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ORDINANCE NO. 298

AN ORDINANCE OF THE CITY OF BALTIC, SD, AMENDING THE CODE OF ORDINANCES OF THE CITY BY ADOPTING THE 2021 *INTERNATIONAL EXISTING BUILDING CODE* AND AMENDMENTS THERETO.

BE IT ORDAINED BY THE CITY OF BALTIC, SD:

*Section 1. That Section 150.30 of the Code of Ordinances of BALTIC, SD, is hereby amended to read:*

**§ 150.30 ADOPTED.**

- (a) The *International Existing Building Code*, 2021 edition, including Resource A, Guidelines on Fire Ratings of Archaic Materials and Assemblies, as published by the International Code Council Inc., and amendments and additions thereto as provided in this article, are hereby adopted as the existing building code by the city for regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, including historic buildings, as herein provided and provides for the issuance of permits and the collection of fees therefor.
- (b) The adoption of the *International Existing Building Code*, 2021 edition, will become effective MAY 1, 2022. The minimum building standards in the 2021 edition of the *International Existing Building Code* and amendments thereto shall be applied to any building permit issued after APRIL 30, 2022.
- (c) The city shall publish this ordinance, without attachments, after its passage. The attachments are on file and available for inspection at the office of the city clerk.

*Section 2. That Section 150.30 of the Code of Ordinances of BALTIC, SD, is hereby amended to read:*

**§ 150.31 AMENDMENTS, ADDITIONS, AND DELETIONS TO THE 2021 *INTERNATIONAL EXISTING BUILDING CODE*.**

The following sections and subsections of the existing building code adopted in this subchapter shall be amended, added, or deleted as follows. All other sections or subsections of the 2021 *International Existing Building Code* shall remain the same.

[A] **101.1 Title.** These regulations shall be known as the existing building code of the city of Sioux Falls, hereinafter referred to as “this code.”

[A] **103.1 Enforcement agency.** Building services is hereby created, and the official in charge thereof shall be known as the code official. The function of the agency shall be the implementation, administration, and enforcement of the provisions of this code.

[A] **103.2 Appointment.** By the city OF BALTIC.

[A] **104.8 Liability.** The code 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 civilly or criminally 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.

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.

[A] **104.8.1 Legal defense.** Any suit or criminal complaint instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection provided by the city’s insurance pool and immunities and defenses provided by other applicable state and federal laws and shall be defended by legal representatives of the jurisdiction until the final termination of the proceedings. The code 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.

[A] **104.11 Alternative materials, design and methods of construction, and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design, or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method, or work offered is, for the purpose intended, not less than the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability, and safety.

[A] **105.1 Required.** Any owner or owner’s authorized agent who intends to repair, add to, alter, relocate, demolish, or change the occupancy of a building or to repair, install, add, alter, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the code official and obtain the required permit. The code official may exempt permits for minor work.

[A] **105.1.1 Annual permit.** Not adopted by the city.

[A] **105.1.2 Annual permit records.** Not adopted by the city.

**108.7 Delinquent accounts.** The city may refuse to issue permits or conduct inspections for any person or business whose account is delinquent.

[A] **109.3.1 Footing or foundation inspection.** Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. If an inspection is required for concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

[A] **110.2 Certificate issued.** After the code official inspects the structure and does not find violations of the provisions of this code or other laws that are enforced by the department, the code official shall issue a certificate of occupancy that shall contain the following:

1. The permit numbers.
2. The address of the structure.
3. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
4. The name of the code official.
5. The edition of the code under which the permit was issued.
6. The use and occupancy in accordance with the provisions of the *International Building Code*.
7. The type of construction as defined in the *International Building Code*.
8. The design occupant load in assembly occupancies only.
9. Where an automatic sprinkler system is provided, and whether an automatic sprinkler system is required.
10. Any special stipulations and conditions of the building permit.

[A] **112.1 General.** In order to hear and decide appeals of orders, decisions, or determinations made by the building and fire code officials relative to the application and interpretation of this code and the fire code, to review all prospective changes to the respective codes and to submit recommendations to the responsible official and the city council, to approve permits for house moves, and to examine applicants for licensing and to investigate matters brought to the board, there shall be and is hereby created a board of appeals. Members shall be appointed by the mayor with the advice and consent of the city council and shall hold office at its pleasure. The board

shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the code official.

**[A] 113.3 Prosecution of violation.** If the notice of violation is not complied with promptly, the code official is authorized to request the legal counsel of the jurisdiction to deem the violation as a strict liability offense and institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

**Section 202—General Definitions.** Add the following definition:

**STRICT LIABILITY OFFENSE.** An offense, in which the prosecution in a legal proceeding, is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited or failed to do an act which the defendant was legally required to do.

**3022 Additional codes.** Alterations, repairs, additions and changes of occupancy to, or relocation of, existing buildings and structures shall comply with the provisions for alterations, repairs, additions and changes of occupancy, or relocation, respectively, in this code and the *International Energy Conservation Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, Uniform Plumbing Code, International Property Maintenance Code, International Residential Code*, and NFPA 70. Where provisions of the other codes conflict with provisions of this code, the provisions of this code shall take precedence.

**Section 303 Storm Shelters.** Not adopted by the city.

**406.1 Material.** Existing electrical wiring and equipment undergoing repair shall be allowed to be repaired or replaced with like material. Minor additions, alterations, and repairs to existing electrical systems or equipment may be installed in accordance with the law in effect at the time the original installation was made, when approved by the electrical inspector.

**406.1.4 Health care facilities.** Portions of electrical systems being repaired in Group I-2, ambulatory care facilities and outpatient clinics, shall comply with NFPA 99 requirements for repairs and Article 517 of NFPA 70.

**406.1.6 New electrical service entrances in existing single-family and multiple-family dwellings.** When adding a new service entrance with increased amperage, the existing electrical system shall, at a minimum, comply with the following:

- (1) *Kitchens.* Each kitchen shall have a minimum of one 20-ampere circuit serving a countertop receptacle and a grounded receptacle serving a refrigerator.
- (2) *Overcurrent device location.* Each occupant shall have access to his branch circuit overcurrent devices without going outdoors or through another occupancy.

- (3) *Habitable areas.* All habitable areas, other than closets, kitchens, basements, garages, hallways, laundry areas, utility areas, storage areas, and bathrooms, shall have a minimum of two duplex receptacle outlets, or one duplex receptacle outlet and one ceiling or wall-type lighting outlet.
- (4) *Minimum lighting outlets.* At least one lighting fixture shall be provided in every habitable room, bathroom, hallway, stairway, attached garage, and detached garage with electrical power, in utility rooms and basements where such spaces are used for storage or contain equipment requiring service, and to illuminate outdoor entrances and exits. A switched receptacle is allowed in lieu of a lighting fixture in habitable rooms only.
- (5) *Ground fault circuit interrupters.* Ground fault circuit interrupter protection shall be provided for all receptacles in bathrooms, above kitchen counters, attached and detached garages provided with power, at readily accessible receptacles within 6 feet of sinks, basements, and at outdoor locations. The exceptions of the *National Electrical Code* 210.8(A) 3 and 5 shall apply.
- (6) *Laundries.* Each laundry shall be provided with at least one separate 20-ampere circuit.
- (7) *Heat sources.* The primary heat source shall be provided with a separate circuit.
- (8) *Exposed wiring methods.* All exposed wiring methods shall be installed in accordance with the applicable *National Electrical Code* article.
- (9) *Bathrooms.* Each bathroom shall have one receptacle outlet located within 3 feet of the basin. Any bathroom receptacle outlet shall have ground fault circuit interrupter protection.
- (10) *Emergency disconnect.* An emergency disconnect shall be provided as required in Section 230.85 of the *National Electric Code* for one- and two-family dwelling units and townhomes.

**408.1 Materials.** Plumbing materials and supplies shall not be used for repairs that are prohibited in the *Uniform Plumbing Code*.

**702.7 Materials and methods.** New work shall comply with the materials and methods requirements in the *International Building Code*, *International Residential Code*, *International Energy Conservation Code*, *International Mechanical Code*, *International Fuel Gas Code*, *NFPA 70*, and the *Uniform Plumbing Code*, as applicable, that specify material standards, detail of installation and connection, joints, penetrations, and continuity of any element, component, or system in the building.

**[M] 702.7.2 International Mechanical Code.** The following sections of the *International Mechanical Code* shall constitute the mechanical materials and methods requirements for Level 1 alterations:

1. All of Chapter 3, entitled “General Regulations,” except Sections 303.7 and 306.

2. All of Chapter 8, entitled “Chimneys and Vents.”
3. All of Chapter 9, entitled “Specific Appliances.”

**[R] 702.6.3 *International Residential Code*.** The following sections of Part V—Mechanical of the *International Residential Code* shall constitute the residential mechanical and fuel gas materials and methods requirements for Level 1 alterations:

1. All of Chapter 13, entitled “General Mechanical System Requirements,” except Section M1305.
2. All of Chapter 18, entitled “Chimneys and Vents.”
3. All of Section G2412 entitled “General” and G2413 entitled “Pipe Sizing” except Sections 2412.8 and G2413.3.
  - 3.1. Sections G2412 and G2413 shall apply where the work being performed increases the load on the system such that the existing pipe does not meet the size required by code. Existing systems that are modified shall not require resizing as long as the load on the system is not increased and the system length is not increased even if the altered system does not meet code minimums.
4. All of Sections G2431 through G2453 governing the appliances and equipment specifically identified therein.

**804.4.1.2.1 Fire escape access and details.** Fire escapes shall comply with all of the following requirements:

1. Occupants shall have unobstructed access to the fire escape without having to pass through a room subject to locking.
2. Access to a new fire escape shall be through a door, except that windows shall be permitted to provide access from single dwelling units or sleeping units in Group R-1, R-2, and I-1 occupancies or to provide access from spaces having a maximum occupant load of 10 in other occupancy classifications.
  - 2.1. The window shall have a minimum net clear opening of 5 square feet (0.46 m<sup>2</sup>).
  - 2.2. The minimum net clear opening height shall be 24 inches (610 mm) and net clear opening width shall be 20 inches (508 mm).
  - 2.3. The bottom of the clear opening shall not be greater than 48 inches (1,219 mm) above the floor.
  - 2.4. The operation of the window shall comply with the operational constraints of the *International Building Code*.

3. Newly constructed fire escapes shall be permitted only where exterior stairways cannot be utilized because of lot lines limiting the stairway size or because of the sidewalks, alleys, or roads at grade level.
4. Openings within 10 feet (3,048 mm) of fire escape stairways shall be protected by fire assemblies having minimum 3/4-hour fire resistance ratings.

**Exception:** Opening protection shall not be required in buildings equipped throughout with an approved automatic sprinkler system.

5. In all buildings of Group E occupancy, up to and including the 12th grade, buildings of Group I occupancy, rooming houses and childcare centers, ladders of any type are prohibited on fire escapes used as a required means of egress.

**1009.1 Increased demand.** Where the occupancy of an existing building or part of an existing building is changed such that the new occupancy is subject to increased or different plumbing fixture requirements or to increased water supply requirements in accordance with the *Uniform Plumbing Code*, the new occupancy shall comply with the intent of the respective *Uniform Plumbing Code* provisions.

**Exception:** Only where the occupant load of the story is increased by more than 20 percent, plumbing fixtures for the story shall be provided in quantities specified in the *International Building Code* based on the increased occupant load.

**1009.2 Food-handling occupancies.** If the new occupancy is a food-handling establishment, all existing sanitary waste lines above the food or drink preparation or storage areas shall be panned or otherwise protected to prevent leaking pipes or condensation on pipes from contaminating food or drink. New drainage lines shall not be installed above such areas and shall be protected in accordance with the *Uniform Plumbing Code*.

**1009.3 Interceptor required.** If the new occupancy will produce grease or oil-laden wastes, interceptors shall be provided as required in the *Uniform Plumbing Code*.

**1009.5 Group I-2.** If the occupancy group is changed to Group I-2, the plumbing system shall comply with the applicable requirements of the *Uniform Plumbing Code*.

**Table 1011.5  
Means of Egress Hazard Categories**

Relative Hazard	Occupancy Classifications
1 (Highest Hazard)	H; I-2; I-3; I-4
2	I-1; R-1; R-2; R-4, Condition 2
3	A; E; M; R-4, Condition 1
4	B; F-1; S-1; R-3
5 (Lowest Hazard)	F-2; S-2; U

**1011.5.6 Existing emergency escape and rescue openings.** Where a *change of occupancy* would require an *emergency escape and rescue opening* in accordance with Section 1031 of the *International Building Code*, operable windows serving as the *emergency escape and rescue opening* shall comply with the following:

1. An existing operable window shall provide a minimum net clear opening of 4 square feet (0.38 m<sup>2</sup>) with a minimum net clear opening height of 22 inches (559 mm) and a minimum net clear opening width of 20 inches (508 mm), provided the operable window has a sill height of not more than 48 inches (1,219 mm) above the floor.
2. A replacement window where such window complies with both of the following:
  - 2.1. The replacement window meets the size requirements in Item 1.
  - 2.2. The replacement window is the manufacturer's largest standard size window that will fit within the existing frame or existing rough opening. The replacement window shall be permitted to be of the same operating style as the existing window or a style that provides for an equal or greater window opening area than the existing window.

**Table 1011.6  
Heights and Areas Hazard Categories**

Relative Hazard	Occupancy Classifications
1 (Highest Hazard)	H; I-2; I-3; I-4
2	A-1; A-2; A-3; A-4; I-1; R-1; R-2; R-4, Condition 2
3	E; F-1; S-1; M
4 (Lowest Hazard)	B; F-2; S-2; A-5; R-3; R-4, Condition 1; U

**1011.6.2 Exterior wall rating for change of occupancy classification to an equal or lesser hazard category.** When a change of occupancy classification is made to an equal or lesser hazard category as shown in Table 1011.6, existing exterior walls, including openings, shall be accepted.

**Exception.** Where a property line is platted creating a Group R-3, multifamily dwelling (town house), the walls separating the dwelling units shall be constructed to provide a continuous fire separation using construction materials consistent with the existing wall or complying with the requirements for a new structure. The fire-resistive elements are not required to be continuous between concealed floor spaces, although there shall be provided a draft-stop, located above and in line with the dwelling unit separation walls.

**1301.2.6 Plumbing fixtures.** Plumbing fixtures shall be provided in accordance with Section 1009 for a change of occupancy and Section 808 for *alterations*. Plumbing fixtures for *additions* shall be in accordance with the *International Building Code*.

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

**Exceptions:**

1. Manufactured homes used as a dwelling and located in a licensed manufactured home park.
2. Structures used as a temporary office or shelter on a construction or development site when approved by the building official.
3. Structures used as a temporary business office for a period as specified in Section [A] 108.1 of the *International Building Code* when approved by the building official and provided it meets the applicable accessibility requirements of this code.
4. Manufactured homes used as a sales office at a location where such homes are offered for sale, provided it meets the applicable accessibility requirements of this code.

**1401.3 Definitions.** For the purpose of this section, the following words and phrases mean:

1. *Building mover.* Any person, firm, partnership, corporation, or association who engages in the business or work of moving a building across public property within the city.
2. *Building moving.* The moving of any house, building, structure, or any part or parts thereof, except structures or parts of structures less than 12 feet wide and 13.5 feet high when loaded, from one location to another when moving requires traveling upon, across, along, or over any street, avenue, highway, thoroughfare, alley, sidewalk, or other public ground in the city. This term does not apply to manufactured or modular structures or assemblies that do not exceed 15 feet in height and 16.6 feet in width including all nonstructural appendages, or a length of 80.6 feet including all nonstructural appendages.
3. *Agency.* The planning and building services department, police department, city forester, city light and power, and city engineering department.

**1401.4 License required.** No person except a building mover licensed by the city shall move any building, house, or structure, or part thereof, across, along, or over any public property.

**1401.5 License application.** Any person desiring to engage in the business of building moving must file an application for the building mover's license in the city engineering department.

**1401.6 Bonding.** The applicant for a building mover's license shall file with the application a bond running to the city in the penal sum of \$10,000.00 with sufficient sureties and conditioned

that the license will comply with all city requirements to the satisfaction of the city engineering department and shall encompass repairs due to any damage to any sidewalk, crosswalk, hydrant, street, alley, or other property done or caused by himself, his servants, or employees in connection with moving any building.

The bond will guarantee payment for damages to property and payment to the city for services provided by the city. The license will indemnify and save harmless the city against any and all liability for damages, costs, or expenses arising out of any negligence on his part or on the part of his servants or employees in connection with the moving of any building or the use of any public street or ground for that purpose.

**1401.7 Revocation.** A building mover's license may be revoked at any time if the mover violates the provisions of this chapter or rules established by the agency, or conducts his business in a careless or reckless manner, or refuses to make prompt payment of any sums due the city from him under any of the provisions of this chapter, or whose bond or insurance as required herein has been canceled or otherwise terminated.

**1401.8 Transferability.** No license or permit issued pursuant to this chapter shall be transferable.

**1401.9 Permits required.** No person shall engage in building moving unless and until he has obtained a building moving permit, which will not be issued to anyone except a person licensed as the building mover. Such permit shall be obtained not less than seven days prior to the move.

**1401.10 Prerequisites to a permit.** No permit to move a building shall be issued as hereunder provided until the following conditions have been satisfied:

1. A permit for capping the sanitary sewer service and/or water service shall be obtained pursuant to Permit To Raze or Remove Building Required and Disconnection, of the Code of Ordinances of Baltic, SD.
2. A building permit is required to place a one- or two-family dwelling in a residential zoning district on the property described on the application if located in the city. Before a city building permit can be issued for a one- or two-family dwelling to be moved in a residential zoning district, the applicant shall post the property. A hearing before the building board of appeals will be required prior to the issuance of the building permit upon request from the public. A hearing will be initiated and scheduled at the request of the public within the time period of posting the signs per Item 1 below. The request shall be in writing on forms provided by building services.

Before any action can be taken by the board, the applicant shall:

1. Post the property where the dwelling is to be moved for a continuous period of not less than five working days with signs furnished by the building official. At least two signs shall be posted. The applicant shall submit a written oath that the signs were properly posted.

2. Submit one certified copy of the restrictions and covenants of the property where the dwelling is proposed to be moved. Those portions applicable to the dwelling shall be highlighted. If the property contains no restrictions or covenants, a statement to that fact shall be submitted.
  3. Submit a proposed site plan containing the legal description where the dwelling is proposed to be moved.
  4. Submit the inspection report from the building inspector.
  5. Submit original clear photographs of the front, rear, and side elevations of the dwelling to be moved.
3. Any person filing an application for a moving permit shall file with the city engineer a liability insurance policy issued by the insurance company authorized to do business in this state and approved as to form by the city attorney in the following amounts: \$250,000.00 per person, \$500,000.00 per accident, \$500,000.00 property damage.
  4. When required by the building official, satisfactory evidence from a licensed pest control company that all nuisance pests have been exterminated from the structure.
  5. Approval of the route and time of move by the city police, city light and power, city traffic engineer, and city forester.
  6. Approval from planning and building services concerning the moving of any building or structure in the historic district.

**1401.11 Permit application.** The application shall contain the date or dates of the moving of the building, house, or structure; a detailed statement setting forth the proposed route to be followed; the name of the person in charge of the move; the location of the premises to which the structure or building is to be moved; and an agreement that the applicant will immediately report any damage done by the moving operation to any public property and will indemnify and hold the city harmless from any claims or damages for injuries to persons or property resulting from the moving of the building or structure.

**1401.12 Fees. Set by resolution.**

**1401.13 Denial.** If the applicant fails to agree or comply with the conditions as set forth herein or if in the judgment of the building official the building or structure is in such a state of disrepair that it would not be safe to move the building, or if in the judgment of the traffic engineer or the city forester the proposed move would result in an undue hazard to public traffic or undue damage to streets, sidewalks, trees, or other public property, the permit will be denied and reasons therefor endorsed upon the application.

**1401.14 Restrictions on moving through streets.** All moving of the building once started shall continue until completed, and no building shall be parked along the route unless deemed an

emergency and approved by the traffic engineer. The traffic engineer may require police escorts, temporary removal of traffic devices, or may restrict or specify the day and hours during which the moving operation must be accomplished.

**1401.15 Posting.** Two moving placards must be posted on a visible location on opposite ends of the building being moved during the entire move, and the person moving the building must carry a signed duplicate of the permit.

**1401.16 Escorts.** Movers shall provide a front and rear escort for all movements.

**1401.17 Flags.** Red and orange flags, 12 inches by 12 inches, must be fastened to the rear corners of the moving structure.

**1401.18 Notice to public service companies, cable TV operations, and the city of Baltic.** Before moving any building, the building mover shall notify Metro Communications (911) immediately prior to entering public property. The mover shall make arrangements with the police department and traffic engineers seven days prior to the move if a police escort is required. The mover shall also give seven days' notice to all city departments, public service operations, and cable TV operators whose wires, traffic control devices, or other appliances which affect the moving of such building of the time when the move is to take place and request and arrange for the passage of such building. Such building mover shall pay to the city and said corporation and operators the reasonable cost and expense of the work required to be done.

**1401.19 Tampering with private property.** The mover during all moves shall obey all laws pertaining to tampering with private property and vehicles on the street. Tampering with any wires or facilities belonging to private or public service companies is prohibited.

**1401.20 Reporting damage.** The building mover shall immediately report any damage done by the moving operation to any street, sidewalk, curb, utility equipment, tree sign, or other public or private property to the city engineer.

Date adopted: \_\_\_\_\_.

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Tracy Petersen, Mayor

ATTEST:

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Sara Smith, Finance Officer