

CHAPTER 150: BUILDINGS AND CONSTRUCTION

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BUILDING CODE ADOPTED

§ 150.001 ADOPTION.

The most recent edition of the International Residential Code for One and Two-Family Dwellings, as published by the International Code Council and the International Building Code, as published by the International Code Council, are adopted by reference as the official building codes of the city. Printed copies of International Residential Code for One and Two-Family Dwellings and the International Building Code, shall be on file in the office of the Municipal Finance Officer.

(Prior Code, § 15.04.010)

§ 150.002 BUILDING INSPECTOR.

The Finance Officer or his or her designee shall act as the Building Inspector unless the City Commission appoints a Building Inspector. It shall be the duty of the Building Inspector to enforce all regulations relative to the construction, alteration, removal and demolition of buildings and structures, and to make all necessary inspections as required.

(Prior Code, § 15.04.020) (Ord. 1051, passed 4-16-2018)

§ 150.003 APPLICATION FOR PERMITS.

Application for all building permits required by zoning regulations, subdivision regulations and building codes shall be submitted to the Finance Officer or his or her designee.

(Prior Code, § 15.04.030) (Ord. 1051, passed 4-16-2018)

§ 150.004 PERMIT FEES.

No building permit shall be issued unless the appropriate fee, as established by the City Commission, is paid at the time of application.

(Prior Code, § 15.04.040)

§ 150.005 CONFLICTS.

In the event of any conflict between the provisions of this code, state law or city ordinance, rule or regulation, the provisions of state law or city ordinance, rule or regulation shall prevail and be controlling.

(Prior Code, § 15.04.050)

BUILDING NUMBERS AND STREET NAMES

§ 150.020 HOUSES AND BUSINESS PLACES MUST BE NUMBERED.

Every person who is or may hereafter become the owner of any house, residence, store, shop or other business building, situated on any lot fronting on any of the streets or avenues of the city shall number the same over the main entrance thereof as hereinafter provided.

(Prior Code, § 15.08.010)

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§ 150.021 DIVIDING LINE FOR NUMBERING; STREET PREFIXES.

The dividing line of numbering on all streets and avenues running east and west shall be Main Street. The dividing line for numbering on all streets and avenues running north and south shall be Fifth Street. All streets and parts of streets running west from Main Street shall be designated by prefixing to the names thereof the word "West" and all streets and parts of streets running east from Main Street shall be designated by prefixing to the names thereof the word "East." In like manner all streets and parts of streets running south from Fifth Street shall be designated by prefixing to the names thereof the word "South" and all streets and parts of streets running north from Fifth Street shall be designated by prefixing to the names thereof "North."

(Prior Code, § 15.08.020)

§ 150.022 NUMBERING TO BE APPORTIONED.

One number shall be apportioned to every subdivision of 25 feet along all the thoroughfares of the city whether the same be occupied by buildings or not. Provided, however, that in case any block or blocks or any lot or lots will not divide perfectly into subdivisions of 25 feet, one whole number shall be assigned to the fractional part thereof.

(Prior Code, § 15.08.030)

§ 150.023 FRACTIONAL NUMBERS.

In case more than one building is erected in a single space of 25 feet, the same may be numbered by placing thereon the regular number which appeared on the building formerly situated in the space or the number which would otherwise be allotted to the space

and on the second building to be erected thereon the regular number plus the fraction, one-half.

(Prior Code, § 15.08.040)

§ 150.024 NUMBERING OF STREETS, BLOCKS AND BUILDINGS.

(A) All buildings shall be numbered consecutively in units and tens and all blocks consecutively in even hundreds. All numbering on east and west thoroughfares shall begin at the dividing line at Main Street and proceed outward to the limits of the city placing odd numbers on the south side and even numbers on the north side of each thoroughfare. All numbering on north and south thoroughfares shall begin at the dividing line at Fifth Street and proceed outward to the limits of the city placing odd numbers on the west side and even numbers on the east side of each such thoroughfare.

(B) The number of the first block on each side of the street proceeding from a dividing line shall be 100; the second shall be 200 and so on, and each block shall be numbered consecutively to the outer limits of the city. The number on the first building on the south side of an east and west street, and on the west side of a north and south street, shall be 101, and the first number on the opposite side thereof shall be 102. The first number on the second block shall be 201, and the first number on the opposite side thereof shall be 202, and so on consecutively along all the streets and avenues throughout the city.

(Prior Code, § 15.08.050)

§ 150.025 ENFORCEMENT.

The Chief of Police of the city shall enforce the provisions of the subchapter by giving notice in writing to all persons failing to comply therewith.

(Prior Code, § 15.08.060)

§ 150.026 NAMES OF STREETS AND AVENUES.

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The Public Works Commissioner or his or her designee shall be authorized to place or cause to be placed the names of streets and avenues in conspicuous places at all the crossings thereof at the expense of the city. (Prior Code, § 15.08.070) (Ord. 1051, passed 4-16-2018)

FACTORY PRODUCED HOUSING

§ 150.040 ADOPTION OF REGULATIONS.

There is adopted by the city for the purpose of establishing rules and regulations for the construction, use and occupancy, location and maintenance of factory-produced housing the following rules and regulations.

(A) *Factory produced housing.* All residential structures transported to the building sites. There are three categories of factory produced housing and they are: manufactured, modular and panelized.

(1) *Manufactured home.*

(a) A dwelling unit built on a steel undercarriage with necessary wheel assembly to be transported to a permanent or semi-permanent site. The wheel assembly and tongue can be removed when placed on a permanent foundation. The steel undercarriage is a necessary structural component.

(b) A structure that contains any of the following factors may also be considered a manufactured home:

1. Running gear that is an integral part of the structure;
2. The structure does not require a perimeter box beam assembly;
3. The structure does not have a structural joist system other than the steel undercarriage;
4. The structure comes equipped with a furnace as standard equipment;
5. A water heater may be included in the structure from the factory;
6. Duct work, other utilities and plumbing are installed in the structure from the factory;
7. A manufacturer's statement of origin is issued for the structure; and
8. The structure may contain a serial number or other means of identifying it from structures of similar manufacture.

(c) Any manufactured home, trailer home or mobile home shall be located in a mobile home park authorized by the city.

(d) A manufactured home, trailer home or mobile home may not be located, established or placed in a residential neighborhood with the exception of a mobile home park authorized by the city.

(e) Whenever the City Building Inspector determines that there has been a violation of this portion of this chapter, he or she shall give notice of the alleged violation to the occupant and owner.

(2) *Modular home.*

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(a) A structure which can be transported on a steel undercarriage. The steel undercarriage is not permanent, not a necessary structural component of the structure and is removed when the structure is placed on a permanent foundation. A modular home must meet or exceed local, regional and state building codes.

(b) The following factors are essential to the determination of whether or not a structure will be deemed to be a modular house.

1. A permanent furnace is not installed in the structure prior to on-site installation.
2. A water heater is not installed in the structure prior to on-site installation.
3. The structure contains a perimeter box beam support system.
4. The structure is installed on a frost-free foundation.

5. A wooden underfloor joist system is provided as part of the assembly process as a main structural component of the structure.

(3) *Panelized house.*

(a) A structure which consists of packaged, prefabricated, factory-built components and are on site-assembled. A panelized house must meet or exceed local, regional and state building codes.

(b) The following minimum factors must be present for a structure to qualify as a panelized house.

1. The structure contains a perimeter box beam support system.
2. The structure is installed on a frost-free foundation.
3. A wooden underfloor joist system is provided as a main structural component of the structure.

(B) *Local and state building code requirements.* This section shall not be constructed to require that modular or panelized structures exceed local and state building code requirements.
(Prior Code, § 15.12.010) Penalty, see § 150.999

FLOOD DAMAGE PREVENTION

§ 150.055 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALLUVIAL FAN FLOODING. Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport and deposition; and unpredictable flow paths.

APEX. A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREA OF SHALLOW FLOODING. A designated AO, AH or VO zone on a community's Flood Insurance Rate

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Map (FIRM) with a 1% chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASEMENT. Any area of the building having its floor sub-grade (below ground level) on all sides.

CRITICAL FEATURE. An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT. Any human-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING.

(1) A non-basement building:

(a) Built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water; and

(b) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, **ELEVATED BUILDING** also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

(2) In the case of Zones V1-30, VE, or V, **ELEVATED BUILDING** also includes a building otherwise meeting the definition of **ELEVATED BUILDING**, even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of § 60.3(e)(5) of the National Flood Insurance Program regulations.

EXISTING CONSTRUCTION. For the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. **EXISTING CONSTRUCTION** may also be referred to as **EXISTING STRUCTURES**.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANU-FACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land

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areas from:

- (1) The overflow of inland or tidal waters; and
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, 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.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

FLOODPLAIN or **FLOOD-PRONE AREA.** Any land area susceptible to being inundated by water from any source (see definition of **FLOODING**).

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD PROTECTION SYSTEM. Those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOOD PROOFING. Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY FLOODWAY). 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 a designated height.

FUNCTIONALLY DEPENDENT USE. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

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(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior or;

(b) Directly by the Secretary of the Interior in states without approved programs.

LEVEE. A human-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM. A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or 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 requirement of § 60.3 of the National Flood Insurance Program regulations.

MANUFACTURED HOME. 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.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION. For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, **NEW CONSTRUCTION** means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE. A vehicle which is:

(1) Built on a single chassis;

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(2) Four hundred square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

START OF CONSTRUCTION. For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. No. 97-348), being 16 USC 3501 et seq., includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The **ACTUAL START** means either 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 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. For a substantial improvement, the **ACTUAL START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT.

(1) Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

(2) The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or

(b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

VARIANCE. A grant of relief to a person from the requirement of this subchapter when specific enforcement would result in unnecessary hardship. A **VARIANCE**, therefore, permits construction or development in a manner otherwise prohibited by this subchapter. (For full requirements see § 60.6 of the National Flood Insurance Program regulations.)

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §§ 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION. The height, in relation to the National Geodetic Vertical Datum (NGVD) of

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1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Prior Code, § 15.20.010)

§ 150.056 LANDS TO WHICH THIS CHAPTER APPLIES.

This subchapter shall apply to all areas of special flood hazards within the jurisdiction of the city.

(Prior Code, § 15.20.020)

§ 150.057 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Rate Map (FIRM), dated April 2, 2008, is adopted by reference and declared to be part of this chapter. The FIRM panel numbers are 300C, 286C, 287C, 291C and 275C. The FIRM is on file at 210 N. Dakota at City Hall, Canton, South Dakota 57013.

(Prior Code, § 15.20.030)

§ 150.058 COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended or altered without full compliance with the terms of this subchapter and other applicable regulations.

(Prior Code, § 15.20.040)

§ 150.059 ABROGATION AND GREATER RESTRICTIONS.

This subchapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this subchapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Prior Code, § 15.20.050)

§ 150.060 INTERPRETATION.

In the interpretation of this subchapter, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing board; and

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Prior Code, § 15.20.060)

§ 150.061 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this subchapter 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 human-made or natural causes. This subchapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This subchapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or

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any administrative decision lawfully made thereunder.
(Prior Code, § 15.20.070)

§ 150.062 ESTABLISHMENT OF DEVELOPMENT PERMIT.

(A) A development permit shall be obtained before construction or development begins within any area of special flood hazard established in §§ 150.056 through 150.061. Application for a development permit shall be made on forms furnished by the City and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

(B) 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 flood proofed;
- (3) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in §§ 150.065 and 150.066; and
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
(Prior Code, § 15.20.080) (Ord. 1051, passed 4-16-2018)

§ 150.063 DESIGNATION OF THE MUNICIPAL FINANCE OFFICER.

The Finance Officer is appointed to administer and implement this subchapter by granting or denying development permit applications in accordance with its provisions.
(Prior Code, § 15.20.090) (Ord. 1051, passed 4-16-2018)

§ 150.064 DUTIES AND RESPONSIBILITIES OF THE MUNICIPAL FINANCE OFFICER.

Duties of the Finance Officer shall include, but not be limited to:

(A) *Permit review.*

- (1) Review all development permits to determine that the permit requirements of this chapter 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; and
- (3) Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of this subchapter, ***ADVERSELY AFFECTS*** means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas:
 - (a) If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration;
 - (b) If it is determined that there is no adverse effect, then technical justification, (i.e., a registered professional engineer) for the proposed development shall be required; and

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(c) If the proposed development is a building, then the provisions of this chapter shall apply.

(B) *Use of other flood base data.* The Municipal Finance Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source as criteria for requiring that new construction, substantial improvements or other development in Zone A meets division (C) below containing specific elevation and flood proofing requirements for residential and nonresidential structures.

(C) *Information to be obtained and maintained.*

(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, and whether or not the structure contains a basement;

(2) For all new or substantially improved flood proofed structures:

(a) Verify and record the actual elevation (in relation to mean sea level) to which the structure has been flood proofed; and

(b) Maintain the flood proofing certifications required in § 150.062.

(3) Maintain for public inspection all records pertaining to the provisions of this subchapter.

(D) *Alteration of watercourses.*

(1) Notify adjacent communities and the State Planning Bureau prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency; and

(2) Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.

(E) *Interpretation of the FIRM boundaries.* Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

(Prior Code, § 15.20.100) (Ord. 1051, passed 4-16-2018)

§ 150.065 GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION.

In all areas of special flood hazards the following standards are required.

(A) *Anchoring.*

(1) All new construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) All manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

(a) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;

(b) Frame ties be provided at each corner of the home with five additional ties per side at intermediate

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points; with manufactured homes less than 50 feet long requiring four additional ties per side;

- (c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
- (d) Any additions to the manufactured home be similarly anchored.

(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.

(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.

(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) Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

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

(E) *Encroachments.* Encroachments, including fill, new construction, substantial improvements and other development shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

(Prior Code, § 15.20.110)

§ 150.066 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in § 150.064(B), Use of Other Base Flood Data, the following standards are required.

(A) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot above the base flood elevation. Properties that have received a letter of map amendment or letter of map revision based upon fill must still have their lowest floor elevated to one foot above the base flood elevation.

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(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 to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(1) Be flood proofed so that below the base flood level 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 division (B) are satisfied. Such certifications shall be provided to the official as set forth in § 150.064(B).
(Prior Code, § 15.20.120)

§ 150.067 VARIANCES.

(A) *General.* The Board of Adjustment established in § 16.01 of the zoning ordinance for the city, shall hear and decide appeals and requests for variances from the requirements of this subchapter. All variance procedures and conditions set forth in the zoning ordinance for the city are hereby adopted by reference and declared a part of this subchapter.

(1) The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Finance Officer in the enforcement or administration of this subchapter.

(2) In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this subchapter, 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

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(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.

(3) Upon consideration of the factors of division (A)(2) above and the purposes of this subchapter, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(4) The Finance Officer or his or her designee shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency and the State Office of Emergency Management.

(B) *Conditions for variances.*

(1) 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 flood level, providing items in division (A)(2) 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 the State Inventory 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 only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) 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 expenses, create nuisances, cause fraud on or victimization of the public as identified in division (A)(2) above 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.

(Prior Code, § 15.20.130) (Ord. 1051, passed 4-16-2018)

LOT VACATION REQUIREMENTS

§ 150.080 VACATED BUILDING LOTS.

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(A) When a residence, building or other structure capable of receiving utility services has been removed or demolished, the following minimum requirements for reclamation shall be met within 30 days after receiving approval from the city to remove or demolish the structure.

(1) The property owner shall be responsible for termination of all utility services to the property, including, but not limited to, water, sewer, electric, cable, phone and gas, at the property boundary or, where deemed appropriate by the Public Works Superintendent, at a more distant utility distribution point. The termination of utility services shall be performed in accordance with the requirements of the utility provider.

(2) The property owner shall be responsible for notifying the utility provider and the city of the location of the termination point for any utility services.

(3) All costs for capping or terminating utility services, including any fee owed to the utility provider, shall be the responsibility of the lot owner.

(4) No personal property, garbage or debris, including concrete, wood, pipe, wire or cable, may be placed or remain on the property as fill. Fill material shall consist of granular soil or rock material no greater than one inch in diameter.

(5) The lot shall be properly leveled in the manner by the city or by the Public Works Superintendent.

(B) The property owner shall be responsible for controlling noxious weeds and providing proper drainage on the property.

(Prior Code, § 15.24.010)

PROPERTY MAINTENANCE CODE (ORD. 1097, Passed 8/1/2022)

§ 150.095 ADOPTION.

(A) The International Property Maintenance Code, 2021 edition, published by the International Code Council as amended herein, is hereby adopted as the property maintenance code to provide standards to safeguard life or limb, health, property, and public welfare by regulating, governing and controlling the use, occupancy, conditions and maintenance of all property, buildings, and structures within this jurisdiction and to provide for a just, equitable, and practicable method whereby buildings or structures, which from any cause endanger the life, limb, morals, property, safety, or welfare of the general public or their occupants, may be repaired, vacated, or demolished.

(B) A printed copy of the International Property Code as amended herein is on file with the City Finance Officer.

§ 150.096 AMENDMENTS.

The following sections and subsections of the 2021 International Property Maintenance Code adopted in this chapter shall be amended, repealed or added as follows. All other sections or subsections shall remain the same.

101.1 Title. These regulations shall be known as the Property Maintenance Code of the City of Canton, South Dakota, hereinafter referred to as "this code."

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 Residential Code, and the State Plumbing Code. Nothing in this code shall be construed to cancel, modify, or set aside any provision of the 2011 Revised Canton Zoning Regulations.

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103.1 Repealed

103.2 Code official. The Finance Officer or his or her designee is designated as the code official and shall enforce all provisions of this code.

103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction, the code official shall have the authority to appoint a deputy code official, other related technical officers, inspectors and other employees. Such employees shall have powers as delegated by the code official.

104.1 Fees. The fees for building permits, activities and services performed by the city in carrying out its responsibilities under this code shall be as established by resolution of the City Commission and kept on file in the office of the City Finance Officer.

105.7 Liability. The code official, officer or employee charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or omission required or permitted in the discharge of official duties.

105.7.1 Legal Defense Any suit instituted against any 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 by the city's insurance pool and any immunities and defenses provided by other applicable state and federal laws. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any officer or employee of the city, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

Section 107 – Means of Appeal – repealed in its entirety and replaced with the following Section 107.

Section 107 – Means of Appeal

107.1 Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the city commission provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

107.2 Hearing. The commission shall hear the appeal within 30 days of the filing of the appeal at a regularly scheduled meeting or special meeting. Any commissioner who has a personal, professional, or financial interest shall not hear the appeal.

107.3 Decision. The commission shall uphold, modify or reverse the decision of the code official by majority vote of the total commissioners.

107.4 Notice. Notice of the decision shall be given to the appellant and code official.

107.5 Enforcement. The code official shall take action to enforce the decision 30 days after notice of the decision is mailed to the appellant. If an imminent danger notice was issued, the code official may take action immediately.

107.6 Appeal to circuit court. The decision of the commission is subject to judicial review as provided by state law.

107.7 Stays of enforcement. Any appeals filed on notices and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard and ruled on.

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108 REPEALED (Ord. 1102, Passed 10/17/2022)

110.3.1 Extension of time agreement. If the code official determines that an extension of time will not create or perpetuate a situation imminently dangerous to life or property, the code official may grant an extension of time, not to exceed 180 days in which to complete the work listed in the Notice and Order. Any extension shall not extend the time to appeal the Notice and Order. Any extension shall be agreed to in writing in a document containing the following:

1. A reasonable and acceptable schedule, setting forth specific dates to complete corrective action for each violation listed in the Notice and Order.
2. A signature of the responsible party.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the International Building Code, State Plumbing Code, International Residential Code, or the Revised Canton Zoning Regulations of Canton, South Dakota, such terms shall have the meanings ascribed to them as stated in those codes.

302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of 8 inches tall. 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 in violation of the Revised Ordinances of the City of Canton. 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 cost of such removal shall be paid by the owner or agent responsible for the property.

304.14 Insect screens. During the period from May 1 to October 1, 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.

502.5 Public toilet facilities. Public toilet facilities shall be maintained in a safe, sanitary and working condition in accordance with the State Plumbing Code. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during occupancy of the premises.

505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the State Plumbing Code.

505.5.1 Abandonment of systems. Where a nonpotable water reuse system or a rainwater collection and distribution system is not maintained or the owner ceases use of the system, the system shall be abandoned in accordance with the State Plumbing Code.

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. Cooking appliances shall not be used nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating. The installation of one or more portable space heaters shall not be used to achieve compliance with this section.

Exception:

In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C)

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shall be maintained.

602.3 Heat supply. Every owner and operator of any building who rents, leases, or lets one or more dwelling units, rooming unit, dormitory, or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 1 to May 1 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.
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.

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to May 1 to maintain a temperature of not less than 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.

604.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with state electrical code. The dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a minimum rating of 60 amperes.

Chapter 8 – Appendix A

Appendix A - Boarding Standard, is hereby adopted in its entirety.

§ 150.999 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person, firm or corporation in violation of the rules and regulations relating to manufactured homes is guilty of a misdemeanor and, upon conviction will be punishable by a fine of the maximum amount permitted by law. Each day that a violation is committed, continued or permitted will be deemed a separate offense.

(Prior Code, § 15.12.010)