

CHAPTER 21

INTERNATIONAL BUILDING CODE

Article	
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ARTICLE 21-01

INTERNATIONAL BUILDING CODE--ADOPTION--MODIFICATIONS

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21-0103 to 21-0113	Repealed.

21-0101. International Building Code adopted.--The erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the city of Fargo, North Dakota, shall meet with the provisions of the rules and regulations of the 2003 edition of the International Building Code of the International Conference of Building Officials as the same are now established in said code, a copy of which is on file in the office of the building inspector for the city of Fargo, with the exception of the sections hereinafter set forth affecting local conditions in the city of Fargo, which sections shall be substituted for and in lieu of like sections or paragraphs in said International Building Code; and the board of city commissioners of said city of Fargo, by this section hereby approves and adopts such rules and regulations, as so modified, for use and application in the city of Fargo, North Dakota.

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

21-0102. Modification of International Building Code.--The International Building Code as adopted in §1-0101 is hereby changed and amended as follows:

Section 101.1 is hereby amended to read as follows:

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

Section 101.4 is hereby amended to read as follows:

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

Section 101.4.4 is hereby amended to read as follows:

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

Section 101.4.7 is hereby amended to read as follows:

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

Section 105.2 is hereby amended to read as follows:

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

Building:

\* \* \*

2. Fences not over 8.5 feet high.

\* \* \*

6. Sidewalks and driveways.

\* \* \*

9. Swimming pools.

\* \* \*

11. Swings and other playground equipment.

12. Window awnings.

13. Reroofing.

Section 106.3.1 is amended to read as follows:

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

Section 108.2 is hereby amended to read as follows:

Section 108.2 -- Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit and plan review shall be paid as required, in accordance with the schedule as established by the board of city commissioners. The plan review fees specified in this subsection are separate from, and in addition to, permit fees. When submittal

documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittal items as defined in Section 106.3.4.2, an additional plan review fee shall be charged in an amount not to exceed 50% of the building permit fee established in Section 108.2.

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

Section 109.3.7 is hereby deleted in its entirety and subsequent section renumbered.

Section 305.2 is hereby amended to read as follows:

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

Section 308.3.1 is hereby amended to read as follows:

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

Section 308.5 is hereby amended to read as follows:

Section 308.5. Group I-4, day care facilities. ....A facility such as the above with twelve or fewer persons shall be classified as a Group R-3 or shall comply with the International Residential Code.....

Section 308.5.2 is hereby amended to read as follows:

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

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

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

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

(Our previous amendment to Section 710.3 would now apply to 711.3.)

Section 711.3 is hereby amended to read as follows:

..... sprinkler system in accordance with Section 903.3.1.1. The roof/ceiling assembly of a Group R-2 apartment house otherwise required to be one hour fire-rated construction may be protected at its ceiling with a single layer of 5/8" fire code sheetrock provided the building is protected with an automatic sprinkler system complying with Section 903.3.1.1. For the purpose of use of this exception only, use of Exception 1 and 2 of Section 2-6 of NFPA 13-R will not be allowed.

711.3.1 Ceiling panels. Where the weight .....

Section 801.1.3 is hereby amended to read as follows:

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

Section 903.2.7 is hereby amended to read as follows:

Section 903.2.7. Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exception: Group R-2 buildings that are two stories or less in height, including basements, and have no more than 16 dwelling units.

Section 903.3.1.2.1 is hereby deleted in its entirety.

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

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

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

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

Section 1009.3, Exception 5, is hereby amended to read as follows:

5. In occupancies in Group R-3, as applicable in Section 101.2, within dwelling units in occupancies in Group R-2, as applicable in Section 101.2, and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, the maximum riser height shall be 8 inches and the minimum tread depth shall be

9 inches, the minimum winder tread depth at the walk line shall be 10 inches, and the minimum winder tread depth shall be 6 inches. A nosing not less than 0.75 inch but not more than 1.25 inches shall be provided on stairways with solid risers where the tread depth is less than 11 inches.

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

5. Stairways used to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public.

Section 1025.1, Exception 1, is hereby deleted in its entirety and renumber balance of exceptions.

Section 1107.6.2 is hereby amended to read as follows:

Group R-2. Type B units shall be provided in occupancies in Group R-2 in accordance with Sections 1107.6.2.1 and 1107.6.2.2.

Section 1107.6.2.1 is hereby amended to read as follows:

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

Section 1107.6.2.1.1 is hereby deleted in its entirety.

Section 1107.6.2.2 is hereby amended to read as follows:

1107.6.2.2 Boarding houses, dormitories, fraternity houses and sorority houses. Type B dwelling units shall be provided in boarding houses, dormitories, fraternity houses and sorority houses in accordance with Sections 1107.6.2.2.1 and 1107.6.2.2.2.

Section 1206 is hereby re-enacted in its entirety.

Section 1207 is hereby deleted in its entirety.

Chapter 13 is hereby deleted in its entirety.

Section 1403.6 is hereby deleted in its entirety.

Section 1403.7 is hereby deleted in its entirety.

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

5. Private balconies and similar appendages serving individual dwelling

units on buildings of Type V construction.

Section 1507.2.6 is hereby amended to read as follows:

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

Section 1510 is hereby deleted and relocated as Appendix K.

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

It shall not be the responsibility of the building official to determine engineering requirements of this code. Exclusive of the conventional light-frame wood construction provisions referenced in Section 2308, the method to resist loads as referenced in this chapter is the responsibility of a structural engineer or other qualified design professional.

Section 1610 exception is hereby amended to read as follows:

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

Section 1612.3 is hereby amended as follows:

....entitled "The Flood Insurance Study for Fargo, North Dakota," dated December 1, 1978, as amended.....

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

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

Section 1805.4.2 exception is hereby deleted in its entirety.

Table 1805.4.2 is hereby deleted in its entirety.

Section 1805.4.3 exception is hereby deleted in its entirety.

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

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

Section 3109 is hereby deleted and moved to Appendix L.

**TABLE 2902.1  
 MINIMUM NUMBER OF PLUMBING FACILITIES(a)**

OCCUPANCY		WATER CLOSETS (h)		LAVATORIES (i)	BATHTUBS/SHOWERS	DRINKING FOUNTAINS (g)	OTHERS
		MALE	FEMALE				
Nightclubs		1 per 40	1 per 40	1 per 75			1 service sink
ASSEMBLY	Restaurants (j)	1 per 60	1 per 60	1 per 120			1 service sink
	Theaters, halls, museums, etc.	1 per 125	1 per 65	1 per 200		1 per 500	1 service sink
	Coliseums, arenas (less than 3,000 seats)	1 per 75	1 per 40	1 per 150		1 per 1000	1 service sink
	Coliseums, arenas (3,000 seats or greater)	1 per 120	1 per 60	Male 1 per 200 Female 1 per 150		1 per 1000	1 service sink
	Churches (b)	1 per 150	1 per 75	1 per 200		1 per 1000	1 service sink
	Stadiums (less than 3,000 seats), pools, etc.	1 per 100	1 per 50	1 per 150		1 per 1000	1 service sink
	Stadiums (3,000 seats or greater)	1 per 150	1 per 75	Male 1 per 200 Female 1 per 150		1 per 1000	1 service sink
Mercantile		1 per 300		1 per 600		1 per 1000	1 service sink
Business		1 per 40		1 per 80			1 service sink
Educational		1 per 50		1 per 50			1 service sink
Factory and Industrial		1 per 100		1 per 100			1 service sink
Passenger terminals and transportation facilities		1 per 500		1 per 750			1 service sink
INSTITUTIONAL	Residential care	1 per 10		1 per 10	1 per 8		1 service sink
	Hospitals, ambulatory nursing home patients (c)	1 per room (d)		1 per room (d)	1 per room (d)		1 service sink
	Day nurseries, sanitariums, non-ambulatory nursing home patients, etc. (c)	1 per 15		1 per 15	1 per 15		1 service sink

	Employees, other than residential care)	1 per 25	1 per 35	1 per 35		
	Visitors, other than residential care	1 per 75	1 per 100			
	Prisons (c)	1 per cell	1 per cell	1 per 15		1 service sink
	Asylums, reformatories, etc. (c)	1 per 15	1 per 15	1 per 15		1 service sink
	Hotels, Motels	1 per guestroom	1 per guestroom	1 per guestroom		1 service sink
<b>RESIDENTIAL</b>	Lodges	1 per 10		1 per 8	1 per 100	1 service sink
	Multiple Family	1 per dwelling unit	1 per dwelling unit	1 per dwelling unit		1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per 20 dwelling units
	Dormitories	1 per 10	1 per 10	1 per 8	1 per 100	1 service sink
	One- and Two-Family Dwellings	1 per dwelling unit	1 per dwelling unit	1 per dwelling unit		1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per dwelling units (f)
	Storage	1 per 100	1 per 100		1 per 1000	1 service sink

- a. The fixtures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by this code.
  1. Types of occupancies not shown on this table shall be considered individually by the Administrative Authority.
  2. The occupant load shall be composed of 50 percent of each sex.
- b. Fixtures located in adjacent buildings under the ownership or control of the church shall be made available during periods the church is occupied.
- c. Toilet facilities for employees shall be separate from facilities for inmates or patients.
- d. A single-occupant toilet room with one water closet and one lavatory serving not more than two adjacent patient rooms shall be permitted where such room is provided with direct access from each patient room and with provisions for privacy.
- e. For day nurseries, a maximum of one bathtub shall be required.
- f. For attached one- and two-family dwellings, one automatic clothes washer connection shall be required per 20 dwelling units.
- g. There shall be a minimum of one (1) drinking fountain per occupied floor in schools, theaters, auditoriums, dormitories, and businesses.
  1. Where food is consumed indoors, water stations may be substituted for drinking fountains. Where bottled water coolers are provided, drinking fountains shall not be required.
  2. Drinking fountains shall not be required in occupancies with less than 30 persons.
  3. Drinking fountains shall not be installed in toilet rooms.

- h. The provision of urinals may offset water closets otherwise required but the number of water closets required may not be reduced in this manner by more than fifty (50) percent.
  - 1. Walls and floors within two (2) feet (610 mm) of the sides and front of urinals must be finished with a smooth, hard, nonabsorbent finish of a material approved by the Administrative Authority.
- i. Where circular or similar hand washing appliances are provided, twenty-four (24) lineal inches (610 mm) of wash sink or eighteen (18) inches (457 mm) of a circular basin, when provided with water outlets for such space, shall be considered equivalent to one (1) lavatory.
- j. For the purpose of this table, a restaurant is defined as a business that sells food to be consumed on premises. The number of occupants for a drive in restaurant shall be considered as equal to the number of parking stalls.
  - 1. A hand sink is required to be available to employees in a restaurant or other food preparation occupancy.  
Source: 2450 (1989), 2616 (1992), 2757 (1995), 2867 (1998), 4183 (2001), 4293 (2003), 4304 (2003), 4406 (2004), 4428 (2004)..

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

## ARTICLE 21-02

### LIGHT AND VENTILATION OF BUILDINGS

Note: Article 2 of chapter 21 of the 1952 Revised Ordinances (sections 21-0201 to 21-0210) is repealed by omission from the 1965 Revised Ordinances.

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

## ARTICLE 21-03

### SAFETY REGULATIONS FOR MOVING AND CONSTRUCTION OF BUILDINGS

#### Section

21-0301      Regulating the moving and construction of buildings.

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

A sidewalk or passageway at least three feet wide shall be kept in front of any building during the process of its construction, which temporary sidewalk shall extend from the side of the permanent

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

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

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

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

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

Source: 1952 Rev. Ord. 21-0301.

## ARTICLE 21-04

### DANGEROUS BUILDINGS

#### Section

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

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

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

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

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

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

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

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

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

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

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

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

Source: 1952 Rev. Ord. 21-0401.

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

A. If the “dangerous building” can reasonably be repaired so that it will no longer exist in violation of the terms of this article, it shall be ordered repaired.

B. If the “dangerous building” is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

C. In any case where a “dangerous building” is 50% damaged, decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer be in violation of the terms of this article, it shall be demolished. In all cases where a “dangerous building” is a fire hazard existing or erected in violation of the terms of this article or any ordinance of this city or statute of the state of North Dakota, it shall be demolished.

Source: 1952 Rev. Ord. 21-0402.

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

Source: 1952 Rev. Ord 21-0403.

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

- A. Inspect or cause to be inspected semiannually, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing, or loft buildings for the purpose of determining whether any conditions exist which render any of such places a “dangerous building” within the terms of § 21-0401 of this article.
- B. Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this article.
- C. Inspect any building, wall, or structure reported (as hereinafter provided for) by the fire or police departments of this city as probably existing in violation of the terms of this article.
- D. Notify in writing the owner, occupant, lessee, mortgagee, and all other persons having an interest in said building, as shown by the records in the office of the register of deeds of the county of Cass, of any building found by him to be a “dangerous building” within the standards set forth in § 21-0401 of this article, that: (1) the owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this article; (2) the owner or occupant must vacate said building or may have it repaired in accordance with the notice and remain in possession. Provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding 30 days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.
- E. Set forth in the notice provided for in subsection (D) hereof a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a “dangerous building”@ and an order requiring the same to be put in such condition as to comply with the terms of this ordinance within such length of time, not exceeding 30 days, as is reasonable.
- F. Report to the board of city commissioners any noncompliance with the “notice” provided for in subsections (D) and (E) hereof.
- G. Appear at all hearings conducted by the board of city commissioners and testify as to the condition of “dangerous buildings.”
- H. Place a notice on all “dangerous buildings” reading as follows: “This building has been found to be a ‘dangerous building’ by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass.

It is unlawful to remove this notice until such notice is complied with.”

Source: 1952 Rev. Ord. 21-0404.

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

- A. Upon receipt of a report of the building inspector as provided for in § 21-0404, subsection (F), give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before it on the date specified in the notice to show cause why the building or structure reported to be a “dangerous building” should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building inspector’s notice provided for herein in § 21-0404, subsection (E).
- B. Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer relative to the “dangerous building.”
- C. Make written findings of fact from the testimony offered pursuant to subsection (B) as to whether or not the building in question is a “dangerous building” within the terms of § 21-0401.
- D. Issue an order based upon findings of fact made pursuant to subsection (C) hereof commanding the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to repair, vacate, or demolish any building found to be a “dangerous building” within the terms of this article and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said “dangerous building.”
- E. If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in subsection (D) hereof, within 10 days, the board of city commissioners shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards hereinbefore provided for in § 21-0402 of this article, and shall, with the assistance of the city attorney, cause the costs thereof to be assessed back against the property in the manner provided by law, or in the alternative, cause the costs of such repair, vacation, or demolition to be recovered in a suit at law against the owner or other proper party.
- F. Report to the city attorney the names of all persons not complying with the order provided for in subsection (D) of this section.

Source: 1952 Rev. Ord. 21-0405.

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

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

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

Source: 1952 Rev. Ord. 21-0406.

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

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

Source: 1952 Rev. Ord. 21-0407.

21-0408. Owner absent from the city.--All notices or orders provided for herein shall be sent by registered mail to such owner, occupant, lessee or mortgagee, and all other persons having an interest in said building, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the “dangerous building” to which it relates. Such mailing and posting shall be deemed adequate service.

Source: 1952 Rev. Ord. 21-0408.

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

Source: 1952 Rev. Ord. 21-0409.

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

Source: 1952 Rev. Ord. 21-0410.

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

Source: 1952 Rev. Ord. 21-0411.

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

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

Source: 1952 Rev. Ord. 21-0412.

ARTICLE 21-05

TELEVISION MASTS, TOWERS, AND ANTENNAS

Section

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

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

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

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

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

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

- A. An Underwriters Laboratories approved lightning arrestor or its equivalent is required of all antenna lead-ins unless the lead-in is of the metal-shielded type, with the metal shield properly grounded.
- B. Lead-in conductors attached to buildings shall be so installed that they cannot

swing within two feet of conductors carrying 250 volts or less, or within 10 feet of conductors carrying more than 250 volts. The clearance between lead-in conductors and any conductor forming part of lightning-rod system shall be not less than six feet. That part of the lead-in that comes in contact with the building shall be supported at intervals of not more than 15 feet.

- C. Conductive supporting poles, masts, or structures supporting antennas shall be permanently and effectively grounded with a minimum of No. 10 copper or No. 8 aluminum wire. Poles or masts which are themselves the sole antenna are, of course, exempt from this rule.
- D. No television mast, pole, tower, or antenna shall be mounted or attached to a chimney.
- E. Poles or masts over 12 feet in height must be guyed with three or more wires to one position. Masts or poles 20 feet to 30 feet must be guyed to a minimum of two positions with the uppermost guy wires to be within two feet of the top of the pole or tower. The angle of the guys must not be less than 30E degrees from the vertical mast and wire used shall be of the stranded, rustproof type. Anchors shall be of equal strength or stronger than the combined wires connected to them. All guys fastened to the ground shall be protected by a sufficient safety guard to a minimum of eight feet vertically from the ground.
- F. All self-supporting towers, poles, or masts over 10 feet in height shall be designed and installed to withstand an actual wind velocity of 90 miles per hour.
- G. Metal supporting poles, masts, towers, or other structures located on buildings provided with lightning protection must have an interconnection between the grounding conductors and the lightning surge conductors.
- H. Plumbing vent stacks or natural gas piping shall not be used to ground antenna masts, poles, or towers; instead all grounding conductors shall be attached, preferably to a cold water pipe supplied by an underground water distribution system, with the water meter properly jumpered. Where not available, grounding conductors shall be attached to a standard driven ground rod six feet or longer. No pole, mast, tower, or structure used to support antenna shall be so located that in falling it might fall across a utility distribution line over 250 volts unless that mast, pole, tower, or structure has a double-strength guy in such a position so as to keep that pole, mast, tower, or structure from failing across such utility line.
- I. All towers, masts, poles, or antenna attached to a building shall be noncombustible and corrosive resistant.

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

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

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

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

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

## ARTICLE 21-06

### FLOOD PLAIN MANAGEMENT

#### Section

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

#### 21-0601. Definitions.--

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

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

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

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

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

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

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

- a. The overflow of inland waters and/or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.

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

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

10. "Floodproofing" means any combination of structural and nonstructural additions, changes

or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.

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

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

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

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

15. "Manufactured home park" or "subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale and shall include mobile home parks as defined in § 25-2401 of the Fargo Municipal Code.

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

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

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

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

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

The term "substantial improvement" does not include:

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

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

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

21-0602. General Provisions.--

- A. Applicability--This ordinance shall apply to all areas of special flood hazard within the area of jurisdiction of the city.
- B. Identification of affected area--The areas of special flood hazard identified by FEMA in the most recent Flood Insurance Study for the City of Fargo, North Dakota, with the accompanying FIRM is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and FIRM are on file at the office of the city auditor in Fargo, North Dakota.
- C. Compliance--No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations.
- D. Abrogation and greater restrictions--This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- E. Interpretation--In the interpretation and application of this ordinance, all provisions shall be:
  - 1. Considered as minimum requirements;
  - 2. Liberally construed in favor of the governing body; and,
  - 3. Deemed neither to limit nor repeal any other powers granted under state statutes.
- F. Warning and disclaimer of liability--The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such area will be free from flooding or flood damages. This ordinance shall not create liability on the part of the city of Fargo, any officer or employee thereof, or FEMA for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

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

21-0603. Administration.--

- A. Development--Permit required--A building permit shall be obtained before construction or development begins within any area of special flood hazard. Application for such building permit shall be made on forms furnished by the building inspector and shall include, but not be limited to, the following:
1. Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question;
  2. Existing or proposed structures, fill, storage of materials, and drainage facilities;
  3. Elevation of the lowest floor of all structures;
  4. Elevation to which any structure has been floodproofed;
  5. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in § 21-0604 of this article; and,
  6. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- B. Building Inspector--The building inspector is hereby appointed to administer and implement this ordinance by granting or denying building permit applications in accordance with the provisions of this article. The duties of the building inspector shall include, but not be limited to, the following:
1. Review all applications for building permits to determine that the permit requirements of this ordinance have been satisfied.
  2. Review all applications for building permits to determine that all necessary permits have been obtained from federal, state, or local governmental agencies from which prior approval is required.
  3. Review all applications for building permits to determine if the proposed structure or development is located in the floodway. If located in the floodway, assure that the encroachment provisions of § 21-0604 are met.
- C. Use of Other Data--When base flood elevation data has not been provided in accordance with § 21-0602 of this article, the building inspector shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state or other source to establish criteria for requiring that new construction, substantial improvements, or other development in Zone A are constructed in accordance with § 21-0604 of this article.
- D. Maintenance of information--
1. The building inspector shall obtain and record the elevation of the lowest floor of all new or substantially improved structures; and whether or not the structure contains a basement.
  2. For all new or substantially improved floodproofed structures, the building inspector shall:
    - a. Verify and record the actual elevation to which the structure has been floodproofed.

- b. Maintain the floodproofing certifications of registered professional engineers or architects as hereinabove provided.
  - c. Maintain for public inspection, all records pertaining to the provisions of this ordinance.
- E. Alteration of watercourses--
  - 1. The building inspector shall notify adjacent communities and the North Dakota State Water Commission prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
  - 2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- F. FIRM Boundaries--Interpretation--The building inspector shall interpret, when needed, the exact location of the boundaries of the areas of special flood hazards and shall make adjustments when necessary to resolve conflicts between mapped boundaries and actual field conditions. The person contesting the location of any boundary shall be given a reasonable opportunity to appeal the interpretation of the building inspector as hereinafter provided.
- G. Appeals--Variances--
  - 1. The board of adjustment shall hear and decide appeals from decisions or determinations made by the building inspector in the enforcement or administration of this article.
  - 2. The board of adjustment shall consider requests for variances from the requirements of this ordinance.
  - 3. Any person aggrieved by the decision of the board of adjustment may appeal such decision to the board of city commissioners of the city of Fargo.
  - 4. Any person aggrieved by the decision of the board of city commissioners may appeal such decision to the North Dakota district court, pursuant to law.
  - 5. In determining appeals or requests for variances, the board of adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
    - a. The danger that materials may be swept onto other lands to the injury of others;
    - b. The danger to life and property due to flooding or erosion damage;
    - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
    - d. The importance of the services provided by the proposed facility to the community;

- e. The necessity to the facility of a waterfront location, where applicable;
  - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - g. The compatibility of the proposed use with the existing and anticipated development;
  - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.
6. Upon consideration of the foregoing factors and the purpose of this article, the board of adjustment may attach such conditions to the granting of variances as it may deem appropriate and necessary to effectuate the intent of this article.
7. The building inspector shall maintain the records of all appeal actions, including technical information, and report any variances to FEMA.

H. Conditions for variances--

- 1. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, providing items (a-k) in subsection (G)(5) above have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases.
- 2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or any state or local inventory or register of historic places without regard to the procedures set forth in the remainder of this section.
- 3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

4. Variances shall be issued only upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall be issued only upon:
  - a. A showing of good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

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

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

- A. General standards--In all areas of special flood hazard, the following standards shall apply:
  1. Anchoring
    - a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and shall be capable of resisting the hydrostatic and hydrodynamic loads.
    - b. All manufactured homes which are placed or substantially improved must be elevated and anchored to resist flotation, collapse or lateral movement and shall be capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring shall include, but are not limited to, the following:
      - i. Over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, provided that manufactured homes less than 50 feet long shall have one additional tie per side.
      - ii. Frame ties shall be provided at each corner of the home with five additional

ties per side at intermediate points, provided that manufactured homes less than 50 feet long shall have four additional ties per side;

- iii. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

Any additions to a manufactured home shall be similarly anchored.

2. Construction materials and methods

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

3. Utilities

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- c. On-site waste disposal systems shall be located to avoid impairment or contamination during flooding.

4. Subdivisions

- a. All proposed subdivisions shall be consistent with the need to minimize flood damage.
- b. All subdivisions shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- c. All subdivisions shall have adequate drainage provided to reduce exposure to flood damage.
- d. Base flood elevation data shall be provided for proposed subdivisions and other development proposals which contain at least 50 lots or five acres (whichever is less).

5. Specific standards--In all areas of special flood hazard where base flood elevation data has been provided as set forth in §

21-0602 or 21-0603, the following provisions are required:

- a. New construction and substantial improvement of any structure shall:
  - i. Conform to structural and technical provisions set forth in the floodproofing code.
  - ii. Be floodproofed so that the structure is watertight up to two and five-tenths feet (2.5') above the base flood level with walls impermeable to passage of water. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design methods of construction are in accordance with accepted standards of practice; provided, that such review and certification shall not be required if the construction complies with the floodproofing code.
  - iii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
    - A minimum of two openings having a total net area of not less than one square inch per square foot of enclosed area subject to flooding shall be provided;
    - The bottom of all openings shall be no higher than one foot above grade.
    - Openings may be equipped with screens, louvers, or other coverings or devices provided

that they permit the automatic entry and exit of floodwaters.

6. Manufactured homes--Manufactured homes which are placed or substantially improved shall be set on a permanent foundation and shall be elevated so that the lowest floor is at or above the base flood elevation and is securely anchored as hereinabove provided.
7. Floodways--The following provisions shall apply to any development or construction in the floodway:
  - a. Any development or construction is prohibited unless a registered professional engineer certifies that such development or construction shall not result in any increase in flood levels during the occurrence of the base flood discharge.
  - b. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

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

## ARTICLE 21-07

### WIND ENERGY CONVERSION SYSTEMS

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

#### 21-0701. Definitions.--

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

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

Source: 2166 (1984).

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

Source: 2166 (1984).

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

Source: 2166 (1984).

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

- A. Dimensional representation of the tower or towers, including the conversion system, base, and footing design.
- B. A plot plan certified by a registered land surveyor indicating the following:
  - 1. Property lines.
  - 2. Location of the proposed tower or towers.
  - 3. Location of existing structures on the site and on adjacent property.
  - 4. Location of all above-ground utilities.
  - 5. Location of all underground utility lines within the TCA.
  - 6. Boundaries of all utility easements within the TCA.

Source: 2166 (1984).

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

Source: 2166 (1984).

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

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

Source: 2166 (1984).

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

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

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

Source: 2166 (1984).

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

Source: 2166 (1984).

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

Source: 2166 (1984).

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

- A. A WECS shall be subject to present and future noise limitations pursuant to ordinances of the city of Fargo.

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

Source: 2166 (1984).

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