

CHAPTER 11 - CONSTRUCTION AND SPECIAL CODES

ARTICLE 9 – International Existing Building Code

SECTIONS:

Sections 11-9-101 to 199, inclusive. International Existing Building Code - general provisions.

Section 11-9-101. Adoption of the International Existing Building Code.

Section 11-9-102 to 199, inclusive. Reserved.

Sections 11-9-101 to 199, inclusive. International Existing Building Code - general provisions.

Section 11-9-101 Adoption of the International Existing Building Code.

An ordinance of the City of Pierre adopting the 2021 edition of the *International Existing Building Code* Chapter 1 through 16 and Appendix B 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 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; repealing parts of Ordinance No. 1828 of the City of Pierre and all other ordinances and parts of ordinances in conflict therewith.

The City Commission of the City of Pierre does ordain as follows:

Section 1. That a certain document, a copy of which is on file in the office of the Building Official of the City of Pierre, being marked and designated as the *International Existing Building Code, 2021* edition, as published by the International Code Council, be and is hereby adopted as the Existing Building Code of the City of Pierre, in the State of South Dakota, by providing the standards for repair, alteration, change of occupancy, addition, and relocation of existing buildings, including historic buildings, a copy of which is on file in the office of the City of Pierre and is hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 2. The following sections are hereby revised:

The following sections and subsections of the 2021 International Existing Building Code adopted in this article shall be amended, added, or not adopted by the city as follows. All other sections or subsections of the 2021 International Existing Building Code as published shall remain the same.

[A]101.1 Title. These regulations shall be known as the *Existing Building Code* of the City of Pierre, herein after referred to as “this code.”

[A] 103.1 Creation of enforcement agency. The Building Department is hereby created and the official in charge thereof shall be known as the Building Official who shall work under the direct supervision of the City Engineer. The function of the agency shall be the implementation, administration and enforcement of the provisions of this code.

[A] 103.2 Appointment. Not adopted by the City of Pierre.

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

This code shall not be construed to relieve 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 city, or its officers and employees, be held as assuming any such liability by reason of the inspections 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 any immunities and defenses provided by other applicable state and federal law and defended by legal representatives of the jurisdiction until the final termination of the proceedings. The *building official* or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

[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 construct, enlarge, alter, *repair*, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, *repair*, 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 *building official* and obtain the required *permit*. The *building official* may exempt permits for minor work.

[A]105.1.1 Annual permit. Not adopted by the City of Pierre.

[A]105.1.2 Annual permit records. Not adopted by the City of Pierre.

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

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

1. The *permit* number.
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.
4. The name of the *building official*.
5. The edition of the code under which the *permit* was issued.
6. The use and occupancy, in accordance with the provisions of Chapter 3.

7. The type of construction as defined in Chapter 6.
8. The design *occupant load*.
9. Where an *automatic sprinkler system is provided*, whether the 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 official* relative to the application and interpretation of this code, there shall be and is hereby created a building code board of appeals. The building code board of appeals shall be appointed by the applicable governing authority 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 *building official*.

112.5 Building code board of appeals application. Application to the building code board of appeals shall be made in writing to the building official within thirty (30) days after the decision of the building official was served.

[A] 113.3 Prosecution of violation. If the notice of violation is not complied with promptly, the *building 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.

302.2 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. For the purposes of this code, all references to the *International Plumbing Code* shall refer to the *Uniform Plumbing Code* as adopted and administered by the State of South Dakota Department of Labor.

Section 303 Storm Shelters. Not adopted by the City of Pierre.

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* and *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.

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* or Section R310 of the *International Residential 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 m²) 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.

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. Mobile or manufactured homes used as a dwelling and located in a mobile home park operated under a valid license.
2. Mobile or manufactured homes used as a dwelling and located in a manufactured housing park.
3. Mobile or manufactured homes used as a dwelling and placed in One Family Residential C or Ag Zoning districts.
4. Structures used as a temporary office or shelter on a construction or development site when approved by the building official.
5. Structures used as a temporary business office, when approved by the building official and the City Commission provided it meets the applicable accessibility requirements of this code, for a period not to exceed two years.
6. Mobile or 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 Permanent buildings. Buildings or structures moved into or within the jurisdiction shall comply with the provisions of this code. Any person moving buildings or structures into or within the jurisdiction of the City of Pierre and the extra-territorial limits of the City of Pierre for permanent placement shall make application for a moving permit to the Building Department for review and approval which application may also be forwarded the Pierre City Commission for their review and approval at the discretion of the Building Department. The moving permit application shall include the following:

1. Legal description and address where the building is located, and/or where structure is being moved from, and pictures of the building:
 - a. Plan of clean-up and reclamation of the property including provisions for positive drainage from the lot but not onto adjacent properties.
 - b. Plan for capping sanitary sewer service
 - c. Plan for disconnection of water service
2. Legal description, lot survey and address where the building or structure is being moved to:
 - a. Site plan as to building or structure location
 - b. Moving contractor and route of travel
 - c. Written acknowledgments of the project from adjacent and nearby property owners
 - d. A detailed plan for the remodel, refurbishing, and exterior finishing of the building

1401.4 Utility Disconnects. Unless a building is going to be replaced within one (1) year on the lot a demolished or moved structure has vacated, the sanitary sewer service line and the water service line must be disconnected as follows:

1. The sanitary sewer line shall be capped at the property line adjacent to the sanitary sewer main.

2. The water service line shall be shut off at the corporation valve on the water main.

1401.5 Buildings moved out of jurisdiction or buildings to be demolished. Buildings that are to be moved out of the jurisdiction of the city of Pierre or to be demolished shall require a demolition or moving permit. The plan for the removal of the building shall include the restoration of the property including removal of the building foundation, accessory buildings and foundations or slabs on grade. The property shall be graded to provide for positive drainage off of the property to the exterior of the lot but shall not be directed onto the adjacent lots.

1401.5.1 Utility disconnects. Existing water and sanitary sewer services shall be removed as provided for in Section 1401.4.

Appendix B – Supplementary Accessibility Requirements for Existing Buildings and Facilities. This appendix is adopted in its entirety.

Section 3. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. That nothing in this ordinance or in the *International Existing Building Code* hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 3 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 5. The Finance Officer is hereby ordered and directed to cause this ordinance to be published.

Section 6. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect twenty (20) days from and after the date of adoption and publication.

Source: Ord. No. 1625, 2008; Ord. No. 1701, 2012; Ord. No. 1828, 2021; Ord. No. 1878, 2025.