OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4745

AN ORDINANCE AMENDING ARTICLE 21-01 OF CHAPTER 21 OF THE FARGO MUNICIPAL CODE RELATING TO THE INTERNATIONAL BUILDING CODE

WHEREAS, the electorate of the City of Fargo has adopted a home rule charter in accordance with Chapter 40-05.1 of the North Dakota Century Code; and

WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the City shall have the right to implement home rule powers by ordinance; and

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such purpose; and

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance;

NOW, THEREFORE,

Be it Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. Amendment.

Article 21-01 of Chapter 21 of the Fargo Municipal Code is hereby amended to read as follows:

ARTICLE 21-01

INTERNATIONAL BUILDING CODE -- ADOPTION -- MODIFICATIONS

Section	
21-0101	International Building Code adopted.
21-0102	Modification of International Building Code.

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4745

~~2006~~2009 edition of the International Building Code of the ~~International Conference of Building Officials~~International Code Council as the same are now established in said code, a copy of which is on file in the office of the building inspector for the city of 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, and within the extra-territorial jurisdiction of the city.

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 ~~(NAME OF JURISDICTION)~~ the city of Fargo hereinafter referred to as "this code."

Section 101.4.3 is hereby amended to read as follows:

> Section 101.4.3 Plumbing. The provisions of the ~~International Plumbing Code~~ North Dakota State Plumbing Code shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. The provisions of the ~~International Private Sewage Disposal Code~~ North Dakota State Plumbing Code shall apply to private sewage disposal systems.

Section 104.8 is hereby amended to read as follows:

> Section 104.8 Liability. The building official, member of the board of appeals or employee charged with the enforcement of this code. While acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of

official duties. Any suit instituted against an officer or employee because of an act or omission performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the immunities and defenses provided by applicable local, state or federal laws ~~and shall be defended by legal representative of the jurisdiction until the final termination of the proceedings~~. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code. This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or the city be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

Section 105.2--Work exempt from permit. Exemptions from *permit* requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. *Permits* shall not be required for the following:

Building:
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2. Fences not over 6 8.5 feet high.
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6. Sidewalks and driveways ~~not more than 30 inches(762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route~~.
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11. Swings and other playground equipment accessory to detached one- and two-family dwellings.
12. Window awnings ~~supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support of group R-3 and U occupancies~~.
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14. Reroofing.

Section 107.2.5.1 is hereby deleted.

Section 107.3.1 is hereby amended to read as follows:

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

Section 109.2 is hereby amended to read as follows:

Section 109.2 -- Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit and plan review shall be paid as required, in accordance with the schedule as established by the ~~applicable governing authority~~ Fargo board of city commissioners. The plan review fees specified in this subsection are separate from, and in addition to, permit fees. When submittal documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittal items as defined in Section 106.3.4.2, an additional plan review fee shall be charged in an amount not to exceed 50% of the building permit fee established in Section 108.2.

Section 110.3.3 is hereby deleted in its entirety.

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 ~~five~~ twelve children older than 2 ½ years of age shall be classified as a Group E occupancy.

SECTION 308.3.1 is hereby amended to read as follows:

Section 308.3.1. Child care facilities. Facilities that provide care on a 24-hour basis to more than ~~five~~ twelve children 2 ½ years of age or less.

Section 308.5 is hereby amended to read as follows:

308.5 Group I-4, day care facilities. This group shall include buildings and structures occupied by persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage or adoption, and in a place other than the home of the person cared for. A facility such as the above with ~~five~~ twelve or fewer persons shall be classified as a Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2. Places of worship during religious functions are not included.

308.5.1 Adult care facility. A facility that provides accommodations for less than 24 hours for more than five unrelated adults and provides supervision and *personal care services* shall be classified as Group I-4.

Exception: A facility where occupants are capable of responding to an emergency situation without physical assistance from the staff shall be classified as Group R-3.

308.5.2 Child care facility. A facility that provides supervision and personal care on less than a 24-hour basis for more than ~~five~~ twelve children 21/2 years of age or less shall be classified as Group I-4.

Exception: A child day care facility that provides care for more than ~~five~~ twelve but no more than 100 children 21/2 years or less of age, where the rooms in which the children are cared for are located on a *level of exit discharge* serving such rooms and each of these child care rooms has an *exit* door directly to the exterior, shall be classified as Group E.

Section 310.1 is hereby amended to read in part as follows:

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I, including:
Buildings that do not contain more than two dwelling units.
Adult facilities that provide accommodations for five or fewer persons of any age for less than 24 hours.
Child care facilities that provide accommodations for ~~five~~ twelve or fewer persons of any age for less than 24 hours.
Congregate living facilities with 16 or fewer persons.
Adult and child care facilities that are within a single-family home are permitted to comply with the *International Residential Code* as adopted by the city of Fargo.

Section 406.1.4 is amended to read as follows:

406.1.4 Separation. Separations shall comply with the following:

1. The private garage shall be separated from the *dwelling unit* and its *attic* area by means of a minimum 1/2-inch (12.7 mm) gypsum board applied to the garage side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than a 5/8-inch (15.9 mm) Type X gypsum board or equivalent. Door openings between a private garage and the *dwelling unit* shall be equipped with either solid wood doors or solid or honeycomb core steel doors not less than 13/8 inches (34.9 mm) thick, or doors in compliance with Section 715.4.3. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. ~~Doors shall be self-closing and self-latching~~.

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Section 706.6 is hereby amended to add #6 to read:

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.

Section 801.5 is hereby amended to read as follows:

Section 801.5. Applicability. For buildings in flood hazard areas ~~as established in Section 1612.3,~~ 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 (Fargo Municipal Code, Article 21-06).

Section 903.2.7 Item # 4 is hereby deleted in its entirety.

Section 903.3.1.1 is hereby amended by adding a second paragraph to read as follows:

Sprinkler heads in unoccupied mall tenant spaces may be installed at ceiling height if allowed by the code official. Permission will be granted

on an individual basis. Combustible storage shall not be allowed in these unoccupied tenant spaces if sprinkler heads are installed at ceiling height. Signage shall be provided outlining the storage restrictions.

Section 907.2.11.1 is hereby amended to add item #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 907.2.11.2 is hereby amended to add item #4 to read as follows:

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

Section 1009.1 is hereby amended to add exception 5 to read as follows:

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

Section 1009.4.2, Exception 5, is hereby amended to read as follows and Exception 8 is added:

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 ~~7.75 inches (197 mm)~~ 8 inches and the minimum tread depth shall be ~~10 inches (254 mm)~~ 9 inches, the minimum winder tread depth at the walk line shall be 10 inches ~~(254 mm)~~, and the minimum winder tread depth shall be 6 inches ~~(152 mm)~~. A nosing not less than 0.75 inch ~~(19.1 mm)~~ but not more than 1.25 inches ~~(32 mm)~~ shall be provided on stairways with solid risers where the tread depth is less than 11 inches ~~(279 mm)~~.

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8. Stairways used to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public are permitted to have a maximum 8 inch rise and a minimum 9 inch run.

1009.12 Handrails. *Stairways* shall have *handrails* on each side and shall comply with Section 1012. Where glass is used to provide the *handrail*, the *handrail* shall also comply with Section 2407.

Exceptions:

1. *Handrails* for *aisle stairs* are not required where permitted by Section 1028.13.
2. *Stairways* within dwelling units, *spiral stairways* and *aisle stairs* serving seating only on one side are permitted to have a *handrail* on one side only.
3. Decks, patios and walkways that have a single change in elevation where the landing depth on each side of the change of elevation is greater than what is required for a landing do not require *handrails*.
4. In Group R-3 occupancies, a change in elevation consisting of a single riser at an entrance or egress door does not require *handrails*.
5. Changes in room elevations of three or fewer risers within dwelling units and sleeping units in Group R-2 and R-3 do not require handrails.
6. Vehicle service pit stairways are exempt from the rules for stairway railing and guards, if they would prevent a vehicle from moving into a position over the pit.
7. Stairways used only to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public are permitted to have a handrail on one side only.

Section 1104.4 exception 1 is hereby amended to read as follows:

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

Exceptions:

1. An accessible route is not required to stories, basements and mezzanines that have an ~~aggregate~~ area of not more than 3,000 square feet

(278.7 m2), are located above ~~and~~ or below accessible levels and are below the third story. This exception shall not apply to:
1.1. Multiple tenant facilities of Group M occupancies containing five or more tenant spaces;
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Section 1207 is hereby deleted in its entirety.

Sections 1403.5 and 1403.6 are hereby deleted in their entirety.

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

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

Section 1507.2.6 is hereby amended to read as follows:

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

Section 1510 is hereby deleted and relocated as Appendix L.

Section 1601.1 is hereby amended to read as follows:

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

It shall not be the responsibility of the building official to determine engineering requirements of this code. Exclusive of the conventional light-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.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4745

Section 1610.1 exception is hereby amended to read as follows:

Exception: Foundation walls extending not more than ~~8~~ 9 feet ~~(2438 mm)~~ below grade and laterally supported ~~by~~ at the top by flexible diaphragms shall be permitted to be designed for active pressure.

Section 1612 is hereby deleted in its entirety.

Section 1704.1 is hereby amended to add an exception 4 to read as follows:

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

Section 1804.3 is hereby amended to read as follows:

~~**1804.3 Site Grading.** The procedure used to establish the final ground level adjacent to the foundation shall account for additional settlement of the backfill.The ground immediately adjacent to the foundation shall be sloped away from the building at a slope of not less than one unit vertical in 20 units horizontal (5-percent slope) for a minimum distance of 10 feet (3048 mm) measured perpendicular to the face of the wall. If physical obstructions or lot lines prohibit 10 feet (3048 mm) of horizontal distance, a 5-percent slope shall be provided to an *approved* alternative method of diverting water away from the foundation. Swales used for this purpose shall be sloped a minimum of 2 percent where located within 10 feet (3048 mm) of the building foundation. Impervious surfaces within 10 feet (3048 mm) of the building foundation shall be sloped a minimum of 2 percent away from the building.~~

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

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

Section 1804.3 Surface drainage. Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection. Lots shall be graded to drain surface water away from foundation walls.

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

Section 1804.4 is hereby deleted in its entirety.

Section 1805.1.2.1 is hereby deleted in its entirety.

Section 1809.5 is hereby amended to read as follows:

1809.5 Frost protection. Except where otherwise protected from frost, foundations and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:
1. Extending below the frost line of the locality;
2. Constructing in accordance with ASCE 32; or
3. Erecting on solid rock.

Exception: Free-standing buildings meeting all of the following conditions shall not be required to be protected:
1. Assigned to *Occupancy Category* I, in accordance with Section 1604.5;
2. Area of 600 square feet (56m2) or less for light-frame construction or 400 square feet (37 m2) or less for other than light-frame construction; and
3. Eave height of 10 feet (3048 mm) or less.
4. Free-standing buildings used as Group U occupancies for the storage of private or pleasure-type motor vehicles constructed in accordance with Sections 406.1.1 and 406.1.2.

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4745

Section 2901.1 is hereby amended to read as follows:

The provisions of this chapter and the ~~International Plumbing Code~~ North Dakota State Plumbing Code shall govern the erection, installation, alteration, repairs, relocations, replacement, addition to, use or maintenance of plumbing equipment and systems. Plumbing systems and equipment shall be constructed, installed and maintained in accordance with the ~~International Plumbing Code~~ North Dakota State Plumbing Code. Private sewage disposal systems shall conform to the ~~International Private Sewage Disposal Code~~ North Dakota State Plumbing Code.

Section 3109 is hereby deleted and moved Appendix M.

Section 2. Penalty.

A person who willfully violates this ordinance is guilty of an infraction. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed $500.00; the court to have power to suspend said sentence and to revoke the suspension thereof.

Section 3. Effective Date.

This ordinance shall be in full force and effect from and after its passage, approval and publication.

Dennis R. Walaker, Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading: 06-01-2010
Second Reading: 06-14-2010
Final Passage: 06-14--2010
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