flood Elevation" (BFE) means the height of the base flood or 100-year flood usually in feet above mean sea level.
5. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
6. "Best Available Data" (BAD) means water elevation information from any source used to estimate or determine a base flood elevation (i.e. high water mark).

7. "Conveyance or hydraulic conveyance" means a geometric characteristic of a river or watercourse at a given point that determines the flow-carrying capacity at that point.
8. "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.
9. "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.
10. "Flood Insurance Rate Map" (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
11. "Flood Insurance Study" means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.
12. "Floodproofing" (Dry) means protection provided a structure, together with attendant utilities and sanitary facilities, which is watertight two feet above the base flood elevation with walls that are substantially impermeable to the passage of water.
13. "Floodproofing" means any combination of structural and non-structural 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.
14. "Floodproofing Code" means the Flood Proofing Code of the City of West Fargo, North Dakota, hereinbefore referred to and adopted in Section 5-0405.
15. "Floodway" or "regulatory 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 one foot.
16. "Lowest floor" means lowest floor of a structure including the basement.
17. "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. The term "manufactured home" does not include a "recreational vehicle," but does include "mobile home."

18. "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.
19. "New construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.
20. "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
21. "Recreational vehicle" means a vehicle which is:
 - a. built on a single chassis;
 - b. 400 square feet or less when measured at the largest horizontal projection;
 - c. designed to be self-propelled or permanently towable by a light duty truck;
 - d. designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel, or seasonal use; including, but not limited to:
 - e. travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.
22. "Start of construction" includes substantial improvement, and means the date the building permit was issued, 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.

23. "Structure" means a walled and roofed building or manufactured home that is principally above ground.
24. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
25. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent 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 purposes 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 does not, however, include either:
- 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 safe living conditions, or
 - b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
26. "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: Ord. 778, Sec. 2 (2006).

5-0407. LANDS TO WHICH THIS ORDINANCE APPLIES. This ordinance shall apply to all areas of special flood hazards within the jurisdiction of West Fargo.

5-0408. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD. The areas of special flood hazard identified by the Federal Emergency Management Agency in scientific and engineering report entitled "The Flood Insurance Study, Cass County, North Dakota" dated January 16, 2015, and any subsequent amendments to that map,

with an accompanying "Flood Insurance Rate Map" is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the City Hall in West Fargo.

SOURCE: Ord. 479, Sec. 1 (1995); Ord. 1017, Sec. 1 (2014)

5-0409. 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.

5-0410. ABROGATION AND GREATER RESTRICTIONS. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deeded restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5-0411. 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.

5-0412. 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 hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of West Fargo, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

5-0413. ESTABLISHMENT OF DEVELOPMENT PERMIT. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 5-0408. Application for a development permit shall be made on forms furnished by the City Commission of West Fargo and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimension, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. All elevation readings must be certified by a registered professional surveyor, engineer or architect, and compliance with flood proofing regulations, must be certified to by a registered professional engineer or architect. Specifically, the following information is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
2. Elevation in relation to mean sea level to which any structure has been floodproofed.
3. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 5-0418.B.
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
5. Description of structures (temporary or permanent), in compliance with the "Flood Proofing Code of the City of West Fargo" which is made a part of the ordinance by reference.
6. A statement as to whether or not, if the permit application is for a new structure or the substantial improvement of an existing structure, such structure contains a basement.
7. If the application for a permit relates to a manufactured home park or a manufactured home subdivision, a copy of the excavation plan indicating alternative vehicular access and escape routes for said manufactured home park or manufactured home subdivision, shall be attached to said application as well as a statement by the applicant that such plan has been filed with the Disaster Emergency Services Office of Cass County, North Dakota.

SOURCE: Ord. 778, Sec. 3 (2006).

5-0414. DESIGNATION OF THE BUILDING ADMINISTRATOR. The Building Administrator is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

5-0415. DUTIES AND RESPONSIBILITIES OF THE BUILDING ADMINISTRATOR. Duties of the Building Administrator shall include, but not be limited to:

A. Permit Review

1. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
2. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5-0419(1) are met.

B. Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 5-0408, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Building Administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer Sections 5-0418(A) SPECIFIC STANDARDS, Residential Construction, and 5-0418(B) SPECIFIC STANDARDS, Nonresidential Construction.

C. Information to be Obtained and Maintained

Information to be obtained and maintained with all elevation readings certified by registered professional surveyor, engineer or architect, and all compliance with floodproofing regulations to be certified by a registered professional engineer or architect.

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
2. For all new or substantially improved floodproofed structures:
 - a. Verify and record the actual elevation (in relation to mean sea level), and
 - b. Verify that all structures (temporary or permanent) shall be constructed in accordance with the "Flood Proofing Code of the City of West Fargo" which is made a part of this ordinance by reference.
3. Maintain for public inspection all records pertaining to the provision of this ordinance.

D. Alteration of Watercourses

1. Notify adjacent communities and the North Dakota State Engineer prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 3. Notify the appropriate water resource district prior to removal or placement of fill within 250 feet of the bank of a body of water during normal flow or stage.
- E. Interpretation of Floor Insurance Rate Map (FIRM) Boundaries.

Make interpretation where needed, as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 5-0416.

SOURCE: Ord. 778, Sec. 4 (2006).

5-0416. VARIANCE PROCEDURE.

A. Appeal Board

1. The City Commission as established by the City of West Fargo shall hear and decide appeals and requests for variances from the requirements of this ordinance.
2. The Commission shall hear and decide appeals when it is alleged there is an error in any requirements, decision, or determination made by the Building Administrator or City Engineer in the enforcement or administration of this ordinance.
3. Those aggrieved by the decision of the Board of City Commissioners, or any taxpayer, may appeal such decision to the appropriate court, as provided in North Dakota law.
4. In passing upon such applications, the City Commission 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 owner;

- 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 existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and flood plain management program;
 - 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, and streets and bridges.
5. Generally, 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 of Section 5-0416(A)(4) have been fully considered. As the lot size increases beyond the one half acre, the technical justification required for issuing the variance increases.
6. Upon consideration of the factors of Section 5-0416(A)(4) and the purposes of this ordinance, the Board of City Commissioners may attach conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
7. The Building Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

B. Conditions for Variances

1. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
2. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Variances shall only be issued 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, c r e a t e nuisances, cause fraud on or victimization of the public as identified in Section 5-0416(A)(4), or conflict with existing local laws or ordinances.
5. 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 elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

5-0417. PROVISIONS FOR FLOOD HAZARD REDUCTION -- GENERAL STANDARDS. In all areas of special flood hazards the following standards are required:

A. Anchoring

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
2. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic

and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction Materials and Methods

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. 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.

C. Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
2. 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; and
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

SOURCE: Ord. 778, Sec. 5 (2006)

5-0418. PROVISIONS FOR FLOOD HAZARD REDUCTION--SPECIFIC STANDARDS. In all areas of special flood hazards where base flood elevation data has been provided as set in Section 5-0408 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 5-0415(B), Use of Other Base Flood Data, the following provisions are required:

A. Residential Construction

1. Conform to structural and technical provisions set forth in the Flood Proofing Code of West Fargo.
2. Be designed so that the lowest foundation opening is at least two and one-half feet (2½') above the base flood elevation. Any basement area, together with attendant utilities and sanitary facilities, below that level shall be designed so that the structure is watertight without human intervention (i.e., the base or sill of all external openings such as windows and doors must be two and one-half feet (2½') above the 100-year base flood elevation). Basement walls shall be built with the capacity to resist hydrodynamic loads and the effects of buoyancy resulting from the 100-year frequency flood and shall be designed so that minimal structural damage will occur if this design is exceeded.
3. Be certified by a registered professional engineer that the floodproofing measures used in the structure satisfy the Flood Proofing Code.
4. The Building administrator shall verify that the structure has been built in accordance with the Flood Proofing Code.
5. Require within the AO and AH Zones on the FIRM that all new construction and improvements of residential structures have the lowest floor, (including basement) elevated on fill two feet (2') above the highest adjacent grade as high as the depth number specified in feet on the FIRM unless conforming to the provisions in the Flood Proofing Code.
6. Require within Zones AO and AH adequate drainage paths around slopes to guide flood waters around and away from proposed structures.

B. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated on fill to at least one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed to at least two and one-half feet (2½') above the base flood elevation, so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
3. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 5-0415.C.
4. Require within the AO and AH Zones on the FIRM that all new construction and improvements of nonresidential structures have the lowest floor, (including basement) elevated on fill two feet (2') above the highest adjacent grade as high as the depth number specified in feet on the FIRM, or together with attendant utility and sanitary facilities be completely floodproofed two feet over the base flood elevation to meet the flood proofing standards specified in number 1 above.

C. Manufactured Homes

1. Manufactured homes shall be anchored in accordance with Section 5-0417(A).
2. All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated on fill to at least two and one-half feet (2½') above the base flood elevation, and is securely anchored to an adequately anchored foundation system.

- D. All elevation readings required by this section shall be certified by a registered professional surveyor, engineer or architect, and all compliance with floodproofing regulations must be certified to by a registered professional engineer or architect.

SOURCE: Ord. 778, Sec. 6 (2006); Ord. 1017, Sec. 2 (2014)

5-0419. FLOODWAYS. Located within areas of special flood hazard established in Section 5-0408 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachment, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. If Section 5-0419(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 5-0417, 5-0418 and 5-0419.

5-0420. VALIDITY. If any section, clause, paragraph, provision, or portion of these regulations shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph, provision, or portion of these regulations.

5-0421. PENALTY. Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

CHAPTER 5-05

INTERNATIONAL PROPERTY MAINTENANCE CODE

Source: Ord. 738, Sec. 1 (2005); Ord. 878, Sec. 1 (2011)

SECTIONS:

- 5-0501. Adoption of International Property Maintenance Code.
- 5-0502. Amendment to International Property Maintenance Code.
- 5-0503. Penalty.
- 5-0504. Appeals.

5-0501. ADOPTION OF INTERNATIONAL PROPERTY MAINTENANCE CODE. 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 West Fargo, that certain code known as the International Property Maintenance Code, recommended and compiled by the International Code Council, being particularly the 2018 edition thereof, as the same are now established in said code, a copy of which is on file in the office of the Building Administrator for the City of West Fargo, with the exception of the sections hereinafter set forth affecting local conditions of the City of West Fargo, which sections shall be substituted for and in lieu of like sections or paragraphs in said International Property Maintenance Code; the Board of City Commissioners of said City of West Fargo, by this section hereby approves and adopts such rules and regulations, so modified, for the use and application within the city limits of West Fargo, North Dakota. Provided, that any amendments of the 2018 edition of the Code may be adopted by the City by resolution.

Source: Ord. 1010, Sec. 1 (2014); Ord. 1087, Sec. 1 (2017); Ord 1179, Sec. 1 (2021)

5-0502. AMENDMENT TO INTERNATIONAL PROPERTY MAINTENANCE CODE. The International Property Maintenance Code, as adopted in Section 5-0501 is hereby changed and amended as follows:

SECTION 101.1 is hereby amended to read as follows:

101.1 Title. These regulations shall be known as the *Property Maintenance Code of* ~~{NAME OF JURISDICTION}~~ the City of West Fargo, hereinafter to as "this code."

SECTION 102.3 is hereby amended to read as follows:

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of ~~the International Building Code, International Energy Conservation Code, International Fire Code, International Fuel Gas Code, International~~

~~Mechanical Code, International Residential Code, International Plumbing Code and the NFPA 70 all applicable ordinances adopted by the City of West Fargo. Nothing in this code shall be construed to cancel, modify or set aside any provision of the International Zoning Code.~~

SECTION 103.4 is hereby amended to read as follows:

R103.4 Liability. ~~The *building official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be civilly or criminally 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 provide by other applicable state and federal laws and shall be defended by legal representatives of the jurisdiction until the final termination of the proceedings. The *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 103.4.1 is hereby amended to read as follows:

103.4.1 Legal defense. ~~Any suit or criminal complaint 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 immunities and defenses provided by other applicable local, state or federal laws defended by legal representatives 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~~

SECTION 103.5 is added to read as follows:

103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule:

- A. Initial Inspection - No charge
- B. First Re-inspection - No charge
- C. Second Re-inspection - As to the second re-inspection, a fee of \$100
- D. Third Re-inspection - As to the third re-inspection, a fee of \$100
- E. Fourth and continuing Re-inspection - as to the fourth and any subsequent re-inspection, a fee of \$100

SECTION 111 is hereby deleted in their entirety.

SECTION 112.4 is hereby amended to read as follows:

112.4 Failure to comply. Any person who shall continue any work after been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be ~~liable to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars~~ subject to penalties prescribed by law.

SECTION 201.3 is hereby amended to add the following:

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code, International Existing Building Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Plumbing Code, International Residential Code, International Zoning Code* or NFPA 70, such terms shall have meanings ascribed to them as in those codes.

Throughout this code, wherever reference is made to the International Plumbing Code it shall mean the North Dakota State Plumbing Code. Throughout this code, wherever reference is made to the ICC Electrical Code it shall mean the National Electrical Code together with the North Dakota State Wiring Standards.

SECTION 302.4 is hereby amended to read as follows:

302.4 Weeds. All *premises and exterior property* shall be maintained free from weeds or plant growth ~~in excess of (jurisdiction to insert height in inches)~~ as per the City of West Fargo Ordinances. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual

plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

SECTION 304.14 is hereby amended to read as follows:

304.14 Insect screens. During the period from ~~[DATE]~~ April 1st to ~~[DATE]~~ October 31st, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

SECTION 602.2 is hereby amended to read as follows:

602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms ~~based on the winter outdoor design temperature for the locality indicated in Appendix D of the International Plumbing Code.~~ Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

~~**Exception:** In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.~~

SECTION 602.3 is hereby amended to read as follows:

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling

units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from ~~{DATE}~~ September 15th to ~~{DATE}~~ June 1st to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. ~~The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.~~
2. ~~In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.~~

SECTION 602.4 is hereby amended to read as follows:

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from ~~{DATE}~~ September 15th to ~~{DATE}~~ June 1st to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

SECTION 603.2 is hereby amended to read as follows:

603.2 Removal of combustion products. All fuel burning equipment and appliances shall be connected to an approved chimney or vent.

~~**Exception:** Fuel burning equipment and appliances which are labeled for unvented operation.~~

SECTION 703.7 is hereby deleted in its entirety.

Source: Ord. 1010, Sec. 2 (2014); Ord. 1087, Sec. 2 (2017), Ord. 1179, Sec. 2 (2021)

5-0503. PENALTY. A violation of the regulations contained in this chapter shall be deemed an offense and shall be punishable by a fine of not to exceed Five Hundred Dollars (\$500). Each day that

a violation is permitted to exist shall constitute a separate offense. The provisions of Section 1-0211 shall also apply.

5-0504. Appeals. A person shall have the right to appeal a decision of the Code Official to the Board of Appeals. The West Fargo City Commission shall be the Board of Appeals. An appeal in writing to the Code Official must be made within 20 days of the decision of the Code Official. The West Fargo City Commission shall hear the appeal within 30 days of the Code Official receiving written notice of the appeal. The Commission may only reverse or modify a decision of the Code Official by a vote of at least three members of the Commission. If not all members of the Commission are present at the hearing, the person appealing the decision may request a postponement, which may extend the 30-day period to hold such a hearing. An application for an appeal shall be based on a claim that the true intent of the Code has been incorrectly interpreted, the provisions of the Code do not fully apply, or an equally good or better form of construction is proposed. The commission shall have no authority to waive requirements of the Code.

CHAPTER 5-06

ALARM SYSTEMS

Source: Ord. 602, Sec. 1 (2000)

SECTIONS:

- 5-0601. Definitions.
- 5-0602. Rules and Regulations.
- 5-0603. Annual Fee Assessed for Establishment of Alarm Sites.
- 5-0604. Prohibitions.
- 5-0605. False Alarms - Fee Assessed.
- 5-0606. Collection of Past Due Fees.
- 5-0607. Automatic Dialing Device - Interconnecting to Primary Trunklines.
- 5-0608. Automatic Dialing Device - Intermediary Services.
- 5-0609. Violation - Penalty.

5-0601. DEFINITIONS.

1. "Alarm user" shall mean any person as defined herein using the services of a police/fire alarm system or a central station monitoring said alarms which require the emergency response of law enforcement and/or fire department personnel.
2. "Answering service" refers to a telephone answering service which receives emergency signals from alarm systems, and thereafter immediately relays the message by live voice to the communications center of the police department.
3. "Automatic dialing device" refers to an automated alarm system which sends a prerecorded voice message or coded signal indicating the existence of the emergency situation which the alarm system is designed to detect.
4. "Central station" means an office to which remote alarm and supervisory signaling devices are connected and are supervised and maintained by operators.
5. "Central station system" means a system in which the operation of electrical protection circuits and devices are signaled automatically to, recorded in, maintained, and supervised from a central station having operators.
6. "Direct line" means a telephone line leading directly from a central station to the communication center of the police department that is for use only to report emergency signals on a person to person basis.

7. "False alarm" means the activation of an alarm system caused by anything other than an emergency or criminal activity.
8. "Fire alarm system: shall mean any system or device designed for the detection of the presence of fire, smoke, or other dangerous condition and when activated emits a sound or transmits a signal or message by which the system alerts the West Fargo Police Department directly or causes the West Fargo Police Department to be alerted.
9. "Excessive alarms" shall mean false alarms in excess of three within any consecutive six month period.
10. "Person" shall mean any individual, partnership, corporation, association or other entity.
11. "Police alarm system" shall mean any system or device designed for the detection of an unauthorized entry on premises or for alerting others of the commission of an unlawful act, or both, and, when actuated, emits a sound or transmits a signal or message by which the system alerts the West Fargo Police Department directly, or causes the department to be alerted.
12. "Primary trunkline" means a telephone line leading directly into the communications center of the police department that is for the purpose of handling emergency calls on a specific number included among the emergency numbers listed in the telephone directory issued by the telephone company and covering the service area within the police department's jurisdiction.
13. "Proprietary system" means an alarm system sounding and/or recording alarm and supervisory signals at a control center located within the protected premises, the control center being under the supervision of the proprietor of the protected premises. If a proprietary system includes a signal line connected directly to the police communication center, a central station, or answering service, it thereby becomes an "alarm system" as defined in this ordinance.
14. "Special trunkline" means a telephone line leading into the communications center of the police department and having the primary purpose of handling emergency signals or message originating either directly or through a central location from automatic dialing devices.

5-0602. RULES AND REGULATIONS. The Chief of Police may prescribe rules and regulations for alarm systems, including, but not limited to, the following:

1. Minimum standards for the quality, efficiency, and effectiveness of police and fire alarm systems and alarm business permitters;
2. Specific provisions relating to testing procedures;
3. Minimum standards for the training of alarm business personnel.

The Chief of Police or designee is authorized to inspect or cause to be inspected the premises of the alarm business and the premises whereon the police alarm system is located. The Chief of Police or designee shall have the power to make and enforce such reasonable rules and regulations as may be necessary to implement the provisions of this section.

5-0603. ANNUAL FEE ASSESSED FOR ESTABLISHMENT OF ALARM SITES.

1. Any person, organization, business or establishment who establishes, installs, or connects any fire or security alarm system designed to directly notify the West Fargo Police Department of an emergency shall be assessed an annual fee, which will be set from time to time by resolution of the Board of City Commissioners. The annual fee is due and payable upon activation of the alarm site. An alarm site refers to the location of an alarm system. The fee schedule shall include an annual fee for the following categories of alarm system:
 - a. Alarm sites which are directly monitored by the system (hard wire) located at the police department.
 - b. Alarm sites which are connected by telephone lines through a commercial alarm notification system (auto dialer) to the police department.
 - c. Alarm sites which are connected by telephone lines and programmed to directly contact the police department.
2. Any person, organization, business or establishment who establishes any alarm site, as set forth above, shall notify the police department, in writing and on the approved form, within forty-eight (48) hours of the alarm site activation and shall pay the annual fee.
3. The City Auditor is authorized and directed to deposit the moneys received under this section in a separate account to be kept and administered by him under the directions of the Board, in the same manner as other public moneys are kept and administered. The funds in

said account shall be used solely for the purpose of purchasing, maintaining and replacing any equipment or facilities used or useful in providing the monitoring, dispatch and response services of the police and fire department.

5-0604. PROHIBITION.

1. No person, organization, business or establishment may connect any alarm system to the City's 911 emergency system.
2. It shall be unlawful for anyone to activate any police alarm for the purpose of summoning police except in the event of what is reasonably believed to be an unlawful act and/or an unauthorized entry on premises. Whenever a police alarm system has been designed and commonly understood to alert others of the commission of a particular crime, it shall be unlawful for anyone to activate such police alarm system for the purpose of summoning police except in the event of what is reasonably believed to be such particular crime.
3. It shall be unlawful to install or use a police alarm system which upon activation emits a sound similar to sirens in use on emergency vehicles or civil defense purposes.

5-0605. FALSE ALARMS - FEE ASSESSED.

1. In the event that any false alarm, as defined above, occurs and results in the dispatch and response of the police and/or fire department, the responding department shall notify the City Auditor.
2. Any alarm site which has more than three false alarms in any consecutive 45 days shall be assessed a fee for each false alarm in excess of three.
3. The fee shall be established by resolution of the Board of City Commissioners.

Source: Ord. 796, Sec. 1 (2007)

5-0606. COLLECTION OF PAST DUE FEES. In the event that annual or false alarm fees established by resolution of the Board of City Commissioners are not paid when due, such fees may be recovered by the City in an action at law against the owner of the alarm site; or such fees may be assessed against the premises served by the alarm site and collected and returned in the same manner as other county and municipal taxes and assessments are assessed, certified, collected and returned.

5-0607. AUTOMATIC DIALING DEVICE - INTERCONNECTING TO PRIMARY TRUNKLINE.

1. No automatic dialing device shall be interconnected to a primary trunkline after the effective date of this ordinance.
2. Within ninety (90) days after the effective date of this ordinance, all automatic dialing devices interconnected to a primary trunkline shall be disconnected therefrom. The owner or lessee of such device shall be responsible for having the device disconnected within the 90-day time period described herein.

5-0608. AUTOMATIC DIALING DEVICE - INTERMEDIARY SERVICES.

1. Persons owning or leasing an automatic dialing device may have the device interconnected to a telephone line transmitting directly to:
 - a. A central station;
 - b. A modified central station; or
 - c. A licensed answering service.
2. The relaying of messages by intermediary services to the police department shall be over a special trunkline, except that central stations may relay messages over a direct line on a person-to-person basis.
3. This section shall apply only to those automatic dialing services interconnected to the communication center in the police department or to other municipal offices.

5-0609. VIOLATION - -PENALTY. Any person, organization, business or establishment who fails to notify the police department within forty-eight (48) hours of an alarm site activation, fails to pay the annual assessment or false alarm fee, or connects any alarm system to the City's 911 emergency system shall be guilty of an infraction punishable by a fine not to exceed five hundred dollars (\$500).

CHAPTER 5-07

INTERNATIONAL RESIDENTIAL CODE

Source: Ord. 739, Sec. 1 (2005); Ord. 879, Sec. 1 (2011)

SECTIONS:

- 5-0701. Adoption of International Residential Code.
- 5-0702. Amendment to International Residential Code.
- 5-0703. Penalty.
- 5-0704. Fee for Copy of Relevant Code Provisions.
- 5-0705. Appeals.

5-0701. ADOPTION OF INTERNATIONAL RESIDENTIAL CODE. 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 West Fargo, that certain code known as the International Residential Code, recommended and compiled by the International Code Council, being particularly the 2018 edition thereof, as the same are now established in said code, a copy of which is on file in the office of the Building Administrator for the City of West Fargo, with the exception of the sections hereinafter set forth affecting local conditions of the City of West Fargo, which sections shall be substituted for and in lieu of like sections or paragraphs in said International Residential Code; the Board of City Commissioners of said City of West Fargo, by this section hereby approves and adopts such rules and regulations, so modified, for the use and application within the city limits of West Fargo, North Dakota, as well as for any area within the extraterritorial zoning jurisdiction of the City. Provided, that any amendments of the 2018 edition of the Code may be adopted by the City by resolution.

Source: Ord. 1011, Sec. 1 (2014); Ord. 1088, Sec. 1 (2017)

5-0702. AMENDMENT TO INTERNATIONAL RESIDENTIAL CODE. The International Residential Code, as adopted in Section 5-0701 is hereby changed and amended as follows:

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

R101.1 Title. These regulations shall be known as the *Building Code* of ~~{NAME OF JURISDICTION}~~ City of West Fargo, hereinafter referred to as "this code."

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

R104.8 Liability. The *building official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be ~~civilly or criminally~~ 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 provide by other applicable state and federal laws and shall be defended by legal representatives of the jurisdiction until the final termination of the proceedings. The *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 R104.8.1 is hereby amended to read as follows:

R104.8.1 Legal defense. Any suit or criminal complaint 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 immunities and defenses provided by other applicable local, state or federal laws ~~defended by legal representatives 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

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. Exemptions ...

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 120 square feet (11 m²).
2. Fences not over 7 8.5 feet (~~2134~~ 2591 mm) high.
3. Retaining walls that are not ...

7. ~~Prefabricated S~~swimming pools that are less than 24 inches (610 mm) deep. ...

10. Decks not exceeding ~~200~~ 120 square feet (~~18.58~~ m²) in area, that are not more than ~~30~~ 7 inches (762 mm) above *grade* at any point, are not attached to a dwelling do not serve the exit door required by Section R311.4.

SECTION R105.3.1.1 is hereby deleted in its entirety.

SECTION R106.1.4 is hereby deleted in its entirety.

SECTION R108.3 is hereby amended to read as follows:

R108.3 Building permit valuations. Building *permit* valuation shall include total value of the work for which a *permit* is being issued, such as electrical, gas, mechanical, plumbing *equipment* and other permanent systems, including materials and labor. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official. Final building permit valuation shall be set by the building official.

SECTION R106.1.4 is hereby deleted in its entirety.

SECTION R112 is hereby deleted in its entirety.

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

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 West Fargo Flood Damage Prevention Ordinance together with the West Fargo Flood Proofing Code.

Table R301.2 (1) is hereby amended to read as follows:

Table 301.2(1)													
Climactic and Geographic Design Criteria													
Ground Snow Load	Wind Design				Seismic Design Category	Subject to Damage From			Winter Design Temp	Ice Barrier Underlayment Required	Flood Hazards	Air Freezing Index	Mean Annual Temp
	Speed (mph)	Topographic Effects	Special Wind Region	Windborne Debris Zone		Weathering	Frost Line Depth	Termite					
50	115	No	No	No	Zone A	Severe	4.5'	None	-18°	Yes	1978	4000	41.5°
Manual J Design Criteria													
Elevation	Latitude	Winter Heating	Summer Cooling	Altitude Correction Factor	Indoor Design Temperature	Design Temperature Cooling	Heating Temperature Difference						
869	46	-17°	88°	None	70°	75°	87°						
Cooling Temperature Difference	Wind Velocity Heating	Wind Velocity Cooling	Coincident Wet Bulb	Daily Range	Winter Humidity	Summer Humidity							
13°	15 mph	7.5 mph	70	M	30%	50%							

SECTION R301.2.4 is hereby deleted in its entirety.

Table R301.2 (1) is hereby amended to read as follows:

TABLE 302.1(1)
EXTERIOR WALLS

EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
Walls ^c	Fire-resistance rated	1 hour - tested in accordance with ASTM E 119 or UL 263 with exposure from both sides	< 5 <u>3</u> feet
	Not fire-resistance rated	0 hours	≥ 5 <u>3</u> feet
Projections	Not allowed	N/A	< 2 feet
	Fire-resistance rated	1 hour on the underside ^{a b}	≥ 2 feet to < 5 <u>3</u> feet
	Not fire-resistance rated	0 hours	5 <u>3</u> feet
Openings	Not allowed	N/A	< 3 feet
	25% Maximum of Wall Area	0 hours	3 feet
	Unlimited	0 hours	5 feet
Penetrations	All	Comply with Section 302.4	< 3 feet
		None Required	3 feet

For SI: 1 foot = 304.8 mm.

N/A = Not Applicable.

a. Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave if fireblocking is provided from the all top plate to the underside of the roof sheathing.

b. Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave provided that gable vent openings are not installed.

c. A common 2-hour fire-resistance-rated wall assembly is permitted for two or more family dwellings where the common wall is on a property line provided such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Electrical installations shall be installed in accordance with National Electrical Code together with the North Dakota State Wiring Standards. Penetrations of electrical outlet boxes shall be in accordance with Section 302.4.

SECTION R302.5.1 is hereby amended to read as follows:

R302.5.1 Opening protection. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 13/8 inches (35 mm) in thickness, solid or honeycomb core steel doors not less than 13/8 inches (35 mm) thick, or 20-minute fire-rated doors, ~~equipped with a self-closing device or automatic closing device.~~

SECTION R303.4 is hereby deleted in its entirety.

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

R307.1 Space required. Fixtures shall be spaced in accordance with ~~Figure R307.1, and in accordance with the requirements of Section P2705.1~~ the North Dakota State Plumbing Code and per Figure R307.1, with the exception of the clearance in front of water closets and bidets which shall be 24 inches.

SECTION R309.3 is hereby deleted in its entirety.

SECTION R310.2.2 is hereby amended to read as follows:

R310.2.2 Window sill height. Where a window is provided as the emergency escape and rescue opening, it shall have a sill height of not more than 44 inches (1118 mm) above

the floor; where the sill height is below *grade*, it shall be provided with a window well in accordance with Section R310.2.3. Sill height shall be measured from the finished floor to the bottom of the clear opening.

Exception: Below grade emergency escape and rescue windows may have a maximum sill height of 48 inches.

SECTION R310.2.3.1 is hereby amended to read as follows:

R310.2.3.1 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 shall be equipped with a permanently-attached platform at least 30 inches by 16 inches. The maximum distance between the top of the window well and a platform shall be 42 inches and shall not impede the operation of the window. Ladders or steps required by this section shall not be required to comply with Sections R311.7 and R311.8. Ladders or rungs shall have an inside width of not less than 12 inches (305 mm), shall project not less than 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 inches per vertical rise and minimum 12 inches per horizontal projection on each level shall also be allowed.

SECTION R310.3.2.1 is hereby amended to read as follows:

R310.3.2.1 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 shall be equipped with a permanently-attached platform at least 30 inches by 16 inches. The maximum distance between the top of the window well and a platform shall be 42 inches and shall not impede the operation of the window. Ladders or steps required by this section shall not be required to comply with Sections R311.7 and R311.8. Ladders or rungs shall have an inside width of not less than 12 inches (305 mm), shall project not less than 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 inches per vertical rise and minimum 12 inches per horizontal projection on each level shall also be allowed.

SECTION R311.3 is hereby amended to read as follows:

R311.3 Floors and landings at exterior doors. There shall be a landing or floor on each side of each exterior door. The width of each landing shall be not less than the door served. Every landing shall have a dimension of not less than 36 inches (914 mm) measured in the direction of travel. The slope at exterior landings shall not exceed 1/4 unit vertical in 12 units horizontal (2 percent).

Exceptions:

1. Exterior balconies less than 60 square feet (5.6 m²) and only accessible from a door are permitted to have a landing less than 36 inches (914 mm) measured in the direction of travel.
2. A landing is not required on the outside of exterior doors other than the required egress door, where a stairway with a total rise of less than 30 inches (762 mm) is located on the exterior side of the door, provided the door does not swing over the stairway.

SECTION R311.3.1 is hereby amended to read as follows:

R311.3.1 Floor elevations at the required egress doors. Landings or finished floors at the required egress door shall be not more than 1 1/2 inches (38 mm) lower than the top of the threshold.

Exception: The landing or floor on the exterior side shall be not more than ~~7 3/4~~ 8 inches ~~(196 mm)~~ below the top of the threshold provided the door does not swing over the landing or floor.

Where exterior landings or floors serving the required egress door are not at *grade*, they shall be provided with access to *grade* by means of a ramp in accordance with Section R311.8 or a stairway in accordance with Section R311.7.

SECTION R311.3.2 is hereby amended to read as follows:

R311.3.2 Floor elevations for other exterior doors. Doors other than the required egress door shall be provided with landings or floors not more than ~~73/4~~ 8 inches (~~196 mm~~) below the top of the threshold.

Exception: A ~~top~~ landing is not required where a stairway ~~of not more than two risers~~ with a total rise of not less than 30 inches (762 mm) is located on the exterior side of the door, provided that the door does not swing over the stairway.

SECTION R311.7.5.1 is hereby amended to read as follows:

R311.7.5.1 Risers. The riser height shall be not more than ~~73/4~~ 8 inches (196 mm). The riser ...

SECTION R311.7.5.2 is hereby amended to read as follows:

R311.7.5.2 Treads. The tread depth shall be not less than ~~10~~ 9 inches (254 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

Exception: Where a landing is not provided or required by section R311.3, R311.3.2 or R311.7.6, the top tread of a stair serving exterior doors other than the required exit door, and in-swinging doors opening into an attached garage, shall be permitted to exceed the smallest tread by more than 3/8 inch (9.5 mm). Such a tread shall be at least 18 inches (457 mm) measured in the direction of travel.

SECTION R311.7.5.2.1 is hereby amended to read as follows:

R311.7.5.2.1 Winder treads. Winder treads shall have a tread depth of not less than ~~10~~ 9 inches (~~254 mm~~) measured between the vertical planes of the foremost projection of adjacent treads at the intersections with the walk line. Winder treads shall have a tread depth of ...

SECTION R311.7.6 is hereby amended to read as follows:

R311.7.6 Landings for stairways. There shall be a floor or landing at the top and bottom of each stairway. The width perpendicular to the direction of travel shall be not less than the width of the flight served. Landings of shapes other than square or rectangular shall be permitted provided that the depth at the walk line and the total area is not less than that of a quarter circle with a radius equal to the required landing width. Where the stairway has a straight run, the depth in the direction of travel shall be not less than 36 inches (914 mm).

Exception:

1. A floor or landing is not required at the top of an interior flight of stairs, including stairs in an enclosed garage, provided that a door does not swing over the stairs.
2. A landing is not required at the top of an exterior flight of stairs with a total rise of less than 30 inches, provided the door does not swing over the stairway.

SECTION R312.1.1 is hereby amended to read as follows:

R312.1.1 Where required. *Guards* shall be located along open-sided walking surfaces, ~~including~~ stairs, ramps and landings that are located more than 30 inches (762 mm) measured vertically to the floor or grade below ~~at any point within 36 inches (914 mm) horizontally to the edge of the open side.~~ Insect screening shall not be considered as a *guard*.

SECTION R313.1 is hereby amended to read as follows:

R313.1 Townhouse automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed in *townhouses* where the townhouses are located on a private street or private fire department access road that is required to greater than 150 feet in length as required by Section 503 of the International Fire Code.

SECTION R313.1.1 is hereby amended to read as follows:

R313.1.1 Design and installation. Automatic residential fire sprinkler systems for *townhouses* shall be designed and installed in accordance with ~~Section P2904 or NFPA 13D, NFPA 13R or NFPA 13.~~

SECTION R313.2 is hereby deleted in its entirety.

SECTION R314.3 is hereby amended to read as follows:

R314.3 Location. Smoke alarms shall be installed in the following locations:

1. In each sleeping room. ...

5. 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 the adjacent room.

SECTION R322 is hereby deleted in its entirety.

SECTION R326 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 buildings. In addition to the provisions of this chapter, the design and construction of foundations in flood hazard areas ~~as established by Table R301.2(1)~~ shall meet the provisions of Section R322 the West Fargo Flood Proofing Code (Section 5-04) and any other applicable requirements of the City of West Fargo. Wood foundations shall be designed and installed in accordance with AWC PWF.

Exception: The provisions of this chapter shall be permitted ...

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 that does not create a hazard. *Lots* shall be graded to drain surface water away from foundation walls. ~~The grade shall fall a minimum of 6 inches (152 mm) within the first 10 feet (3048 mm).~~

~~**Exception:** Where *lot lines, walls, slopes or other physical barriers prohibit 6 inches (152 mm) of fall within 10 feet (3048 mm), drains or swales*~~

~~shall be constructed to ensure drainage away from the structure. Impervious surfaces within 10 feet (3048 mm) of the building foundation shall be sloped a minimum of 2 percent away from the building.~~

SECTION R403.1.4.1 is hereby amended to read as follows:

R403.1.4.1 Frost protection. Except where otherwise protected from frost, foundation walls, piers and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

1. Extended below the frost line ...

Exceptions:

1. Protection of freestanding accessory structures with an area of ~~600 square feet (56 m²) or less~~, of light-frame construction, ~~with an eave height of 10 feet (3048 mm) or less~~ shall not be required.
2. Protection of freestanding accessory structures with an area of 400 square feet (37 m²) or less, of other than light-frame construction, ~~with an eave height of 10 feet (3048 mm) or less~~ shall not be required.
3. Decks ~~not supported by a dwelling~~ need not be provided with footings that extend below the frost line.

Footings shall not bear on frozen soil unless the frozen condition is permanent.

SECTION R404.1.3.2 is hereby amended to read as follows:

R404.1.3.2 Reinforcement for foundation walls. Concrete foundation walls shall be laterally supported at the top and bottom. Horizontal reinforcement shall be provided in accordance with Table R404.1.2(1). Vertical reinforcement shall be provided in accordance with Table R404.1.2(2), R404.1.2(3), R404.1.2(4), R404.1.2(5), R404.1.2(6), R404.1.2(7), or R404.1.2(8), or Table R404.1.2(10) and Figure R404.1.2(1) or Table R404.1.2(11) and Figure R404.1.2(2). Vertical reinforcement for flat basement walls retaining 4 feet (1219 mm) or more of unbalanced backfill is permitted to be determined in accordance with Table R404.1.2(9). For basement walls supporting above

grade concrete walls, vertical reinforcement shall be the greater of that required by Tables R404.1.2(2) through R404.1.2(8) or by Section R608.6 for the above-grade wall. In buildings assigned to Seismic Design Category D0, D1 or D2, concrete foundation walls shall also comply with Section R404.1.4.2.

TABLE 404.1.2(10) is hereby adopted as follows:

Table R404.1.2(10)

Foundation Wall Reinforcing

Active Pressure = 45pcf

Minimum Reinforcement for Concrete		
Foundation Walls		
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 404.1.2(11) is hereby adopted as follows:

Table R404.1.2(11)

Foundation Wall Reinforcing

Active Pressure = 65 pcf

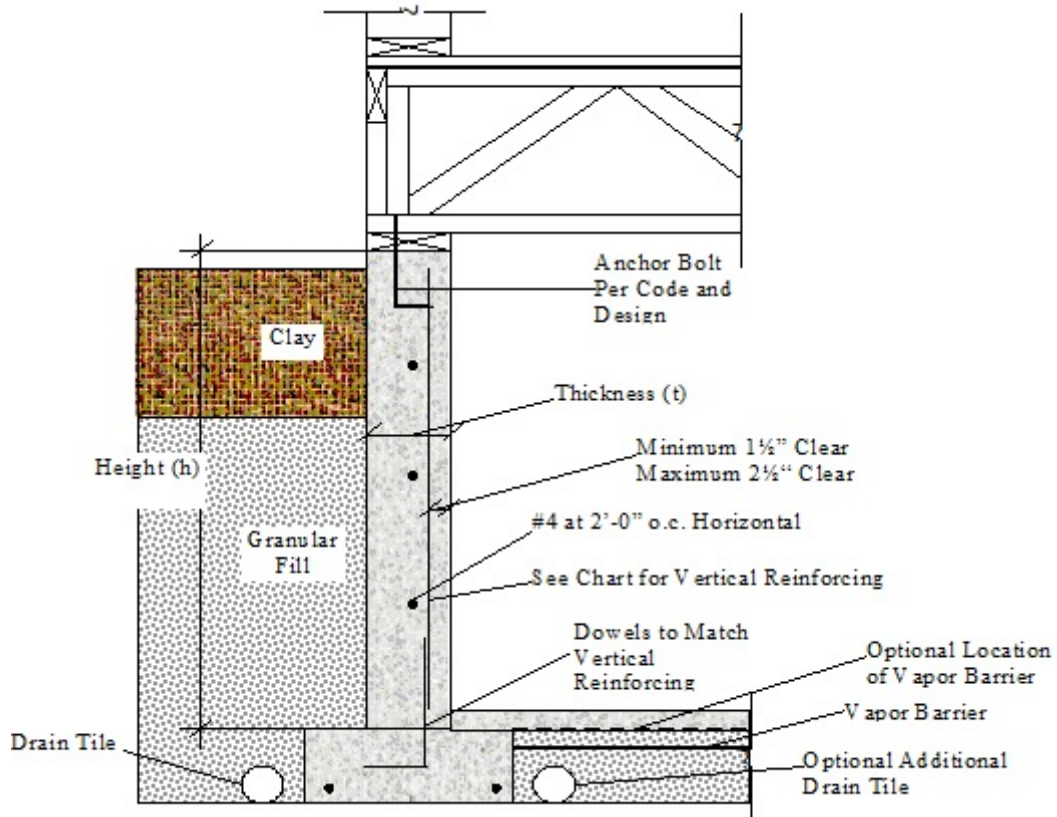
Minimum Reinforcement for Concrete			
Foundation Walls			
Wall Height (h) Feet	Wall Thickness (t) inches	Vertical Reinforcing	
8	8	#4 @ 18" o.c.	
		#5 @ 26" o.c.	
	10	#6 @ 40" o.c.	
		#4 @ 24" o.c.	
9	8	#5 @ 36" o.c.	
		#6 @ 52" o.c.	
		#4 @ 12" o.c.	
	10	8	#5 @ 18" o.c.
			#6 @ 26" o.c.
			#4 @ 16"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

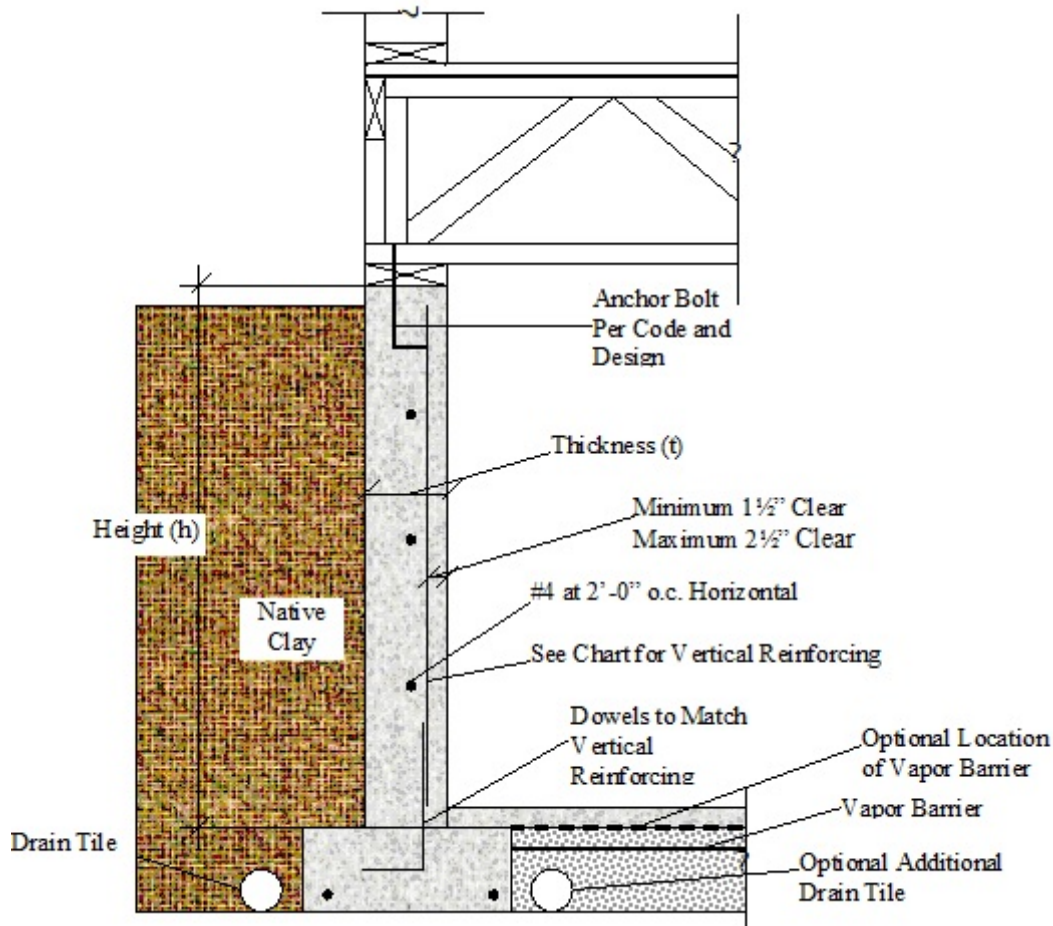
FIGURE 404.1.2 (1) is hereby adopted as follows:



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FIGURE 404.1.2(2) is hereby adopted as follows:

FIGURE R404.1.2(2)



SECTION R507.3 is hereby deleted in its entirety.

SECTION R507.3.1 is hereby deleted in its entirety.

SECTION R507.3.2 is hereby deleted in its entirety.

SECTION R507.5 is hereby amended to read as follows.

507.5 Deck Beams. Maximum allowable spans for wood deck beams, as shown in Figure R507.5, shall be in accordance with Table R507.5. Beam plies shall be fastened with two rows of 10d (3-inch × 0.128-inch) nails minimum at 16 inches (406 mm) on center along each edge. Beams shall be permitted to cantilever at each end up to one-fourth of the ~~allowable~~ actual beam span. Deck beams of other

materials shall be permitted where designed in accordance with accepted engineering practices.

SECTION R602.7.2 is hereby amended to read as follows:

R602.7.2 Rim board headers. Rim board header size, material and span shall be in accordance with Table R602.7(1). Rim board headers shall be constructed in accordance with Figure R602.7.2 and shall be supported at each end by full-height studs. ~~The number of full-height studs at each end shall be not less than the number of studs displaced by half of the header span based on the maximum stud spacing in accordance with Table R602.3(5).~~ Rim board headers supporting concentrated loads shall be designed in accordance with accepted engineering practice.

SECTION R602.7.5 is hereby amended to read as follows:

R602.7.5 Supports for headers. Headers shall be supported on each end with one or more jack studs or with approved framing anchors in accordance with Table R602.7(1) or R602.7(2). The full-height stud adjacent to each end of the header shall be end nailed to each end of the header with four-16d nails (3.5 inches × 0.135 inches). ~~The minimum number of full-height studs at each end of a header shall be in accordance with Table R602.7.5.~~

TABLE R602.7.5 is hereby deleted in its entirety.

TABLE N1102.1.2 (R402.1.2) is hereby amended to read as follows:

TABLE N1102.1.2 (R402.1.2) INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT ^a										
CLIMATE ZONE	FENESTRATION U-FACTOR ^b	SKYLIGHT ^b U-FACTOR ^b	GLAZED FENESTRATION SHGC ^{b,c}	CEILING R-VALUE	WOOD FRAMED WALL R-VALUE	MASS WALL R-VALUE ¹	FLOOR R-VALUE	BASEMENT ^e WALL R-VALUE	SLAB ^d R-VALUE AND DEPTH	CRAWL SPACE ^e WALL R-VALUE
1	NR	0.75	0.25	30	13	3/4	13	0	0	0
2	0.40	0.65	0.25	38	13	4/6	13	0	0	0
3	0.35	0.55	0.25	38	20 or 13 + 5 ^h	7/13	19	5/13 ^f	0	5/13
4 except Marine	0.35	0.55	0.40	49	20 or 13 + 5 ^h	8/13	19	10/13	10, 2 ft.	10/13
5 and Marine 4	0.32	0.55	NR	49	20 or 13 + 5 ^h	13/17	30 ^f	15/19	10, 2 ft.	15/19
6	0.32	0.55	NR	19	21 + 5 or 13 + 10^g 21 or 13 + 5 ^{h,i}	15/20	30 ^g	15/19 10/13	10, 4 ft.	15/19
7 and 8	0.32	0.55	NR	49	20 + 5 or 13 + 10^g 21 or 13 + 5 ^{h,i}	19/21	38 ^g	15/19 10/13	10, 4ft	15/19

TABLE N1102.1.4 (R402.1.4) is hereby amended to read as follows:

TABLE N1102.1.4 (R402.1.4) EQUIVALENT U-FACTORS ^a								
CLIMATE ZONE	FENESTRATION U-FACTOR ^b	SKYLIGHT ^b U-FACTOR ^b	CEILING U-FACTOR	WOOD FRAMED WALL U-FACTOR	MASS WALL U-FACTOR ^b	FLOOR U-FACTOR	BASEMENT ^c WALL U-FACTOR	CRAWL SPACE WALL U-FACTOR
1	0.50	0.75	0.035	0.084	0.197	0.064	0.360	0.477
2	0.40	0.65	0.030	0.084	0.165	0.064	0.360	0.477
3	0.35	0.55	0.030	0.060	0.098	0.047	0.91 ^c	0.136
4 except Marine	0.35	0.55	0.026	0.060	0.098	0.047	0.059	0.065
5 and Marine 4	0.32	0.55	0.026	0.060	0.082	0.033	0.050	0.055
6	0.32	0.55	0.026	0.045 <u>0.057</u>	0.060	0.033	0.05 <u>0.059</u>	0.055
7 and 8	0.32	0.55	0.026	0.045 <u>0.057</u>	0.057	0.028	0.05 <u>0.059</u>	0.055

SECTION N1102.4 (R402.4) is hereby amended to read as follows:

N1102.4 (R402.4) Air leakage (Mandatory). The *building thermal envelope* shall be constructed to limit air leakage in accordance with the requirements of Sections N1102.4.1 through N1102.4.5. Dwelling units of R-2 Occupancies and multiple single family dwellings shall be permitted to comply with IECC C402.5.

SECTION N1102.4.1.3 (R402.4.1.3) is hereby added to read as follows:

N1102.4.1.3 (R402.4.1.3) Visual inspection option. Building envelope tightness and insulation shall be considered acceptable when installed in accordance with Table N1102.4.1.1 (R402.4.1.1) - "Air Barrier and Insulation" and has been field verified.

SECTION N1103.3.5 (R403.3.5) is hereby amended to read as follows:

N1103.3.5 (R403.3.5) Building cavities (Mandatory). Building framing cavities shall not be used as supply ducts or plenums.

SECTION N1103.6 (R403.6) is hereby amended to read as follows:

N1103.6 (R403.6) Mechanical Vventilation (Mandatory). The building shall be provided with ventilation that meets the requirements of Section M1507 of this code or the *International Mechanical Code*, as applicable, or with other approved means of ventilation. Outdoor air intakes and exhausts shall have automatic or gravity dampers that close when the ventilation system is not operating.

TABLE N1105.5.2 (1) [R405.5.2 (1)] is hereby amended to read as follows:

TABLE N1105.5.2(1) [R405.5.2(1)] SPECIFICATIONS FOR THE STANDARD REFERENCE AND PROPOSED DESIGNS		
BUILDING COMPONENT	STANDARD REFERENCE DESIGN	PROPOSED DESIGN
...
Air exchange rate	Air leakage rate of 5 air changes per hour in Climate Zones 1 and 2, and 3 air changes per hour in Climate Zones 3 through 8 at a pressure of 0.2 inches w.g changes per hour in Climate Zones 3 through 8 at a pressure of 0.2 inches w.g (50 Pa). The mechanical ventilation rate shall be in addition to the air leakage rate and the same as in the proposed design, but no greater than $0.01 \times \text{CFA} + 7.5 \times (\text{Nbr} + 1)$ where: CFA = conditioned floor area Nbr = number of bedrooms Energy recovery shall not be assumed for mechanical ventilation.	For residences that are not tested, the same air leakage rate as the standard reference design. For tested residences, the measured air exchange rate ^a . The mechanical ventilation rate ^b shall be in addition to the air leakage rate and shall be as proposed.
...

SECTION M1301.1.1 is hereby deleted in its entirety.

SECTION M1401.5 is hereby deleted in its entirety.

SECTION M1502.4.2 is hereby amended to read as follows:

M1502.4.2 Duct installation. Exhaust ducts shall be supported at intervals not to exceed 12 feet (3658 mm) and shall be secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Exhaust duct joints ~~shall be sealed in accordance with Section M1601.4.1 and shall~~ may be mechanically fastened. Ducts shall not be joined with screws ~~or similar fasteners that protrude more than 1/8 inch (3.2 mm) into the inside of the duct.~~ Where dryer exhaust ducts are enclosed in wall or ceiling cavities, such cavities shall allow the installation of the duct without deformation.

SECTION M1503.6 is hereby amended to read as follows:

M1503.6 Makeup air required. Where one or more gas, liquid or solid fuel-burning appliance that is neither direct-vent nor uses a mechanical draft venting system is located within a dwelling unit's air barrier, each exhaust system capable of exhausting in excess of 400 cubic feet per minute (0.19 m³/s) shall be mechanically or passively provided with makeup air at a rate approximately equal to the exhaust air rate in excess of 400 cfm. Such makeup air systems shall be equipped with not fewer than one damper complying with Section M1503.6.2.

~~Exception: Makeup air is not required for exhaust systems installed for the exclusive purpose of space cooling and intended to be operated only when windows or other air inlets are open.~~

SECTION M1601.4.1 is hereby amended to read as follows:

M1601.4.1 Joints, seams and connections. Longitudinal and transverse joints, seams and connections in metallic and nonmetallic ducts shall be constructed ...

Exceptions:

1. Spray polyurethane foam shall be permitted to be applied without additional joint seals.
2. Where a duct connection is made that is partially inaccessible, three screws or rivets shall be equally spaced on the exposed portion of the joint so as to prevent a hinge effect.
3. For ducts having a static pressure classification of less than 2 inches of water column (500 Pa), additional closure systems shall not be required for continuously welded joints and seams and locking-type joints and

~~seams. This exception shall not apply to snap-lock and button lock type joints and seams that are located outside of conditioned spaces.~~

SECTION M1601.4.10 is hereby deleted in its entirety.

SECTION M1701.2 is hereby deleted in its entirety.

SECTION M2001.4 is hereby deleted in its entirety.

SECTION M2005.1 is hereby amended to read as follows:

M2005.1 General. Water heaters shall be installed in accordance with ~~Chapter 28~~ the North Dakota State Plumbing Code, the manufacturer's instructions and the requirements of this code. Water heaters installed in an attic shall comply with the requirements of Section M1305.1.3. Gas-fired water heaters shall comply with the requirements in Chapter 24. Domestic electric water heaters shall comply with UL 174. Oiled-fired water heaters shall comply with UL 732. Thermal solar water heaters shall comply with Chapter 23 and UL 174. Solid fuel-fired water heaters shall comply with UL 2523.

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

M2101.3 Protection of potable water. The potable water system shall be protected from backflow in accordance with the provisions listed in ~~Section P2902~~ the North Dakota State Plumbing Code.

SECTION M2103.3 is hereby amended to read as follows:

M2103.3 Piping joints. Copper and copper alloy systems shall be soldered in accordance with ASTM B 828. Fluxes for soldering shall be in accordance with ASTM B 813. Brazing fluxes shall be in accordance with AWS A5.31. Piping joints that are embedded shall be installed in accordance with the following requirements:

1. Steel pipe joints shall be welded.
2. Copper tubing shall be joined by brazing complying with ~~Section P3003.6.1~~ the North Dakota State Plumbing Code.
3. Polybutylene pipe and tubing joints ...

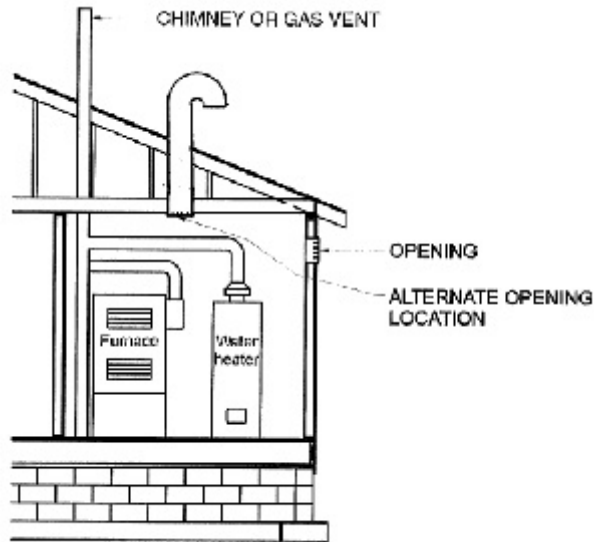
SECTION M2201.6 is hereby deleted in its entirety.

SECTION G2404.7 (301.11) is hereby deleted in its entirety.

FIGURE G2407.6.1(1) [304.6.1(1)] is hereby deleted in its entirety.

FIGURE G2407.6.1(2) [304.6.1(2)] is hereby deleted in its entirety.

FIGURE G2407.6.2 (304.6.2) is hereby amended to read as follows:



SECTION G2407.11 (304.11) is hereby amended to read as follows:

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

1. Ducts shall be constructed of galvanized steel complying with Chapter 16 or of a material having equivalent corrosion ...
5. Ducts shall not be screened where terminating terminate in an attic space.
6. Horizontal upper *combustion air* ducts shall not slope downward ...

SECTION G2413.6 (402.6) is hereby amended to read as follows:

G2413.6 (402.6) Allowable pressure drop. The design pressure loss in any *pipng 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 or equal to the minimum pressure required by the *appliance* but such pressure loss shall not be greater than 0.5 inch water column for gas pipe systems operating at less than 2 psi.

SECTION G2417.4.1 (406.4.1) is hereby amended to read as follows:

G2417.4.1 (406.4.1) Test pressure. The test pressure to be used shall be not less than 1 1/2 times the proposed maximum working pressure, but not less than ~~3~~ 25 psig (~~20~~ kPa gauge), irrespective of design pressure. Where the test pressure exceeds 125 psig (862 kPa gauge), the test pressure shall not exceed a value that produces a hoop stress in the *pipng* greater than 50 percent of the specified minimum yield strength of the pipe.

SECTION G2425.12 (501.12) is hereby amended to read as follows:

G2425.12 (501.12) 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 of greater than 400,000 Btu/h. Clay *flue lining* shall be installed in accordance with Chapter 10.
2. *Listed chimney* lining 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 1,800°F (982°C).
 - a. Aluminum (1100 or 3003 alloy or equivalent) not less than 0.032 inches 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 a listed chimney liner a condensation drip tee shall be installed and supported in an approved manner.

SECTION G2427.5.2 (503.5.3) is hereby amended to read as follows:

G2427.5.2 (503.5.3) Masonry chimneys. Masonry *chimneys* shall be built and installed in accordance with NFPA 211 and shall be lined ~~with an approved clay flue lining, a~~

~~chimney lining system listed and labeled in accordance with UL 1777 or other approved material that will resist corrosion, erosion, softening or cracking from vent gases at temperatures up to 1,800°F (982°C) as per Section G2424.12.~~

Exception: Masonry chimney flues serving listed ...

SECTION G2439.7.2 (614.8.2) is hereby amended to read as follows:

G2439.7.2 (614.8.2) Duct installation. Exhaust ducts shall be supported at 4-foot (1219 mm) intervals and secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Ducts shall not be joined with screws ~~or similar fasteners that protrude more than 1/8 inch (3.2 mm) into the inside of the duct.~~ Where dryer exhaust ducts are enclosed in wall or ceiling cavities, such cavities shall allow the installation of the duct without deformation.

SECTION G2442.4 (618.4) is hereby amended to read as follows:

G2442.4 (618.4) Screen. Required outdoor air inlets shall be covered with a screen having 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 ¼ inch but not larger than ½ inch.

SECTION G2445 is hereby deleted in its entirety.

CHAPTERS 25 THROUGH 43 are hereby deleted in their entirety.

Source: Ord. 1011, Sec. 2 (2014); Ord. 1088, Sec. 2 (2017); Ord. 1180, Sec. 2 (2021)

5-0703. PENALTY. A violation of the regulations contained in this chapter shall be deemed an offense and shall be punishable by a fine of not to exceed Five Hundred Dollars (\$500). Each day that a violation is permitted to exist shall constitute a separate offense. The provisions of Section 1-0211 shall also apply.

5-0704. FEE FOR COPY OF RELEVANT CODE PROVISIONS. Every licensed contractor, pursuant to Chapter 43-07 of the North Dakota Century Code, upon applying for a building permit, shall be provided a copy of the Building Code Ordinances of the City of West Fargo and the relevant portions of the International Residential Code adopted by the City which apply to residential construction. The contractor will be charged a fee for such copies in an amount set by the City Commission. A contractor will only be provided one copy of the International Residential Code sections and pay one fee for residential construction, no matter how many building permits

are requested by that particular contractor. Provided, however, that if the City later adopts another Building Code, the contractor will again be required to pay another fee to get the revised Building Code provisions. Notwithstanding the above provisions, if a contractor shows the Building Official his/her copy of the appropriate Building Code, then the contractor shall just be supplied a copy of the West Fargo Building Code Ordinances and shall not be required to be provided nor pay the charge for obtaining a copy of the relevant Building Code.

5-0705. Appeals. A person shall have the right to appeal a decision of the Code Official to the Board of Appeals. The West Fargo City Commission shall be the Board of Appeals. An appeal in writing to the Code Official must be made within 20 days of the decision of the Code Official. The West Fargo City Commission shall hear the appeal within 30 days of the Code Official receiving written notice of the appeal. The Commission may only reverse or modify a decision of the Code Official by a vote of at least three members of the Commission. If not all members of the Commission are present at the hearing, the person appealing the decision may request a postponement, which may extend the 30-day period to hold such a hearing. An application for an appeal shall be based on a claim that the true intent of the Code has been incorrectly interpreted, the provisions of the Code do not fully apply, or an equally good or better form of construction is proposed. The commission shall have no authority to waive requirements of the Code.

CHAPTER 5-08

INTERNATIONAL EXISTING BUILDING CODE

Source: Ord. 820, Sec. 1 (2008); Ord. 880, Sec. 1 (2011)

SECTIONS:

- 5-0801. Adoption of International Existing Building Code.
- 5-0802. Amendment to International Existing Building Code.
- 5-0803. Penalty.
- 5-0804. Appeals.

5-0801. ADOPTION OF INTERNATIONAL EXISTING BUILDING CODE.
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 West Fargo, that certain code known as the International Existing Building Code, recommended and compiled by the International Code Council, being particularly the 2018 edition thereof, as the same are now established in said code, a copy of which is on file in the office of the Building Administrator for the City of West Fargo, with the exception of the sections hereinafter set forth affecting local conditions of the City of West Fargo, which sections shall be substituted for and in lieu of like sections or paragraphs in said International Existing Building Code; the Board of City Commissioners of said City of West Fargo, by this section hereby approves and adopts such rules and regulations, so modified, for the use and application within the city limits of West Fargo, North Dakota, as well as for any area within the extraterritorial zoning jurisdiction of the City. Provided, that any amendments of the 2018 edition of the Code may be adopted by the City by resolution.

Source: Ord. 1008, Sec. 1 (2014); Ord. 1082, Sec. 1 (2017); Ord. 1174, Sec. 1 (2021)

5-0802. AMENDMENT TO INTERNATIONAL EXISTING BUILDING CODE.
The International Existing Building Code, as adopted in Section 5-0801 is hereby changed and amended as follows:

SECTION 101.1 is hereby amended to read as follows:

101.1 Title. These regulations shall be known as the Existing Building Code of ~~(NAME OF JURISDICTION)~~ the City of West Fargo hereinafter referred to as "this code."

SECTION 104.2.1 is hereby deleted in its entirety:

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

[A] 104.8 Liability. The *building official*, member of the board of appeals or employee charged with the enforcement

of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be ~~civilly or criminally~~ 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 provide by other applicable state and federal laws and shall be defended by legal representatives of the jurisdiction until the final termination of the proceedings. The *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 104.8.1 is hereby amended to read as follows:

[A]104.8.1 Legal defense. Any suit or criminal complaint 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 immunities and defenses provided by other applicable local, state or federal laws ~~defended by legal representatives 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

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, papering, tiling
6. Movable cases, counters and partitions not over 96 inches (1753 mm) in height.
7. Reroofing.

SECTION 106.3.1 is hereby amended to read as follows:

106.3.1. Approval of construction documents. When the *code official*... ..One set of construction documents so reviewed shall be retained by the *code official*. ~~The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or a duly authorized representative.~~

SECTION 109.3.3 is hereby deleted in its entirety and subsequent sections renumbered accordingly.

SECTION 112 is hereby deleted in its entirety

SECTION 201.3 is hereby amended to add the following:

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the other *International Codes*, such terms shall have the meanings ascribed to them in those codes.

Wherever the term "International Plumbing Code" and/or the "International Private Sewage Disposal Code" is used in this Code, it shall mean the North Dakota State Plumbing Code. Wherever the term "ICC Electrical Code" is used in this 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 West Fargo Flood Plain Management ordinance together with the Flood Proofing Code of the city of West Fargo, North Dakota.

SECTION 401.3 is hereby deleted in its entirety.

SECTION 405.2.5 is hereby deleted in its entirety.

SECTION 502.3 is hereby deleted in its entirety.

SECTION 503.2 is hereby deleted in its entirety.

SECTION 507.3 is hereby deleted in its entirety.

SECTION 701.3 is hereby deleted in its entirety.

SECTION 1103.3 is hereby deleted in its entirety.

SECTION 1201.4 is hereby deleted in its entirety.

SECTION 1301.3.3 is hereby deleted in its entirety.

SECTION 1401.2 is hereby amended by adding a new second paragraph to read as follows:

1401.2 Conformance. ~~The building shall be safe for human occupancy as determined by the *International Fire Code* and the *International Property Maintenance Code*. Any repair, alteration, or change of occupancy undertaken within the moved structure shall comply with the requirements of this code applicable to the work being performed. Any field fabricated elements shall comply with the requirements of the *International Building Code* or the *International Residential Code* as applicable. 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 1402.6 is hereby deleted in its entirety.

Source: Ord. 1008, Sec. 2 (2014); Ord. 1082, Sec. 2 (2017); Ord. 1174, Sec. 2 (2021)

5-0803. Penalty. Any person violating any provision of the International Existing Building Code adopted by this title or any section of this title shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

5-0804. Appeals. A person shall have the right to appeal a decision of the Code Official to the Board of Appeals. The West Fargo City Commission shall be the Board of Appeals. An appeal in writing to the Code Official must be made within 20 days of the decision of the Code Official. The West Fargo City Commission shall hear the appeal within 30 days of the Code Official receiving written notice of the appeal. The Commission may only reverse or modify a decision of the Code Official by a vote of at least three members of the Commission. If not all members of the Commission are present at the hearing, the person appealing the decision may

request a postponement, which may extend the 30-day period to hold such a hearing. An application for an appeal shall be based on a claim that the true intent of the Code has been incorrectly interpreted, the provisions of the Code do not fully apply, or an equally good or better form of construction is proposed. The commission shall have no authority to waive requirements of the Code.

CHAPTER 5-09

INTERNATIONAL ENERGY CONSERVATION CODE

Source: Ord. 881, Sec. 1 (2011)

SECTIONS:

- 5-0901. Adoption of International Energy Conservation Code.
- 5-0902. Amendment to International Energy Conservation Code.
- 5-0903. Penalty.
- 5-0904. Appeals.

5-0901. ADOPTION OF INTERNATIONAL ENERGY CONSERVATION CODE. 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 West Fargo, that certain code known as the International Energy Conservation Code, recommended and compiled by the International Code Council, being particularly the 2018 edition thereof, as the same are now established in said code, a copy of which is on file in the office of the Building Administrator for the City of West Fargo, with the exception of the sections hereinafter set forth affecting local conditions of the City of West Fargo, which sections shall be substituted for and in lieu of like sections or paragraphs in said International Energy Conservation Code; the Board of City Commissioners of said City of West Fargo, by this section hereby approves and adopts such rules and regulations, so modified, for the use and application within the city limits of West Fargo, North Dakota, as well as for any area within the extraterritorial zoning jurisdiction of the City. Provided, that any amendments of the 2018 edition of the Code may be adopted by the City by resolution.

Source: Ord. 1083, Sec. 1 (2017), Ord. 1175, Sec. 1 (2021)

5-0902. AMENDMENT TO INTERNATIONAL ENERGY CONSERVATION CODE. The International Energy Conservation Code, as adopted in Section 5-0901 is hereby changed and amended as follows:

SECTION C101.1 is hereby amended to read as follows:

C101.1 Title. This code shall be known as the *International Energy Conservation Code* of ~~{NAME OF JURISDICTION}~~ City of West Fargo, and shall be cited as such. It is referred to herein as "this code."

SECTION C109 is hereby deleted in its entirety.

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

R101.1 Title. This code shall be known as the *International Energy Conservation Code of [NAME OF JURISDICTION] City of West Fargo*, and shall be cited as such. It is referred to herein as "this code."

TABLE R402.1.2 is hereby amended to read as follows:

TABLE R402.1.2 INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT ^s										
CLIMATE ZONE	FENESTRATION U-FACTOR ^b	SKYLIGHT ^b U-FACTOR ^b	GLAZED FENESTRATION SHGC ^{b c}	CEILING R-VALUE	WOOD FRAMED WALL R-VALUE	MASS WALL R-VALUE ¹	FLOOR R-VALUE	BASEMENT ^c WALL R-VALUE	SLAB ^d R-VALUE AND DEPTH	CRAWL SPACE ^e WALL R-VALUE
1	NR	0.75	0.25	30	13	3/4	13	0	0	0
2	0.40	0.65	0.25	38	13	4/6	13	0	0	0
3	0.35	0.55	0.25	38	20 or 13 + 5 ^b	7/13	19	5/13 ^f	0	5/13
4 except Marine	0.35	0.55	0.40	49	20 or 13 + 5 ^b	8/13	19	10/13	10, 2 ft.	10/13
5 and Marine 4	0.32	0.55	NR	49	20 or 13 + 5 ^b	13/17	30 ^f	15/19	10, 2 ft.	15/19
6	0.32	0.55	NR	19	20 + 5 or 13 + 10^b 20 or 13 + 5 ^{h i}	15/20	30 ^g	15/19 10/13	10, 4 ft.	15/19
7 and 8	0.32	0.55	NR	49	20 + 5 or 13 + 10^b 20 or 13 + 5 ^{h i}	19/21	38 ^g	15/19 10/13	10, 4 ft.	15/19

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

TABLE R402.1.4 is hereby amended to read as follows:

TABLE R402.1.4								
EQUIVALENT U-FACTORS ^a								
CLIMATE ZONE	FENESTRATION U-FACTOR ^b	SKYLIGHT ^b U-FACTOR ^b	CEILING U-FACTOR	WOOD FRAMED WALL U-FACTOR	MASS WALL U-FACTOR ^b	FLOOR U-FACTOR	BASEMENT WALL U-FACTOR	CRAWL SPACE WALL U-FACTOR
1	0.50	0.75	0.035	0.084	0.197	0.064	0.360	0.477
2	0.40	0.65	0.030	0.084	0.165	0.064	0.360	0.477
3	0.35	0.55	0.030	0.060	0.098	0.047	.091 ^c	0.136
4 except Marine	0.35	0.55	0.026	0.060	0.098	0.047	0.059	0.065
5 and Marine 4	0.32	0.55	0.026	0.060	0.082	0.033	0.050	0.055
6	0.32	0.55	0.026	0.045 <u>0.057</u>	0.060	0.033	0.05 <u>0.059</u>	0.055
7 and 8	0.32	0.55	0.026	0.045 <u>0.057</u>	0.057	0.028	0.05 <u>0.059</u>	0.055

SECTION R402.4 is hereby amended to read as follows:

R402.4 Air leakage (Mandatory). *The building thermal envelope shall be constructed to limit air leakage in accordance with the requirements of Sections R402.4.1 through R402.4.4. Dwelling units of R-2 Occupancies and multiple single family dwellings shall be permitted to comply with IECC C402.5.*

SECTION R402.4.1.2 is hereby amended to read as follows:

R402.4.1.2 Testing. The building or dwelling unit shall be tested and verified as having an air leakage rate of not exceeding five air changes per hour in Climate Zones 1 ~~and 2,~~ and three air changes per hour in Climate Zones 3 through 8. Testing shall be conducted in accordance with ...

SECTION R402.4.1.3 is hereby added to read as follows:

R402.4.1.3 Visual inspection option. Building envelope tightness and insulation shall be considered acceptable when installed in accordance with Table R402.4.1.1 - "Air Barrier and Insulation" and has been field verified.

SECTION R403.3.5 is hereby amended to read as follows:

R403.3.5 Building cavities (Mandatory). Building framing cavities shall not be used as supply ducts ~~or plenums~~.

SECTION R403.6 is hereby amended to read as follows:

R403.6 Mechanical Vventilation (Mandatory). The building shall be provided with ventilation that meets the requirements of Section M1507 of this code or the *International Mechanical Code*, as applicable, or with other approved means of ventilation. Outdoor air intakes and exhausts shall have automatic or gravity dampers that close when the ventilation system is not operating.

TABLE R405.5.2 (1) is hereby amended to read as follows:

TABLE R405.5.2(1) SPECIFICATIONS FOR THE STANDARD REFERENCE AND PROPOSED DESIGNS		
BUILDING COMPONENT	STANDARD REFERENCE DESIGN	PROPOSED DESIGN
...
Air exchange rate	Air leakage rate of 5 air changes per hour in Climate Zones 1 and 2, and 3 air changes per hour in Climate Zones 3 through 8 at a pressure of 0.2 inches w.g changes per hour in Climate Zones 3 through 8 at a pressure of 0.2 inches w.g (50 Pa). The mechanical ventilation rate shall be in addition to the air leakage rate and the same as in the proposed design, but no greater than $0.01 \times \text{CFA} + 7.5 \times (\text{Nbr} + 1)$ where: CFA = conditioned floor area Nbr = number of bedrooms Energy recovery shall not be assumed for mechanical ventilation.	For residences that are not tested, the same air leakage rate as the standard reference design. For tested residences, the measured air exchange rate ^a . The mechanical ventilation rate ^b shall be in addition to the air leakage rate and shall be as proposed.
...

Source: Ord. 1083, Sec. 2 (2017); Ord. 1175, Sec. 2 (2021)

5-0903. Penalty. Any person violating any provision of the International Energy Conservation Code adopted by this title or any section of this title shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

5-0904. Appeals. A person shall have the right to appeal a decision of the Code Official to the Board of Appeals. The West Fargo City Commission shall be the Board of Appeals. An appeal in writing to the Code Official must be made within 20 days of the decision of the Code Official. The West Fargo City Commission shall hear the appeal within 30 days of the Code Official receiving written notice of the appeal. The Commission may only reverse or modify a decision of the Code Official by a vote of at least three members of the Commission. If not all members of the Commission are present at the hearing, the person appealing the decision may request a postponement, which may extend the 30-day period to hold such a hearing. An application for an appeal shall be based on a claim that the true intent of the Code has been incorrectly interpreted, the provisions of the Code do not fully apply, or an equally good or better form of construction is proposed. The commission shall have no authority to waive requirements of the Code.

CHAPTER 5-10

VACANT BUILDINGS

(Source: Ord. 1047, Sec. 1 [2015])

SECTIONS:

- 5-1001. Securing Vacant/Boarded Buildings.
- 5-1002. Vacant/Boarded Building Registration.
- 5-1003. Penalty.

5-1001. SECURING VACANT/BOARDED BUILDINGS.

1. Notice. In general, if any building is deemed hazardous due to the fact that the building is open to trespass and has not been secured and the building could be made safe by securing the building, the Building Administrator, as appointed pursuant to section 5-0414 of this title, may order the building secured and shall cause notice of the order to be served upon the owner of the premises. Such notice may be served personally or by mail. Service by mail is complete upon mailing a copy of the order to the owner at the last known address. If the owner fails to comply with the order within six (6) days after the order is served, the Building Administrator shall cause the building to be boarded up or otherwise properly secured.
2. Emergency. When it is determined by the City Administrator or his/her designee that an emergency exists with respect to the health or safety of persons in the community, and immediate boarding and securing of a building is required, and where danger will exist to children, transients or others in the absence of an immediate boarding or securing of the building, the designated city official may waive all requirements herein and immediately board or otherwise secure the building, provided that:
 - a. The conditions showing the existence of an exigency are documented in writing by the City Administrator or his/her designee; and
 - b. Notice is mailed immediately by the department invoking this section to the address of the owner and taxpayer, and, if recorded on the assessor's rolls, the address of the mortgage holder, of the date of boarding or otherwise securing and the reasons therefor.

3. Boarding Standards.

- a. Boarding of a structure shall be required for all doors and windows that are not secured by normal means; however, at least one door at grade level shall be maintained with locks or hinges to permit entry for inspection purposes under subsection e of this section.
- b. Boards shall be cut to fit door and window openings, and square head or star drive screws at least three inches (3") in length with washers shall be used to fasten boards to a structure.
- c. Boards shall be a minimum of five-eighths inch (5/8") thick and painted to match the trim or siding color of the structure.
- d. Screening or alternate methods of boarding may be permitted when approved by the City of West Fargo Building Administrator.
- e. The owner of a structure boarded under this section shall be required, upon notification, to provide entry to the structure to the City of West Fargo Building Administrator at least once every six (6) months for inspection purposes, or at any time when the structure has been unlawfully entered.
- f. The owner of a boarded structure shall notify the City of West Fargo Building Administrator in writing no later than ten (10) days after sale of the structure or the un-boarding of the property.

4. Maintenance of Secured Building.

- a. After a vacant or unoccupied building has been boarded or otherwise secured under this section, should the owner fail to maintain the building in a secured condition until such time as it has been repaired and reoccupied, the code official shall re-secure any openings into the building whenever it again becomes open to trespass, without further notice to the owner.
- b. The Owner shall be invoiced for an administrative fee as established by the city's fee schedule and all other costs incurred by the city for boarding or otherwise securing a building under this section, including, but not limited to, the actual costs for boarding, inspecting, posting and monitoring the building, if the owner fails to pay

the invoice within thirty (30) days the invoice shall be charged as a special assessment against the real estate upon which the structure is located and shall be a lien upon such real estate.

- c. "Owner" shall mean, for the purposes of this section, the person who is listed as the contact person on the current rental licensing application on file with the city, if any; or, if none, the person listed as owner by the City Assessor on the homestead record; or, if none, the taxpayer as shown by the records of the City Assessor. "Owner" shall not include a local development organization as defined by North Dakota Century Code Chapter 40-57.1.

5-1002. VACANT/BOARDED BUILDING REGISTRATION.

1. Registration Criteria. The owner of a building shall register the building with the Building Administrator within five (5) days after it becomes a vacant or boarded building. In this section a "vacant or boarded building" is one that is:
 - a. Condemned;
 - b. Unoccupied and unsecured for five (5) days or more;
 - c. Secured by means other than those normally used in the design of the building for thirty (30) days or more;
 - d. Documented as having multiple building standards, fire or building code violations existing for thirty (30) days or more; or
 - e. Unoccupied for a period of time over three hundred sixty five (365) days and during which time an order has been issued to correct a nuisance condition pursuant to title 5, chapter 5-02 of this code.
2. Registration Forms; Required Information. The registration shall be submitted on forms provided by the Building Administrator and shall include the following information supplied by the owner:
 - a. A description of the premises;
 - b. The names and addresses of the owner or owners;

- c. The names and addresses of all known lienholders and all other parties with an ownership interest in the building; and
 - d. The period of time the building is expected to remain vacant and a plan and timetable for returning the building to appropriate occupancy or for demolition of the building.
- 3. Compliance During Vacancy/Boarding Period. The owner shall comply with all applicable laws and codes. The owner shall notify the Building Administrator of any changes in information supplied as part of the building registration within thirty (30) days of the change. If the plan or timetable for the building repair or demolition is revised in any way, the revisions must meet the approval of the Building Administrator. The Building Administrator may require the water to be shut off in a vacant building in order to avoid the possibility of damages from broken water lines, freezing of water lines or vandalism.
- 4. Long Term Compliance. Boarding of vacant buildings is considered an interim measure. Property owners are expected to restore buildings to minimum property maintenance standards or conduct demolition of substandard structures within six (6) months in residential or mixed use zoning districts, or within twelve (12) months in commercial, industrial, or other zoning districts not specifically referenced herein. A property owner's documentation of substantial progress toward site restoration and specific obstacles impeding timely performance may warrant consideration by the Building Administrator of an extension to the compliance time line.
- 5. Maintenance of Building Until Action Taken. The owner and the subsequent owners shall keep the building secured and safe and the building and grounds properly maintained until the rehabilitation or demolition has been completed.
- 6. Failure to Maintain. Failure of the owner or any subsequent owner to maintain the building and premises that results in abatement completed by the city shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties provided by law.
- 7. New Owner Registration. The new owner(s) shall register or reregister buildings subject to subsection 1 of this section with the Building Administrator within thirty (30) days of any transfer of an ownership interest in a

vacant/boarded building. The new owner(s) shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the director of inspections.

8. File of Written Statements. The Building Administrator shall include in the file any property specific written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building.
9. Vacant/Boarded Building Fees.
 - a. The owner of a vacant/boarded building shall pay an annual fee as established by the city's fee schedule. The fee is imposed to defray the administrative costs for registering and processing the building registration form and for the costs of the city in monitoring the building site.
 - b. The first annual fee shall be paid no later than five (5) days after the building becomes vacant or boarded. Subsequent annual fees shall be due on the anniversary date of initial registration. The fees shall be paid in full prior to the issuance of any building permits, with the exception of a demolition permit.
 - c. Unpaid fees shall be charged as a special assessment against the real estate upon which the structure is located and shall be a lien upon such real estate. Upon transfer of ownership, the new owner(s) shall be responsible for all unpaid and subsequent annual fees.
10. Owner To Provide Access. A building owner shall provide access to all interior portions of an unoccupied building in order to permit a complete inspection for the purpose of enforcing and assuring compliance with the provisions of this section.

5-1003. PENALTY. Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.