

TITLE V.

BUILDINGS

CHAPTERS:

- 5-01. International Building Code.
- 5-02. Dangerous Buildings.
- 5-03. Moving Buildings.
- 5-04. Floodplain Management. (Source: Ord. 2022-99, Sec. 1)
- 5-05. Minimum Housing Standards.
- 5-06. International Property Maintenance Code.
- 5-07. International Residential Code.
- 5-08. International Existing Building Code.
- 5-09. International Energy Conservation Code.

CHAPTER 5-01

INTERNATIONAL BUILDING CODE

(Source: Ord. 2011-33, Sec. 1 [2011])

SECTIONS:

- 5-0101. Adoption of International Building Code.
 - 5-0102. Modifications of International Building Code.
 - 5-0103. Penalty.
 - 5-0104. Appeals
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5-0101. Adoption of International Building Code. 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 Kindred, North Dakota, shall meet with the provisions of the rules and regulations of the 2009 edition of the International Building Code, of the 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 Administrator for the City of Kindred, with the exception of the sections hereinafter set forth affecting local conditions in the City of Kindred, which sections shall be substituted for and in lieu of like sections or paragraphs in said International Building Code; and the City Council of said City of Kindred, by this section hereby approves and adopts such rules and regulations, as so modified, for use and application in the City of Kindred, North Dakota, as well as for any area within the extraterritorial zoning jurisdiction of the City. Provided, that any amendments of the 2009 edition of the International Building Code may be adopted by the City by resolution.

5-0102. Modification of International Building Code. The International Building Code as adopted in Section 5-0101 is hereby changed and amended as follows:

SECTION 101.1 is hereby amended to read as follows:

101.1 Title. These regulations shall be known as the Building Code of ~~(NAME OF JURISDICTION)~~ the City of Kindred hereinafter referred to as “this code.”

SECTION 101.4.3 is hereby amended to read as follows:

101.4.3 Plumbing. ~~The provisions of the “International Plumbing Code” shall apply to the installation, alterations, 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” shall apply to private sewage disposal systems. Wherever the term “International Plumbing Code” and/or the “International Private Sewage Disposal Code” is used in the International Building Code, it shall mean the North Dakota State Plumbing Code.~~

SECTION 104.8 is hereby amended to include a new final paragraph as follows:

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 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 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 is hereby amended to read as follows:

105.2 Work exempt from permit. ...

Building:

2. Fences not over ~~6~~ 8.5 feet high.

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.~~

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.

14. Reroofing.

SECTION 107.2.5.1 is hereby deleted in its entirety.

SECTION 107.3.1 is hereby amended to read as follows:

107.3.1. Approval of construction documents. When the building official...
...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:

108.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit and plan review shall be paid as required, in accordance with the schedule as established by the ~~applicable governing authority~~ Kindred City Council. 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 109.2.

SECTION 110.3.3 is hereby deleted in its entirety and subsequent sections renumbered accordingly.

SECTION 113 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~~ eighteen children older than 2½ years of age, shall be classified as a Group E occupancy.

SECTION 308.3.1 is hereby amended to read as follows:

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

SECTION 308.5 is hereby amended to read as follows:

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

SECTION 308.5.2 is hereby amended to read as follows:

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

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

SECTION 310.1 is hereby amended to read as follows:

310.1 Residential Group R ...

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~~ eighteen 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 Kindred.

SECTION 406.1.4 PARAGRAPH 1 is hereby amended to read as follows:

406.1.4 Separation. Separations shall comply with the following:

1. ...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.~~ ...

SECTION 706.6 is hereby amended to add Exception 6 to read as follows:

706.6 Vertical continuity. ...

Exceptions: ...

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:

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 Ordinances of the City of Kindred.

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

SECTION 903.3.1.1 is hereby amended to add second paragraph to read as follows:

[F] 903.3.1.1 NFPA 13 sprinkler systems. Where the provisions of this code require . . .

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 and requires written documentation from the code official. Combustible storage shall not be allowed in these unoccupied tenant spaces if sprinkler heads are installed at ceiling height. Signage shall be provide outlining the storage restrictions.

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

[F] 907.2.11.1 Group R-1. ...

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:

[F] 907.2.11.2 Groups R-2, R-3, R-4 and I-1. ...

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 an Exception 5 to read as follows:

1009.1 Stairway width. ...

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

1009.4 Stair treads and risers. ...

Exceptions: ...

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~~). ...
6. ***
7. ***
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 handrail on one side only.

Section 1009.10 Exceptions 6 and 7 are hereby added to read as follows:

1009.10 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:

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~~ shall not be 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...

Section 1107.7.5 is hereby deleted in its entirety.

Section 1203.3.2 is hereby amended to read as follows:

1203.3.2 Exceptions. The following are exceptions to Sections 1203.3 and 1203.3.1:

1. Where warranted by climatic conditions, ventilation ...

~~5. For buildings in flood hazard areas as established in Section 1612.3, the openings for under floor ventilation shall be deemed as meeting the flood opening requirements of ASCE 24 provided that the ventilation openings are designed and installed in accordance with ASCE 24.~~

Section 1207 is hereby deleted in its entirety.

Section 1403.5 is hereby deleted in its entirety.

Section 1403.6 is hereby deleted in its entirety.

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

1406.3 Balconies and similar projections. ...

Exceptions:

1. On buildings of Type I and II construction, three stories or less . . .
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:

1507.2.6 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 add a second paragraph 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.

Section 1603.1 Exception 5 is hereby deleted in its entirety.

Section 1603.1.7 is hereby deleted in its entirety.

Section 1610 exception is hereby amended to read as follows:

1610.1 General. ...

Exception: Basement 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 paragraph 4 to read as follows:

1704.1 General.

Exceptions: ...

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 deleted and the following section enacted to read as follows:

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.

Section 1804.4 is hereby deleted in its entirety and subsequent sections renumbered accordingly.

Section 1805.1.2.1 is hereby deleted in its entirety.

SECTION 1809.5 is hereby amended to add a new exception #4 as follows:

1809.5 Frost protection. ...

4. Free-standing buildings used as Group U occupancies for the storage of private or pleasure-type motor vehicles constructed in accordance with Section 406.1.1 and 406.1.2.

Section 2901 is hereby amended to read as follows:

[P] 2901.1 Scope. The provisions of this chapter and the *International Plumbing Code* North Dakota State Plumbing Code shall govern the erection, installation, alteration, repairs, relocation, 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 3102.7 is hereby amended to read as follows:

3102.7 Engineering Design. The structure shall be designed and constructed to sustain dead loads; loads due to tension or inflation; live loads including wind, snow ~~or flood~~ and seismic loads and in accordance with Chapter 16.

Section 3109 is hereby deleted and moved to Appendix M.

Section 3403.2 is hereby deleted in its entirety.

Section 3404.2 is hereby deleted in its entirety.

Section 3405.5 is hereby deleted in its entirety.

Section 3409.2 is hereby deleted in its entirety.

Section 3410.1 is hereby amended to read as follows:

3410.1 Conformance. Structures moved into ~~or within~~ the jurisdiction shall comply with the provisions of this code for new structures.

Section 3412.2 is hereby amended to read as follows:

3412.2 Applicability. Structures existing prior to 1952, in which there is work involving additions, alterations or changes of occupancy shall be made to comply with the requirements of this section or the provisions of Section 3403 through 3409. The provisions in Section 3412.2.1 through 3412.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Group A, B, E, F, M, R, S and U. These provisions shall not apply to buildings with occupancies in Group H or I.

Section 3412.2.4.1 is hereby deleted in its entirety.

5-0103. Penalty. Any person violating any provision of the International Building Code adopted by this title or any section of this title shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

5-0104. Appeals. A person shall have the right to appeal a decision of the Code Official to the Board of Appeals. The Kindred Council shall be the Board of Appeals. An appeal in writing to the Code Official must be made within 20 days of the decision of the Code Official. The Kindred City Council shall hear the appeal within 30 days of the Code Official receiving written notice of the appeal. The Council may only reverse or modify a decision of the Code Official by a vote of at least three members of the Council. If not all members of the Council are present at the hearing, the person appealing the decision may request a postponement, which may extend the 30-day period to hold such a hearing. An application for an appeal shall be based on a claim that the true intent of the Code has been incorrectly interpreted, the provisions of the Code do not fully apply,

or an equally good or better form of construction is proposed. The Council shall have no authority to waive requirements of the Code.

CHAPTER 5-02

DANGEROUS BUILDINGS

SECTIONS:

- 5-0201. Definitions
- 5-0202. Standards for Repair, Vacation, or Demolition.
- 5-0203. Dangerous Buildings - Nuisances.
- 5-0204. Duties of Building Administrator.
- 5-0205. Duties of City Council.
- 5-0206. Owner Absent from the City.
- 5-0207. Appeal.
- 5-0208. Penalty.

5-0201. **DEFINITIONS.** All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings":

- (a) Those whose interior walls or other vertical structural members lean, list or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (b) Those which, exclusive of the foundation, show thirty-three percent or more of damage or deterioration of the supporting member or members, or fifty percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- (c) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
- (d) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the city.
- (e) Those which have become, or are, so dilapidated, decayed, unsafe or unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause or aggravate sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein.
- (f) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.

- (g) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.
- (h) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- (i) Those which because of their condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of this city.
- (j) Those buildings existing in violation of any provision of the Building Code, zoning ordinances, any provision of the Fire Prevention Code or other ordinances of this city.

5-0202. **STANDARDS FOR REPAIR, VACATION, OR DEMOLITION.** The following standards shall be followed in substance by the Board of City Council in ordering repair, vacation, or demolition:

- (a) If the "dangerous building" can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.
- (b) If the "dangerous building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants it shall be ordered to be vacated.
- (c) In any case where a "dangerous building" is fifty percent damaged, decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer be in violation of the terms of this chapter, it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this chapter or any ordinance of this city or statute of the state of North Dakota, it shall be demolished.

5-0203. **DANGEROUS BUILDINGS - NUISANCES.** All "dangerous buildings" within the terms of Section 5-0201 are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided.

5-0204. **DUTIES OF BUILDING ADMINISTRATOR.** The building administrator shall:

- (a) Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this chapter.
- (b) Inspect any building, wall, or structure reported (as hereinafter provided for) by any agent of the City as probably existing in violation of the terms of this chapter.
- (c) Notify in writing the owner, occupant, lessee, mortgagee, and all other persons having an interest in said building, as shown by the records in the office of the

register of deeds of the county of Cass, of any building found by the building administrator to be a "dangerous building" within the standards set forth in Section 5-0201 of this chapter, that: (1) the owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this chapter; (2) the owner or occupant must vacate said building or may have it repaired in accordance with the notice and remain in possession. Provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding thirty days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.

- (d) Set forth in the notice provided for in subsection (c) hereof a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a "dangerous building," and an order requiring the same to be put in such condition as to comply with the terms of this ordinance within such length of time, not exceeding thirty days, as is reasonable.
- (e) Report to the City Council any noncompliance with the "notice" provided for in subsections (c) and (d) hereof.
- (f) Appear at all hearings conducted by the City Council and testify as to the condition of "dangerous buildings."
- (g) Place a notice on all "dangerous buildings" reading as follows: "This building has been found to be a 'dangerous building' by the building administrator. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with."

5-0205. **DUTIES OF CITY COUNCIL.** The City Council shall:

- (a) Upon receipt of a report of the building administrator as provided for in Section 5-0204, subsection (e), give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before it on the date specified in the notice to show cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building administrator's notice provided for herein in Section 5-0204, subsection (d).
- (b) Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer relative to the "dangerous building".

- (c) Make written findings of fact from the testimony offered pursuant to subsection (b) as to whether or not the building in question is a "dangerous building" within the terms of Section 5-0201.
- (d) Issue an order based upon findings of fact made pursuant to subsection (c) hereof commanding the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the records of the register of deeds of the County of Cass to repair, vacate, or demolish any building found to be a "dangerous building" within the terms of this chapter and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said "dangerous building".
- (e) If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in subsection (d) hereof, within thirty days, the City Council shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards, hereinbefore provided for in Section 5-0202 of this chapter. The cost to the City of Kindred of demolishing, repairing or removing any building or structure under this chapter shall be determined by the City Council after written notice to the property owner of a hearing thereon; and shall then be certified to the County Auditor as a special assessment levied upon the described property and to be spread upon the taxes against said property.
- (f) Report to the city attorney the names of all persons not complying with the order provided for in subsection (d) of this section.

5-0206. **OWNER ABSENT FROM THE CITY.** All notices or orders provided for herein shall be sent by registered mail to such owner, occupant, lessee or mortgagee, and all other persons having an interest in said building, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the "dangerous building" to which it relates. Such mailing and posting shall be deemed adequate service.

5-0207. **APPEAL.** The owner and the occupant shall have thirty (30) days from the date of the order provided for in Section 5-0205 hereof in which to appeal to the Courts from the action of the City Council. The City Council shall not demolish, repair, or remove the building or structure or cause the same to be done during the period of time herein provided for appeal.

5-0208. **PENALTY.** Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

CHAPTER 5-03

MOVING BUILDINGS

[Source: Ord. 2007-14, Sec. 1 (2007)]

SECTIONS:

- 5-0301. Housemovers Bond Required.
- 5-0302. Liability Bond Required.
- 5-0303. Permit Required/Application for Moving Permit.
- 5-0304. Certified Report of the Condition of the Existing Structure or Building.
- 5-0305. Recommendation by Planning and Zoning Commission.
- 5-0306. City Council Approval.
- 5-0307. Moving Permit Issuance.
- 5-0308. Building Permit Required.
- 5-0309. Removal of Wires, Cables or Pipes - Notice.
- 5-0310. Permit Required to Move Buildings that will Injure Trees.
- 5-0311. Removal of Debris and/or Nuisances.
- 5-0312. Penalty.
- 5-0313. Illegality of Provisions.

5-0301. **HOUSEMOVERS BOND REQUIRED.** Before issuing a moving permit, the housemover shall be required to file with the City Auditor a bond in the sum of not less than Five Thousand Dollars (\$5,000.00), the form thereof to be approved by the City Attorney and the City Council, said bond to run to the City and conditioned, among other things, that the person seeking such permit will pay all damages which may result to the City or any person residing within the City, or lawfully upon the streets or alleys of the City, as the result of the moving of such house or building, said damage to either person or property of any person or to the street, alley, or other public property of the City, and whether such damage is the result of the person seeking such permit or his employees; that the moving of such structure and the construction, improvement and alteration thereof required for compliance with this section shall be completed within three (3) months after the structure has been moved to its new location; and said bond further conditioned, that the said person shall keep the City harmless against all liability, judgments, costs and expenses which may accrue against the City as a consequence of the acts done by the housemover in such moving, and further conditions of the permit issued to him and within the laws of the state, the provisions of the code, and ordinances of the City.

5-0302. **LIABILITY BOND REQUIRED.** Before any house or building is moved as hereinbefore provided, the owner shall supply and furnish to the City a bond or certificate of deposit in the amount of not less than One Thousand Dollars (\$1,000.00), conditioned that said building, or alteration or improvements therein or thereon, shall in all respects comply with the requirements of this ordinance, and that said construction, improvement or alterations will be completed within three (3) months after said building is located on any lot or property within the City, said bond to be written by corporate surety or with sufficient surety to be approved by the City Attorney as to form and the City Council as to the sufficiency of the sureties.

5-0303. PERMIT REQUIRED/APPLICATION FOR MOVING PERMIT. A moving permit is required when a building is going to be moved in to the City of Kindred and is more than 192 square feet in size. A form obtained from the City Auditor shall be completed and submitted to the City Auditor containing, but not limited to, the following information:

1. Date of application.
2. Name and address of applicant for permit.
3. Name and address of structure or building owner.
4. Name, address and North Dakota State contractor's license number of person, firm or corporation the applicant for permit will employ to do the moving.
5. Location of structure or building at the time of making application.
6. Proposed new location for structure or building.
7. Route or road along which it is proposed to move the structure or building from present location to proposed new location.
8. How long the moving of the structure or building is expected to take and when moving is expected to be completed if permit is granted.
9. The location of the existing foundation upon which the building is proposed to be located.

Source: Ord. 2022-100, Sec. 4

5-0304. CERTIFIED REPORT OF THE CONDITION OF THE EXISTING STRUCTURE OR BUILDING. A certified report of the condition of the existing structure or building shall be submitted to the City Auditor containing, but not limited to, the following information:

1. Report from an architect and/or structural engineer stating conformance with the requirements of the current City building code.
2. Report from a licensed mechanical engineer or contractor stating conformance with the requirements of the current City mechanical code.
3. Report from a licensed plumbing engineer or contractor stating conformance with the current City plumbing code.
4. Report from a licensed electrical engineer or contractor stating conformance with the current City electrical code.

5. Should it be found that the structure or building does not meet any of the above code requirements, the report shall state what action will be needed to bring the nonconforming item(s) into compliance with the code.
6. Photographs of all of the exterior sides of the structure or building and of the interior.
7. A site plan that shows location of the structure or building on the proposed new location.
8. A foundation plan for the structure or building.
9. A plan of any additions or alterations that may be made to the structure or building after moving is complete. This shall include foundation plan, floor plan and building elevations, as is required for new construction.
10. A statement from the Building Administrator regarding his review of the reports and plans and any recommendations regarding the structure or building's conformance to the City building code.
11. A statement from the Building Administrator that there is an existing foundation on which to move the building.

5-0305. RECOMMENDATION BY PLANNING AND ZONING COMMISSION.

No person shall move into or within the city limits or extra-territorial jurisdiction of the City of Kindred without having a public hearing held by Kindred's Planning and Zoning Commission and getting final approval from the City Council. To obtain approval for moving a structure or building into or within the city limits or ,extra-territorial jurisdiction of the city, all required bonds shall be posted with the City Auditor, and the applicant shall submit to the City Auditor the application for moving permit and the certified report of the condition of the existing structure of building. The City Auditor, upon receiving the required information, shall forward the information to the Planning and Zoning Commission. The Planning and Zoning Commission shall mail notice to all adjoining property owners and all occupants located within 400 feet of the boundaries of the land on which the application has been submitted of the time, place and subject of the hearing. The Planning and Zoning Commission shall hold the hearing, and it may make a recommendation of whether to approve the moving permit or not. The Planning and Zoning Commission may recommend approval of the moving permit if it finds that the applicant has met all requirements contained herein for moving of the structure and it finds that the structure is suitable and appropriate for the area where it is proposed to be moved in terms of its style, design, age, and condition. The Commission may place conditions upon its recommendation to the City Council. The Planning and Zoning Commission shall forward its recommendation and accompanying information to the City Council for final approval.

5-0306. CITY COUNCIL APPROVAL. The City Council may accept or reject the Planning and Zoning Commission's recommendation based upon the following: whether the applicant has met all of the requirements for moving structures as described herein, and whether the structure is suitable and appropriate for the area where it is proposed to be moved in terms of

its style, design, age, and condition. The City Council may place conditions upon its approval of the moving permit.

5-0307. **MOVING PERMIT ISSUANCE.** If approval is granted by the City Council for moving a structure or building into or within the city limits, the City Auditor shall issue a moving permit after any conditions imposed by the City Council have been satisfied.

5-0308. **BUILDING PERMIT REQUIRED.** When a moving permit has been issued, and prior to moving a structure or building, the applicant shall submit a building permit application to the Building Administrator along with a copy of the approved moving permit, certified report of the condition of the existing structure or building, and required plans for final review. All structures moved into or within the city limits are regarded as new construction with respect building permit review and required inspections.

5-0309. **REMOVAL OF WIRES, CABLES OR PIPES - NOTICE.**

1. The applicant to whom the moving permit has been issued shall, before raising or moving any structure or building to which wires, cables or piping for any purpose are attached, notify the persons, associations, or corporations owning or controlling such wiring, cables or piping of the proposed moving of structure or building. The persons, associations or corporations so notified shall, within a reasonable time not exceeding 24 hours thereafter, disconnect and make safe all such electric wires, cables or piping.
2. In every case in which a moving permit shall be issued as herein provided for the removal of any structure or building, when such removal requires the displacement of any overhead electrical or other wire or cable, it shall be the duty of the person, association or corporation owing, operating or controlling such wire or cable to remove or displace the same, as far as may necessary, to permit the removal of structure or building. The person to whom a moving permit shall have been issued shall notify the persons, associations or corporations owning, operating or controlling such wire or cable to remove or displace the same to facilitate the removal of said structure or building, and shall exhibit to said persons, associations or corporations the properly issued permit, authorizing the removal of said structure or building and it shall thereupon be the duty of said persons, associations or corporations, within reasonable time not exceeding 24 hours thereafter, to remove or displace such wires or cables sufficiently to allow the passage of said structure or building.

5-0310. **PERMIT REQUIRED TO MOVE BUILDINGS THAT WILL INJURE TREES.** No person, firm or corporation, whether licensed or otherwise, shall move any structure or building along any street, alley or other public way in such a manner as to interfere with or injure any tree, shrub or other vegetable growth without a written permit first obtained from the Superintendent of Parks. The applicant shall specify the structure or building to be moved and the proposed route. All necessary tree-trimming or shrub-trimming costs shall be paid by the applicant.

5-0311. **REMOVAL OF DEBRIS AND OR NUISANCES.** When a structure or building is to be moved from within the city limits, the applicant to which the moving permit is issued shall remove all debris and materials and fill all excavations to existing grade at the original structure or building site. The sewer service line shall be plugged and the water service line shall be shut off to the satisfaction of the City Engineer.

5-0312. **PENALTY.** Every person, firm or corporation, convicted of a violation of any of the provisions of this ordinance for which another penalty is not specifically provided herein, shall, upon conviction thereof, be punished by a fine of not more than \$1,500 or by imprisonment for not more than 30 days, or both such fine and imprisonment in the discretion of the court, the court to have the power to suspend said sentence, and to revoke the suspensions thereof.

Source: Ord. 2014-56, Sec. 2 (2015)

5-0313. **ILLEGALITY OF PROVISIONS.** Any illegal portion or portions of this ordinance shall not affect the validity of the remainder of the ordinance.

CHAPTER 5-04

FLOODPLAIN MANAGEMENT

(Source: Ord. 2022-99, Sec. 1)

SECTIONS:

- 5-0401. Statutory Authorization, Findings of Fact, Purpose, and Objectives.
 - 5-0402. Definitions.
 - 5-0403. General Provisions.
 - 5-0404. Administration.
 - 5-0405. Provisions for Flood Hazard Reduction.
 - 5-0406. Penalties for Violations.
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5-0401. **STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES.** The Legislature of the State of North Dakota has in North Dakota Century Code, Chapters 40-47, 11-33 and 58-03, delegated responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Kindred, North Dakota does ordain as follows:

1. **Findings of Fact.**

- (1) The flood hazard areas of the City of Kindred are subject to periodic inundation which can endanger life, result in loss of property, create health and safety hazards, disrupt commerce and governmental services, cause extraordinary public expenditures for flood protection and relief, and impair the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) Flood losses caused by the cumulative effect of obstructions in the special flood hazard areas cause increases in flood heights and velocities. Inadequately floodproofed, elevated or otherwise unprotected structures also contribute to the flood loss.

2. **Statement of Purpose.** It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding, and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;

- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in special flood hazard areas;
 - (6) To help maintain a stable tax base by providing for the second use and development of special flood hazard areas so as to minimize future flood blight areas;
 - (7) To ensure that potential buyers are notified that property is in a special flood hazard area; and,
 - (8) To ensure that those who occupy the special flood hazard areas assume responsibility for their actions.
3. **Methods of Reducing Flood Losses.** In order to accomplish its purposes, this ordinance includes methods and provisions for:
- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
 - (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
 - (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
 - (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

5-0402. **DEFINITIONS.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. "Appeal" means a request for a review of the City Auditor's interpretation of any provision of this ordinance or a request for a variance.
2. "Base flood or 100-year flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

3. "Base Flood Elevation" (BFE) means the height of the base flood or 100-year flood usually in feet measured in the same datum (either NAVD88 or NDVD29) as the FIRM.
4. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
5. "Best Available Data" (BAD) means water elevation information from any source used to estimate or determine a base flood elevation (i.e. high water mark).
6. "Community" means any political subdivision that has the authority to zone, or any Indian tribe or authorized tribal organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.
7. "Conveyance or hydraulic conveyance" means a geometric characteristic of a river or watercourse at a given point that determines the flow-carrying capacity at that point.
8. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the special flood hazard area.
9. "Elevation Certificate" means a form available from FEMA for recording elevations of a proposed or existing structure.
10. "Existing Manufactured Home Park or Subdivision" means 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.
11. "Expansion to an Existing Manufactured Home Park or Subdivision" means 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).
12. "Flood Insurance Rate Map" (FIRM) means the official map issued by the Federal Emergency Management Agency where special flood hazard areas are designated as Zones A, AE, AO, AH, A1-A30, or A-99.
13. "Flood Insurance Study" (FIS) means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.

14. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or; from the unusual and rapid accumulation or runoff of surface waters from any source.
15. "Floodproofing" (Dry) means protection provided a structure, together with attendant utilities and sanitary facilities, which is watertight two feet above the base flood elevation with walls that are substantially impermeable to the passage of water.
16. "Floodway or regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
17. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
18. "Letter of Map Revision Based on Fill (LOMR-F)" means a revision to the effective FIRM to remove a portion of land from the SFHA by elevating with fill.
19. "Lowest floor" means the lowest floor of a structure including the basement.
20. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle" but does include "mobile home".
21. "Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
22. "New construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.
23. "New Manufactured Home Park or Subdivision" means 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.
24. "Person" means any person, firm, partnership, association, corporation, limited liability company, agency, or any other private or governmental organization, which includes any agency of the United States, a state agency, or any political subdivision of the state.

25. "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
26. "Recreational vehicle" means a vehicle which is:
 - (a) built on a single chassis;
 - (b) 400 square feet or less when measured at the largest horizontal projection;
 - (c) designed to be self-propelled or permanently towable by a light duty truck;
 - (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use; including, but not limited to;
 - (e) travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.
27. "Special Flood Hazard Area" (SFHA) means an area of land that would be inundated by a flood having a one percent chance of being equaled or exceeded in any given year.
28. "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
29. "Structure" means a walled and roofed building, including manufactured homes and gas or liquid above-ground storage tanks.
30. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
31. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

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

The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
 - (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
32. "Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.
33. "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by the community's floodplain management ordinance is presumed to be in violation until such time as that documentation is provided.
34. "Watercourse" means only the channel and banks of an identifiable watercourse, and not the adjoining floodplain areas. The flood carrying capacity of a watercourse refers to the flood carrying capacity of the channel, except in the case of alluvial fans, where a channel is not typically defined. The definition of watercourse in N.D.C.C. § 61-16-06 is not applicable in this ordinance.

5-0403. **GENERAL PROVISIONS.**

1. **Lands to Which This Ordinance Applies.** This ordinance shall apply to all special flood hazard areas within the jurisdiction of the City of Kindred.
2. **Basis for Establishing the Special Flood Hazard Areas.** The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the Township of Normanna, North Dakota" dated September 30, 1987, with an accompanying Flood Insurance Rate Map is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the office of the auditor in Kindred, North Dakota.

3. **Compliance.** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations.
4. **Greater Restrictions.** This ordinance is not intended to repeal, remedy, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
5. **Interpretation.** In the interpretation and application of this ordinance, all provisions shall be:
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the governing body; and,
 - (3) Deemed neither to limit nor repeal any other powers granted under state statutes.
6. **Warning and Disclaimer or Liability.** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of, the City of Kindred, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
7. **Severability.** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

5-0404. **ADMINISTRATION.**

1. **Establishment of Development Permit.** A development permit shall be obtained before construction or development begins within any special flood hazard area established in Section 5-0403.2. This includes properties mapped into the effective FIRM that have been removed from the SFHA by a LOMR-F. Application for a development permit shall be made on forms furnished by the City Council of Kindred 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 materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in the same datum (either NAVD88 or NGVD29) as the FIRM, of the lowest floor of all structures documented on a certified Elevation Certificate based on Construction Drawings;
 - (2) Elevation in the same datum (either NAVD88 or NGVD29) as the FIRM to which any structure has been floodproofed;
 - (3) Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 5-0405.2-2; and,
 - (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
2. **Designation of the City Auditor.** The City Auditor is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.
 3. **Duties and Responsibilities of the City Auditor.** Duties of the City Auditor shall include, but not be limited to:

3-1. **Permit Review**

- (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (2) Approve or deny all applications for development permits required by adoption of this ordinance.
- (3) 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.
- (4) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5-0405.3.

- 3-2. **Use of Other Base Flood Data.** When base flood elevation data has not been provided in accordance with Section 5-0403.2, BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS, the City Auditor shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available (known as best available data) from a federal, state, or other source, as criteria for requiring that new construction, substantial improvements, or other development in the floodplain are administered in accordance with Section 5-0505.2, SPECIFIC STANDARDS.

3-3 **Information to be Obtained and Maintained.** Information to be obtained and maintained with all elevation readings certified by registered professional surveyor, engineer or architect, and all compliance with floodproofing regulations to be certified by a registered professional engineer or architect on an Elevation Certificate.

- (1) Obtain and record the actual elevation (in the same datum (either NAVD88 or NGVD29) as the FIRM) 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 floodproofed structures:
 - (i) obtain and record the actual elevation (in the same datum (either NAVD88 or NGVD29) as the FIRM) to which the structure has been floodproofed;
 - (ii) maintain the floodproofing certifications required in Section 5-0404.1(5).
- (3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

3-4. **Alteration of Watercourses.** The responsible person shall:

- (1) Notify nearby communities, water resource districts, and the North Dakota Department of Water Resources, as necessary, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished; and,
- (3) Notify the appropriate water resource district prior to removal or placement of fill within two hundred feet of the bank of a body of water during normal flow or stage.

3-5. **Interpretation of Flood Insurance Rate Map (FIRM) Boundaries.** Make interpretation where needed, as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 5-0504.4.

3-6. **Encroachment Analysis.** When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including

fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for and receives a Conditional Letter of Map Revision (CLOMR) through FEMA.

4. Variance Procedure.

4-1. Appeal Board.

- (1) The City Council as established by the City of Kindred shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (2) The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City Auditor in the enforcement or administration of this ordinance.
- (3) Those aggrieved by the decision of the City Council, or any taxpayer, may appeal such decision to the District Court as provided in N.D.C.C. §§ 40-47-11, 11-33-12, or 58-03-14.
- (4) In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance; and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;

- (vi) the availability of alternative locations, for the proposed use, which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (xi) 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, and streets and bridges.
- (5) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre to less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 5-0404.4.4-1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (6) Upon consideration of the factors of Section 5-0404.4-1(4) and the purposes of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (7) The City Auditor shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

4-2. **Conditions for Variances**

- (1) 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.
- (2) Variances shall not be issued within the identified floodplain if any increase in flood levels during the base flood discharge would result.

- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) Variances shall only be issued upon:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, cause fraud on or victimization of the public as identified in Section 5-0404.4-1(4), or conflict with existing local laws or ordinances.
- (5) 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 elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

5-0405. PROVISIONS FOR FLOOD HAZARD REDUCTION.

1. **General Standards.** In all special flood hazard areas the following standards are required:

1-1. **Anchoring.**

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

- (2) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

1-2. **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 and substantial improvements shall be constructed using methods and practices that minimize flood damage.

- (3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

1-3. **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; and,
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

1-4. **Subdivision Proposals.**

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

2. **Specific Standards.** In all special flood hazard areas where base flood elevation data have been provided as set forth in Section 5-0403.2 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS or Section 5-0404.3-2, Use of Other Base Flood Data, the following provisions are required:

- 2-1. **Residential Construction.** New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation. This includes

properties mapped into the effective FIRM that have been removed from the SFHA by a LOMR-F.

2-2. **Nonresidential Construction.** Construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated to at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities shall:

- (1) Be floodproofed to at least two feet above the base flood elevation, so that below this elevation 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.
- (3) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 5-0404.3-3(2).

2-3. **Manufactured Homes.**

- (1) Require all manufactured homes placed within Zone A shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- (2) Require all manufactured homes placed or substantially improved within Zones A 1-30, AH, or AE on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision which has incurred substantial damage, be elevated on a permanent foundation so the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.
- (3) Require that manufacture homes placed or substantially improved on sites in an existing manufacture home park or

subdivision within Zones A 1-30, AH, or AE not subject to other requirements of this section be elevated so that either:

- (i) the lowest floor of the manufacture home is one foot above the base flood elevation, or
- (ii) the manufacture home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36" in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

2-4. **Recreational Vehicles.** In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must

- (i) be elevated and anchored to meet the requirements in 5-0405.2.2-3;
OR
- (ii) be on the site for less than 180 consecutive days; AND
- (iii) be fully licensed and highway ready

3. **Shallow Flooding AO and AH Zones.** Located within the areas of special flood hazard established in Section 5-0403.2, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated one foot above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- (2) All new construction and substantial improvements of non-residential structures;
 - (i) have the lowest floor (including basement) elevated one foot above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;
 - (ii) together with attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standard as specified in Section 5-0405.2.2-2.

- (3) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.
4. **Floodways.** Located within the special flood hazard areas established in Section 5-0403.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
 - (1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. Any increase, as is used in this section, means any modeled impact greater than 0.00 feet.
 - (1) If Section 5-0405.1(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction requirements of this ordinance.
 - (3) Under the provisions of 44 CFR Section 65.12 of the NFIP Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in BFEs, provided that the community first applies for and receives a Conditional Letter of Map Revision (CLOMR) through FEMA.
5. **Enclosures.** New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (2) The bottom of all openings shall be no higher than one foot above grade.
 - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they allow the automatic entry and exit of floodwaters.

5-0406. PENALTIES FOR VIOLATIONS.

1. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violations on conditions and safeguards established in connection with grants or variances or conditional uses, shall constitute a class B misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be punished by a fine not exceeding \$1,500 or by imprisonment not to exceed 30 days or by both such fine and imprisonment for each such offense, and in addition shall pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
2. Nothing herein contained shall prevent the City Council from taking such other lawful action as is necessary to prevent or remedy any violation.

CHAPTER 5-05

MINIMUM HOUSING STANDARDS

SECTIONS:

- 5-0501. Adoption of Housing Code.
- 5-0502. Exceptions to Housing Code.
- 5-0503. Penalty.

5-0501. **ADOPTION OF HOUSING CODE.** There is hereby adopted by reference by the City Council, for the purpose of prescribing regulations governing standards, relative to housing in the City of Kindred, that certain code known as the Uniform Housing Code, recommended and compiled by the International Conference of Building Officials, being particularly the 1988 edition thereof, as the same are now established in said code, a copy of which is on file in the office of the Auditor for the City of Kindred, with the exception of the sections hereinafter set forth affecting local conditions of the City of Kindred, which sections shall be substituted for and in lieu of like sections or paragraphs in said Uniform Housing Code; the City Council of said City of Kindred, by this section hereby approves and adopts such rules and regulations, so modified, for the use and application within the city limits of Kindred, North Dakota. Provided, that any amendments of the 1988 edition of the Code may be adopted by the City by resolution.

5-0502. **EXCEPTIONS TO HOUSING CODE.** When any provisions of the Uniform Housing Code are in conflict with the Building Code, Mechanical Code, zoning provisions or other ordinances of the City of Kindred, those other ordinances shall prevail and supersede the provisions of the Uniform Housing Code.

5-0503. **PENALTY.** Any person violating any section of this chapter shall upon conviction be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

Source: Ord. 2014-56, Sec. 3 (2015)

CHAPTER 5-06

INTERNATIONAL PROPERTY MAINTENANCE CODE

(Source: Ord. 2011-33, Sec. 1 [2011])

SECTIONS:

- 5-0601. Adoption of International Property Maintenance Code.
- 5-0602. Amendment to International Property Maintenance Code.
- 5-0603. Penalty.
- 5-0604. Appeals.

5-0601. **ADOPTION OF INTERNATIONAL PROPERTY MAINTENANCE CODE.** There is hereby adopted by reference by the City Council, for the purpose of prescribing regulations governing standards, relative to housing in the City of Kindred, that certain code known as the International Property Maintenance Code, recommended and compiled by the International Code Council, being particularly the 2009 edition thereof, as the same are now established in said code, a copy of which is on file in the office of the Building Administrator for the City of Kindred, with the exception of the sections hereinafter set forth affecting local conditions of the City of Kindred, which sections shall be substituted for and in lieu of like sections or paragraphs in said International Property Maintenance Code; the City Council of said City of Kindred, by this section hereby approves and adopts such rules and regulations, so modified, for the use and application within the city limits of Kindred, North Dakota. Provided, that any amendments of the 2009 edition of the Code may be adopted by the City by resolution.

5-0602. **AMENDMENT TO INTERNATIONAL PROPERTY MAINTENANCE CODE.** The International Property Maintenance Code, as adopted in Section 5-0601 is hereby changed and amended as follows:

SECTION 101.1 is hereby amended to read as follows:

101.1 Title. These regulations shall be known as the *Property Maintenance Code* of ~~[NAME OF JURISDICTION]~~ the City of Kindred, hereinafter to as “this code.”

SECTION 102.3 is hereby amended to read as follows:

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 Fuel Gas Code, International Mechanical Code* and the *ICC Electrical Code*~~. ~~Nothing in this code shall be construed to cancel, modify or set aside any provision of the *International Zoning Code*~~ all applicable ordinances adopted by the City of Kindred.

SECTION 103.5 is added to read as follows:

103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule:

- A. Initial Inspection - No charge
- B. First Re-inspection - No charge
- C. Second Re-inspection - As to the second re-inspection, a fee of \$100
- D. Third Re-inspection - As to the third re-inspection, a fee of \$100
- E. Fourth and continuing Re-inspection - as to the fourth and any subsequent re-inspection, a fee of \$100

SECTION 111 is hereby deleted in its entirety.

SECTION 112.4 is hereby amended to read as follows:

112.4 Failure to comply. Any person who shall continue any work after being served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable ~~to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars~~ subject to penalties prescribed by law.

SECTION 201.3 is hereby amended to add the following:

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code*, *International Fire Code*, *International Fuel Gas Code* or the *International Mechanical Code*, such terms shall have meanings ascribed to them as in those codes. Throughout this code, whenever reference is made in this code to the International Plumbing Code it shall mean the North Dakota State Plumbing Code. Throughout this code, whenever reference is made to the ICC Electrical Code it shall mean the National Electrical Code together with the North Dakota State Wiring Standards.

SECTION 302.4 is hereby amended to read as follows:

302.4 Weeds. All *premises* and *exterior property* shall be maintained free from weeds or plant growth ~~in excess of (jurisdiction to insert height in inches)~~ as determined by the Kindred Health Department. All noxious weeds shall be ...

SECTION 304.14 is hereby amended to read as follows:

304.14 Insect screens. During the period from ~~{DATE}~~ April 1st to ~~{DATE}~~ October 31st, 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.

SECTION 602.2 is hereby deleted in its entirety.

SECTION 602.3 is hereby amended to read as follows:

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat ~~during the period from [DATE] to [DATE]~~ 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. ~~The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.~~

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.~~

SECTION 603.2 is hereby amended to read as follows:

603.2 Removal of combustion products. All fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

~~**Exception:** Fuel burning equipment and appliances which are labeled for unvented operation.~~

SECTION 704.4 is hereby amended to read in full as follows:

704.4 Interconnection. Where more than one smoke alarm is required to be installed by this Code within an individual dwelling unit in Group R-2, R-3, R-4 and in dwellings not regulated as Group R occupancies, the smoke alarms shall be interconnected ~~in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed~~ and installed as required by the *International Residential Code* and *International Building Code*.

Exceptions:

- ~~1. Interconnection is not required in buildings which are not undergoing alterations, repairs, or construction of any kind.~~
- ~~2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.~~

5-0603. **PENALTY.** Any person violating any section of this chapter shall upon conviction be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

Source: Ord. 2014-56, Sec. 4 (2015)

5-0604. **APPEALS.** A person shall have the right to appeal a decision of the Code Official to the Board of Appeals. The Kindred City Commission shall be the Board of Appeals. An appeal in writing to the Code Official must be made within 20 days of the decision of the Code Official. The Kindred City Commission shall hear the appeal within 30 days of the Code Official receiving written notice of the appeal. The Commission may only reverse or modify a decision of the Code Official by a vote of at least three members of the Commission. If not all members of the Commission are present at the hearing, the person appealing the decision may request a postponement, which may extend the 30-day period to hold such a hearing. An application for an appeal shall be based on a claim that the true intent of the Code has been incorrectly interpreted, the provisions of the Code do not fully apply, or an equally good or better form of construction is proposed. The commission shall have no authority to waive requirements of the Code.

CHAPTER 5-07

INTERNATIONAL RESIDENTIAL CODE

(Source: Ord. 2011-34, Sec. 1 [2011])

SECTIONS:

- 5-0701. Adoption of International Residential Code.
 - 5-0702. Amendment to International Residential Code.
 - 5-0703. Penalty.
 - 5-0704. Fee for Copy of Relevant Code Provisions.
 - 5-0705. Appeals.
-

5-0701. **ADOPTION OF INTERNATIONAL RESIDENTIAL CODE.** There is hereby adopted by reference by the City Council, for the purpose of prescribing regulations governing standards, relative to housing in the City of Kindred, that certain code known as the International Residential Code, recommended and compiled by the International Code Council, being particularly the 2009 edition thereof, as the same are now established in said code, a copy of which is on file in the office of the Building Administrator for the City of Kindred, with the exception of the sections hereinafter set forth affecting local conditions of the City of Kindred, which sections shall be substituted for and in lieu of like sections or paragraphs in said International Residential Code; the City Council of said City of Kindred, by this section hereby approves and adopts such rules and regulations, so modified, for the use and application within the city limits of Kindred, North Dakota, as well as for any area within the extraterritorial zoning jurisdiction of the City. Provided, that any amendments of the 2009 edition of the Code may be adopted by the City by resolution.

5-0702. **AMENDMENT TO INTERNATIONAL RESIDENTIAL CODE.** The International Residential Code, as adopted in Section 5-0701 is hereby changed and amended as follows:

SECTION R101.1 is hereby amended to read as follows:

R101.1 Titles. These provisions shall be known as the Residential Code for One- and Two-Family Dwellings of ~~[NAME OF JURISDICTION]~~ the City of Kindred, and shall be cited as such and will be referred to herein as “this code.”

SECTION R104.8 is hereby amended to read as follows:

R104.1 General. 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 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 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 R104.10.1 is hereby deleted in its entirety.

SECTION R105.2 is hereby amended to read as follows:

R105.2 Work exempt from permit.....

Building:

1. One-story detached accessory structures, provided the floor area does not exceed ~~200~~ 120 square feet (~~185.8 m~~).
2. Fences not over ~~6~~ 8.5 feet (~~1829 mm~~) high.
- * * *
7. ~~Prefabricated~~ Sswimming pools that are less than 24 inches (~~610 mm~~) deep.
8. Swings and other playground equipment ~~accessory to a one or two family dwelling.~~
9. Window awnings supported by an exterior wall which ~~do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.~~

SECTION R106.1.3 is hereby deleted in its entirety.

SECTION 108.3 is hereby amended to read as follows:

R108.3 Building Permit Valuations. Building permit valuation shall include total value of the work for which a permit is being issued, such as electrical, gas, mechanical, plumbing equipment and other permanent systems, including materials and labor. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed

estimates to meet the approval of the building official. Final building permit valuation shall be set by the building official.

SECTION R112 is hereby deleted in its entirety.

SECTION R201.3 is hereby amended to read as follows:

Section R201.3 Terms defined in other codes. Where terms are not defined in this code such terms shall have meanings ascribed to them as in other code publications of the International Code Council that have been adopted by Kindred. Wherever the term “International Plumbing Code” and/or “International Private Sewage Disposal Code” is used in the International Residential Code, it shall mean the North Dakota State Plumbing Code. Wherever the term ‘ICC Electrical Code’ is used in the International Residential Code, it shall mean the National Electrical Code together with the North Dakota State Wiring Standards. Wherever reference is made to flood plain requirements, it shall mean the applicable ordinances of the City of Kindred.

SECTION R301.2.4 is hereby deleted in its entirety.

TABLE R302.1 is hereby amended to read as follows:

**TABLE 302.1
EXTERIOR WALLS**

EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
Walls ¹	(Fire-resistance rated)	1 hour with exposure from both sides	< 5 3 feet
	(Not fire-resistance rated)	0 hours	> 5 3 feet
Projections	(Fire-resistance rated)		> 2 feet to 5 feet
	(Not fire-resistance rated)	1 hour on the underside	≤ 3 feet
Openings	Not allowed	N/A	< 3 feet
	25% Maximum of Wall Area	0 hours	3 feet
	Unlimited	0 hours	5 feet
Penetrations	All	Comply with Section R317.3 304.2	< 5 feet
		None Required	5 feet

N/A = Not Applicable

1. A common 2-hour fire-resistance-rated wall is permitted for two or more family dwellings where the common wall is on a property line provided such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Electrical installations shall be installed in accordance with chapters 33 through 42. Penetrations of electrical outlet boxes shall be in accordance with section 302.4.

SECTION R302.2 is hereby amended to read as follows:

R302.2 Townhouses. Each townhouse shall be considered a separate building and shall be separated by fire-resistance-rated wall assemblies meeting the requirements of Section 302.1 for exterior walls.

Exception: A common 4 2 hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against the exterior walls and the underside of the roof sheathing. Electrical installations shall be installed in accordance with ~~Chapters 34 through 43~~ the National Electrical Code together with the North Dakota State Wiring Standards. Penetrations of electrical outlet boxes shall be in accordance with Section 302.4.

SECTION R307.1 is hereby amended to read as follows:

Section R307.1 Space required. Fixtures shall be spaced in accordance with Figure R307.1, ~~and in accordance with the requirements of Section P2705.1,~~ with the exception of the clearance in front of water closets and bidets which shall be at least 24 inches.

SECTION R309.3 is hereby deleted in its entirety.

SECTION R310.1 is hereby amended to read as follows:

Section R310.1 Emergency escape and rescue required. Basements and every sleeping room shall have at least one operable emergency and rescue opening. Such opening shall open directly into a public street, public alley, yard or court. Where basements contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Where emergency escape and rescue openings are provided they shall have a sill height of not more than 44 inches (1118 mm) above the floor. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with Section 310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside. Emergency escape and rescue openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with Section R310.2.

Exceptions:

1. Basements used only to house mechanical equipment and not exceeding total floor area of 200 square feet (18.58 m²)
2. Below grade emergency escape and rescue windows may have a maximum sill height of 48 inches.

SECTION R310.2.1 is hereby amended to read as follows:

Section R310.2.1 -- Ladder and steps. Window wells with a vertical depth greater than 44 inches (1118 mm) shall be equipped with a permanently affixed ladder or steps usable with the window in the fully open position or, install a minimum 30"x16" permanently attached platform in the window well that will reduce the vertical depth of the window well to no more than 42" below the top of the window well and that will not impede the operation of the window. Ladders or steps required by this section shall not be required to comply with Sections R311.5 and R311.6. Ladders or rungs shall have a inside width of at least 12 inches (305 mm), shall project at least 3 inches (76 mm) from the wall and shall be spaced not more than 18 inches (457 mm) on center vertically for the full height of the window well.

Exception: Terraced window wells with a maximum of 24" per vertical rise and minimum of 12" horizontal projections on each level shall also be allowed in accordance with Figures 310.2.1(1) and 310.2.1(2).

SECTION R311.3.2 is hereby amended to read as follows:

R311.3.2 Floor elevations for other exterior doors. Doors other than the required egress door shall be provided with landings or floors not more than ~~7³/₄~~ 8 inches (~~196 mm~~) (203 mm) below the top of the threshold.

Exception: A landing is not required where a stairway ~~of two or fewer risers~~ with a total rise of less than 30 inches (762 mm) is located on the exterior side of the door, provided the door does not swing over the stairway.

SECTION R311.7.4.1 is hereby amended to read as follows:

Section R311.7.4.1 Riser height. The maximum riser height shall be ~~7³/₄~~ 8 inches (~~196 mm~~). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

SECTION R311.7.4.2 is hereby amended to read as follows:

Section R311.7.4.2 Tread depth. The minimum tread depth shall be ~~40~~ 9 inches (~~254~~ 228.6 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Consistently shaped winders at the walkline shall be allowed within the same flight of stairs as rectangular treads and do not have to be within 3/8 inch (9.5 mm) of the rectangular tread depth.

Exception: Where a landing is not provided or required by Section 311.3.2 or 311.7.5, the top tread of a stair serving exterior doors other than the

required exit door, and having in-swinging doors opening into an attached garage, shall be permitted to exceed the smallest tread by more than 3/8 inch (9.5 mm). Such a tread shall be at least 18 inches (457 mm) measured in the direction of travel.

Winder treads shall have a minimum tread depth of ~~10 9~~ inches (254 228.6 mm) measured between the vertical planes of the foremost projection of adjacent treads at the intersections with the walkline. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point within the clear width of the stair. Within any flight of stairs, the largest winder tread depth at the walkline shall not exceed the smallest winder tread by more than 3/8 inch (9.5 mm).

SECTION R311.7.5 is hereby amended to read as follows:

Section R311.7.5 Landings for stairways. There shall be a floor or landing at the top and bottom of each stairway.

Exceptions:

1. A floor or landing is not required at the top of an interior flight of stairs, including stairs in an enclosed garage, provided a door does not swing over the stairs. ~~A flight of stairs shall not have a vertical rise larger than 12 feet (3658 mm) between floor levels or landings. The width of each landing shall not be less than the width of the stairway served. Every landing shall have a minimum dimension of 36 inches (914 mm) measured in the direction of travel.~~
2. A landing is not required where a stairway with a total rise of less than 30 inches (762 mm) is located on the exterior side of the door, provided the door does not swing over the stairway.

A flight of stairs shall not have a vertical rise larger than 12 feet (3658 mm) between floor levels or landings. The width of each landing shall not be less than the width of the stairway served. Every landing shall have a minimum dimension of 36 inches (914 mm) measured in the direction of travel.

SECTION R312.1 is hereby amended to read as follows:

R312.1 Where Required. Guards shall be located along open-sided walking surfaces, ~~including~~ stairs, ramps and landings that are located more than 30 inches (762 mm) measured vertically to the floor or grade below, ~~at any point within 36 inches (914 mm) horizontally to the edge of the open side.~~ Insect screening shall not be considered as a guard.

SECTION R312.2 is hereby amended to read as follows:

R312.2 Height. Required guards at open-sided walking surfaces, including stairs, porches, balconies or landings, shall be not less than 36 inches (914 mm) high

measured vertically above the adjacent walking surface, ~~adjacent fixed seating~~ or the line connecting the leading edges of the treads.

Exceptions:

1. Guards on . . .

SECTION R313 is hereby deleted in its entirety.

SECTION R314.3 is hereby amended to read as follows:

R314.3 Location. Smoke alarms shall be installed in the following locations:

1. . . .
3. On each additional story of the dwelling, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level. In dwelling units where the ceiling height of a room open to the hallway serving the bedrooms 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 R322 is hereby deleted in its entirety.

SECTION R401.1 is hereby amended to read as follows:

R401.1 Application. The provisions of this chapter shall control the design and construction of the foundation and foundation spaces for all buildings. In addition to the provisions of this chapter, the design and construction of foundations in areas prone to flooding ~~as established by Table R301.2(1)~~ shall meet the provisions of ~~Section R324~~ the applicable requirements of the Ordinances of the City of Kindred. Wood foundations shall be designed and installed in accordance with AF&PA PWF.

(Balance of section is unchanged)

SECTION R401.3 is hereby amended to read as follows:

R401.3 Drainage. Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection ~~so as to not create a hazard.~~ Lots shall be graded to drain surface water away from foundation walls. ~~The grade shall fall a minimum of 6 inches (152mm) within the first 10 feet (3048mm).~~

~~**Exception:** Where lot lines, walls, slopes or other physical barriers prohibit 6 inches (152mm) of fall within 10 feet (3048mm), the final grade shall slope away from the foundation at a minimum slope of 5 percent and the water shall be directed to drains or swales to ensure drainage away from the structure. Swales shall be sloped a minimum of 2 percent when located within 10 feet (3048mm) of the building foundation. Impervious surfaces within 10 feet (3048mm) of the building foundation shall be sloped a minimum of 2 percent away from the building.~~

SECTION R403.1.4.1 is hereby amended to read as follows:

Section R403.1.4.1 Frost protection. Except where ...

Exceptions:

1. Protection of freestanding accessory structures ~~with an area of 600 square feet (56 m²) or less~~ of light framed construction and an eave height of 10 feet (3048 mm) or less shall not be required.
2. Protection of freestanding, accessory structures with an area of 400 square feet (37 m²) or less, of other than light-framed construction, ~~with an eave height of 10 feet (3048 mm) or less~~ shall not be required.
3. Decks ~~not supported by a dwelling~~ need not be provided with footings that extend below the frost line.

Footings shall not bear on frozen soil unless the frozen condition is permanent.

(Balance of section is unchanged.)

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Table R404.1.2(10) is added as follows:

Table R404.1.2(10)
Foundation Wall Reinforcing

Active Pressure = 45pcf

Minimum Reinforcement for Concrete Foundation Walls		
Wall Height (h) feet	Wall Thickness (t) inches	Vertical Reinforcing
8	8	#4 @ 24" o.c. #5 @ 40" o.c.
	10	#4 @ 30" o.c. #5 @ 50" o.c.
9	8	#4 @ 18" o.c. #5 @ 28" o.c.
	10	#4 @ 24" o.c. #5 @ 36" o.c.
10	10	#4 @ 16" o.c. #5 @ 26" o.c.

Notes:

1. Chart is based on an active soil pressure of 45 pounds per cubic foot (pcf).
2. Reinforcing steel shall be ASTM A615 Fy – 60,000 pounds per square inch (psi).
3. The vertical reinforcing bars are to be located on the inside face.
4. Minimum concrete strength $F_c1 = 3,000$ pounds per square inch (psi).
5. Backfill shall not be placed until first floor framing and sheathing is installed and fastened or adequately braced and the concrete floor slab is in place or the wall is adequately braced.

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Table R404.1.2(11) is added as follows:

Table R404.1.2(11)
Foundation Wall Reinforcing

Active Pressure = 65 pcf

Minimum Reinforcement for Concrete Foundation Walls		
Wall Height (h) feet	Wall Thickness (t) inches	Vertical Reinforcing
8	8	#4 @ 18" o.c. #5 @ 26" o.c. #6 @ 40" o.c.
	10	#4 @ 24" o.c. #5 @ 36" o.c. #6 @ 52" o.c.
9	8	#4 @ 12" o.c. #5 @ 18" o.c. #6 @ 26" o.c.
	10	#4 @ 16" o.c. #5 @ 24" o.c. #6 @ 36" o.c.
10	10	#4 @ 12" o.c. #5 @ 28" o.c. #6 @ 24" o.c.

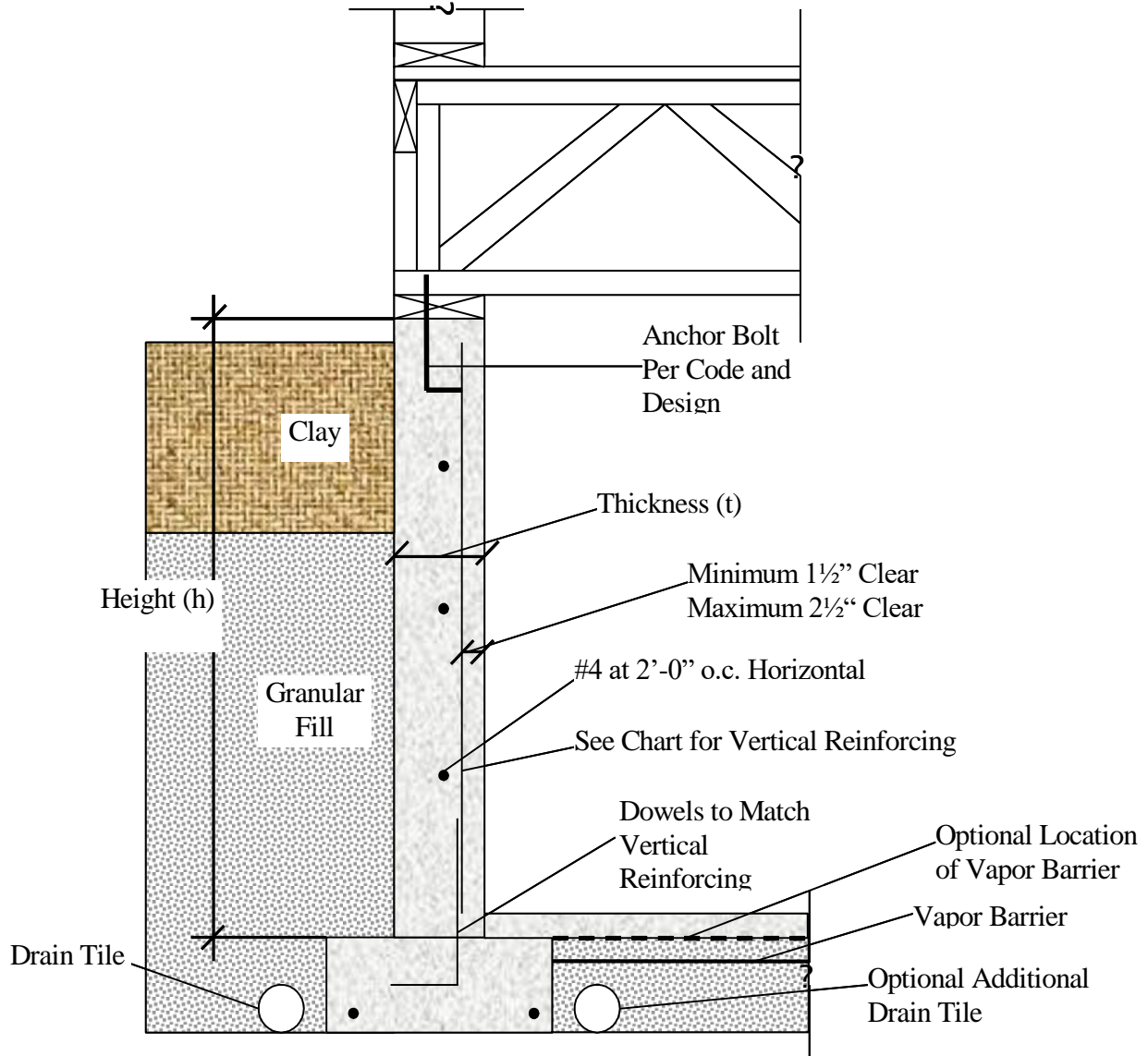
Notes:

1. Chart is based on an active soil pressure of 65 pounds per cubic foot (pcf).
2. Reinforcing steel shall be ASTM A615 Fy – 60,000 pounds per square inch (psi).
3. The vertical reinforcing bars are to be located on the inside face.
4. Minimum concrete strength $F_c1 = 3,000$ pounds per square inch (psi).
5. Backfill shall not be placed until first floor framing and sheathing is installed and fastened or adequately braced and the concrete floor slab is in place or the wall is adequately braced.

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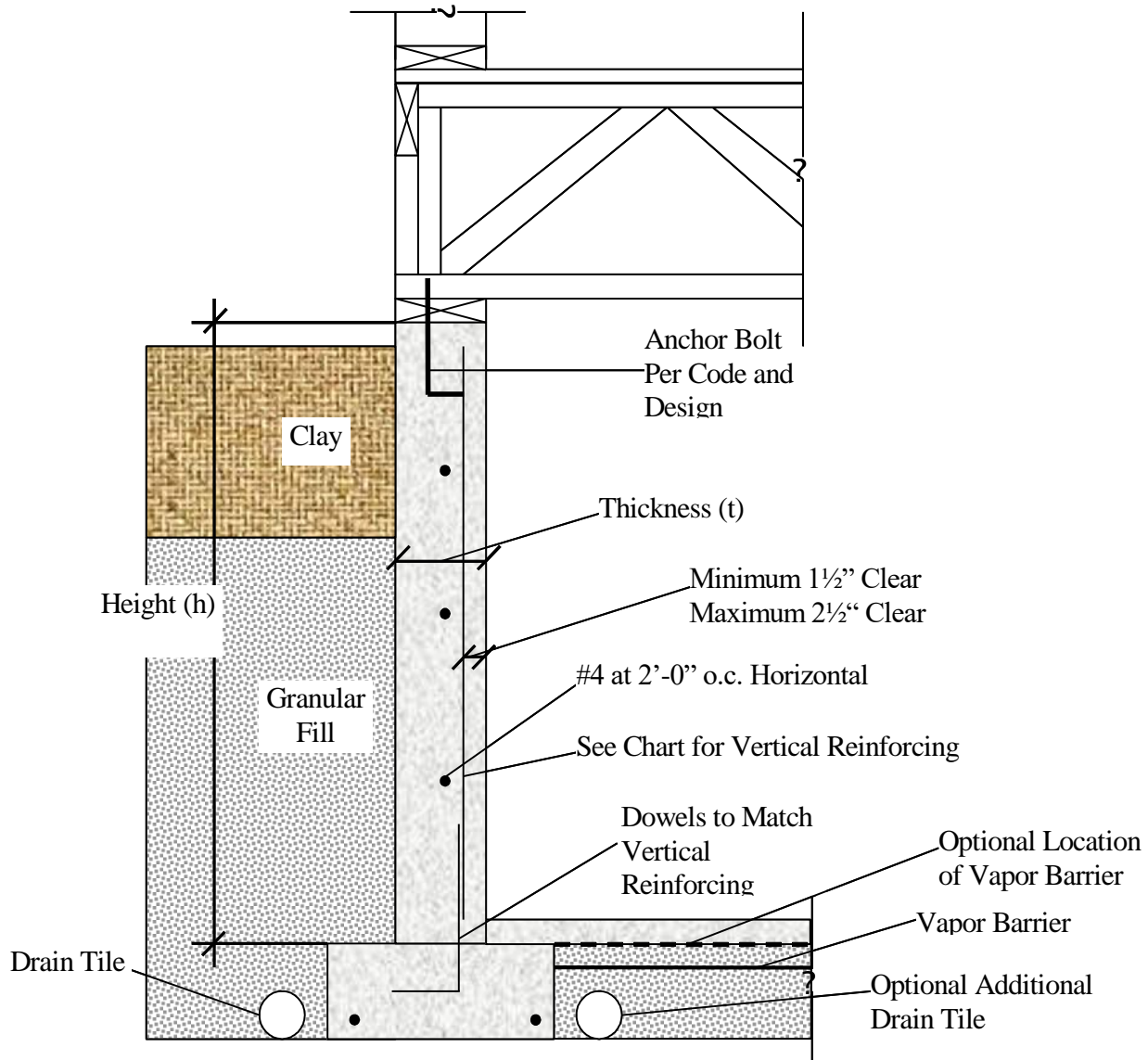
Figures R404.1.2(1) and R404.1.2(2) are hereby added as follows:

FIGURE R404.1.2(1)



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FIGURE R404.1.2(2)



SECTION R404.1.2.2 is hereby amended to read as follows:

R404.1.2.2 Reinforcement for foundation walls. Concrete foundation walls shall be laterally supported at the top and bottom. Horizontal reinforcement shall be provided in accordance with Table R404.1.2(1). Vertical reinforcement shall be provided in accordance with Table R404.1.2(2), R404.1.2(3), R404.1.2(4), R404.1.2(5), R404.1.2(6), R404.1.2(7), ~~or~~ R404.1.2(8), R404.1.2(10) or R404.1.2(11). Vertical reinforcement for flat basement walls retaining 4 feet (1219 mm) or more of unbalanced backfill is permitted to be determined in accordance with Table R404.1.2(9) and Figures R404.1.2(1) and R404.1.2(2). For *basement* walls supporting above grade concrete walls, vertical reinforcement shall be by Tables R404.1.2(2) through R404.1.2(8) or by Section R611.6 for

above-grade wall. In buildings assigned to Seismic Design Category D0, D1, or D2, concrete foundation walls shall also comply with Section R404.1.4.2.

SECTION R405.2.3 is hereby amended to read as follows:

Section R405.2.3 Drainage system. In other than Group I soils, a sump shall be provided to drain the porous layer and footings. The sump shall be at least 24 18 inches (~~610 mm~~) in diameter or 20 16 inches square (~~0.0129m²~~), shall extend at least 24 inches (610 mm) below the bottom of the basement floor and shall be capable of positive gravity or mechanical drainage to remove any accumulated water. The drainage system shall discharge into an approved sewer system or to daylight.

SECTION R506.2.3 is hereby amended to add an exception 5 to read as follows:

R506.2.3 Vapor retarder. ...

Exceptions:

* * *

5. Attached garages.

SECTION R602.10 is hereby amended to read as follows:

R602.10 Wall bracing. Buildings shall be braced in accordance with this section. Where a building, or portion thereof, does not comply with one or more of the bracing requirements in this section, those portions shall be designed and constructed in accordance with Section R301.1.

Exceptions:

1. Detached one- and two-family dwellings located in Seismic Design Category C are exempt from the seismic bracing requirements of this section. Wind speed provisions for bracing shall be applicable to detached one-and two-family dwellings.
2. The wall bracing requirements of section R602.10 of the 2006 International Residential Code may be used as an alternative to this section.

SECTION R703.6.2 is hereby amended to read as follows:

Section R703.6.2 Plaster. Plastering with portland cement plaster shall be not less than three coats when applied over metal lath or wire lath and shall be not less than two coats when applied over masonry, concrete, pressure-preservative treated wood or decay-resistant wood as specified in Section R319.1 or gypsum backing. If the plaster surface is completely covered by veneer or other facing material or is

completely concealed, plaster application need be only two coats, provided the total thickness is as set forth in Table R702.1(1). Approved decorative coatings applied to a concrete or masonry surface shall be installed in accordance with the manufacturer's installation instructions.

SECTION R903.5 and Figure R903.5 are hereby deleted in their entirety.

SECTION R905.2.5 is hereby amended to read as follows:

R905.2.5 Fasteners. Fasteners for asphalt shingles shall be galvanized steel, stainless steel, aluminum or copper roofing nails, minimum 12 gage [0.105 inch (2.67 mm)] shank with a minimum 3/8 inch (9.5 mm) diameter head, ASTM F 1667, of a length to penetrate through the roofing materials and a minimum of 3/4 inch (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 3/4 inch (19.1 mm) thick, the fasteners shall penetrate through the sheathing. Fasteners shall comply with ASTM F 1667.

SECTION R907 is hereby deleted in its entirety and relocated to the Appendices as Appendix R.

TABLE N1102.1 is hereby revised as follows:

**TABLE N1102.1
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT^a**

CLIMATE ZONE	FENESTRATION U-FACTOR	SKYLIGHT ^b U-FACTOR	GLAZED FENESTRATION SHGC	CEILING R-VALUE	WOOD FRAMED WALL R-VALUE	MASS WALL R-VALUE ^k	FLOOR R-VALUE	BASEMENT ^c WALL R-VALUE	SLAB ^d R-VALUE AND DEPTH	CRAWL SPACE ^e WALL R-VALUE
1	1.20	0.75	0.35 ^j	30	13	3/4	13	0	0	0
2	0.65 ⁱ	0.75	0.35 ^j	30	13	4/6	13	0	0	0
3	0.50 ⁱ	0.65	0.35 ^{e,j}	30	13	5/8	19	5/13 ^f	0	5/13
4 except Marine	0.35	0.60	NR	38	13	5/10	19	10/13	10, 2 ft.	10/13
5 and Marine 4	0.35	0.60	NR	38	20 or 13 + 5 ^h	13/17	30 ^f	10/13	10, 2 ft.	10/13
6	0.35	0.60	NR	49	20-ØF 13 + 5 ^h 19	15/19	30 ^e	10/13	10, 4 ft.	10/13
7 and 8	0.35	0.60	NR	49	20-ØF 13 = 5 ^h 19	19/21	30 ^c	10/13	10, 4ft	10/13

Footnotes to remain.

SECTION N1103.1.1 is hereby deleted in its entirety.

SECTION N1103.2.2 is hereby revised as follows:

N1103.2.2 Sealing. Ducts, air handlers, filter boxes and building cavities used as ducts shall be sealed. Joints and seams shall comply with Section M1601.4. ~~Duct tightness shall be verified by either of the following:~~

1. ~~Post construction test: Leakage to outdoors shall be less than or equal to 8 cfm (3.78 L/s) per 100 ft² (9.29m²) of conditioned floor area or a total less than or equal to 12 cfm (5.66 L/s) per 100 ft² (9.29 m²) of conditioned floor area when tested at a pressure differential of 0.1 inch w.g. (25 Pa) across the entire system, including the manufacturer's air handler end closure. All register boots shall be taped or otherwise sealed during the test.~~
2. ~~Rough in test: total leakage shall be less than or equal to 6 cfm (2.83 L/s) per 100 ft² (9.29 m²) of conditioned floor area when tested at a pressure differential of 0.1 inch w.g. (25 Pa) across the roughed in system, including the manufacturer's air handler enclosure. All register boots shall be taped or sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 4 cfm (1.89 L/s) per 100 ft² (9.29 m²) of conditioned floor area.~~

SECTION N1104.1 is hereby deleted in its entirety.

SECTION M1301.1.1 is hereby deleted in its entirety.

SECTION M1401.5 is hereby deleted in its entirety.

SECTION M1502.4.4.1 is hereby amended to read as follows:

M1502.4.4.1 Specified Length. the maximum length of the exhaust duct shall be ~~25 (7620 mm)~~ 35 (10668 mm) feet from the connection to the transition duct from the dryer to the outlet terminal. Where fittings are used, the maximum length of the exhaust duct shall be reduced in accordance with Table M1502.4.4.1.

SECTION M1601.4.9 is hereby deleted in its entirety.

SECTION M1603 is hereby added to read as follows:

SECTION M1603 General

SECTION M1603.1 is hereby added to read as follows:

M1603.1 General. The minimum unobstructed total area of supply and return air ducts from a warm-air furnace shall be in accordance with the manufacturer's installation instructions, but shall not be less than 2 square inches (1290 MM sq) for each 1,000 Btu/h (293W) output rating of the furnace. The minimum unobstructed total area of the supply and return air ducts from a central air-conditioning unit and/or heat pump shall be in accordance with the manufacturer's installation instructions, but shall be not less than 6 square inches (3870 mm sq) for each 1,000 Btu/h (293W) nominal cooling output rating. Dampers, grilles, or registers installed for the purpose of controlling the supply airflow shall not be considered as obstructions.

SECTION M1701.2.1 is hereby added to read as follows:

M1701.2.1 Attic Spaces. Attic spaces shall not be used as a source of combustion air.

SECTION M1801.1 is hereby amended to read as follows:

M1801.1 Venting required. Fuel-burning appliances shall be vented to the outside in accordance with their listing and label and manufacturer's installation instructions ~~except appliances listed and labeled for unvented use...~~

SECTION M2001.4 is hereby deleted in its entirety.

SECTION M2101.3 is hereby amended to read as follows:

M2101.3 Protection of potable water. The potable water system shall be protected from backflow in accordance with the provisions listed in ~~Section P2902~~ the North Dakota State Plumbing Code.

SECTION M2101.10 is hereby amended to read as follows:

M2101.10 Tests. New ~~H~~hydronic piping shall be isolated and tested hydrostatically at a pressure of not less than 100-pounds per square inch (psi) (689 kPa) for a duration of not less than 15 minutes.

SECTION M2201.6 is hereby deleted in its entirety.

SECTION G2404.7 is hereby deleted in its entirety.

SECTION G2406.2 is hereby amended to delete exceptions 3 and 4 as follows:

G2406.2 (303.3) Prohibited locations. *Appliances* shall not ...

Exceptions:

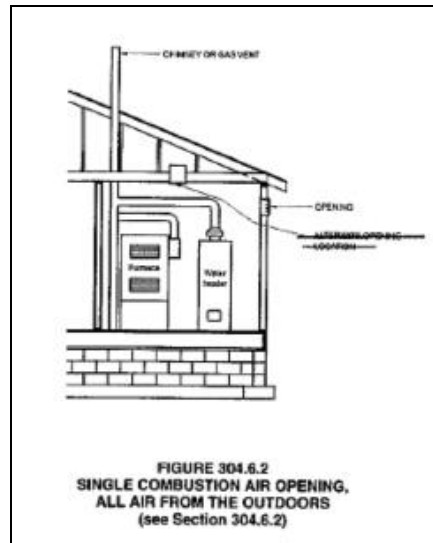
1. ...
3. ~~A single wall-mounted unvented room heater is installed in a bathroom and such unvented heater equipped as specified in Section G2445.6 and has an input rating not greater than 6000 Btu/h (1.76kW). The bathroom shall meet the required volume criteria of Section G2407.5.~~
4. ~~A single wall-mounted unvented room heater equipped is installed in a bedroom and such unvented room heater is equipped as specified in Section G2445.6 and has an input rating not greater than~~

10,000 Btu/h (2.93W). The bedroom shall meet the required volume criteria of Section G2407.5.

53. The *appliance* is installed in a room or space that opens only into a bedroom or bathroom, and such room or space is used for no other purpose and is provided with a solid weather-stripped door equipped with an *approved* self-closing device. All *combustion air* shall be taken directly from the outdoors in accordance with Section G2407.6.

Figures G2407.6.1(1) AND G2407.6.1(2) are hereby deleted in their entirety.

Figure G2407.6.2 is hereby amended to delete the reference to an alternate opening location as shown.



SECTION G2407.11 is hereby amended to delete item number 5 and renumber subsequent item as follows:

G2407.11 (304.11) Combustion air ducts. Combustion air ducts shall comply with all the following:

1. Ducts shall be ...
5. ~~Ducts shall not be screened where terminating in an attic space.~~

SECTION G2413.5 is hereby amended to read as follows:

Section G2413.5 (402.5) Allowable pressure drop. The design pressure loss in any piping system under maximum probable flow conditions, from the point of delivery to the inlet connection of the appliance, shall be such that the supply pressure at the appliance is greater than the minimum pressure required for proper

appliance operation but such pressure loss shall not be greater than .5 inch water column.

SECTION G2417.4.1 is hereby amended to read as follows:

Section G2417.4.1 (406.4.3) Test pressure. The test pressure to be used shall not be less than one and on half times the proposed maximum working pressure, but not less than ~~3~~ 25 psig (~~20 kPa gauge~~), irrespective of design pressure. Where the test pressure exceeds 125 psig (~~862 kPa gauge~~), the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe.

SECTION G2419.2 is hereby amended to read as follows:

G2419.2 (408.2) Drips. Where wet gas exists, a drip shall be provided at any point in the line of pipe where condensate could collect. ~~A drip shall also be provided at the outlet of the meter and shall be installed so as to constitute a trap wherein an accumulation of condensate will shut off the flow of gas before the condensate will run back into the meter.~~

SECTION G2425.8 is hereby amended to read as follows:

G2425.8 (501.8) Appliances not required to be vented. The following appliances shall not be required to be vented:

1. Ranges.
2. Built-in domestic cooking ...
- ~~7. Room heaters listed for unvented use.~~

Where the *appliances* listed in Items ~~5 thru 7~~ and 6 above are installed so that the aggregate input rating exceeds 20 Btu per hour per *cubic foot* (207 W/m^3) of volume of the room or space in which such *appliances* are installed, one or more shall be provided with venting systems or other approved means for conveying the *vent gases* to the outdoor atmosphere so that the aggregate input rating of the remaining *unvented appliances* does not exceed 20 Btu per hour *cubic foot* (207 W/m^3). Where the room or space in which the appliance is installed is directly connected to another room or space by a doorway, archway or other opening of comparable size that cannot be closed, the volume of such adjacent room or space shall be permitted to be included in the calculations.

SECTION G2425.12 is hereby amended to read as follows:

G2425.12 (501.12) Residential and low-heat appliances flue lining systems. Flue lining systems for use with residential-type and low-heat appliances shall be limited to the following:

1. Clay flue lining complying with the requirements of ASTM C 315 or equivalent when each appliance connected into the masonry

chimney has a minimum input rating greater than 400,000 Btu/h. Clay flue lining shall be installed in accordance with Chapter 10.

2. Listed chimney lining systems complying with UL1777.
3. Other approved materials that will resist, without cracking, softening or corrosion, flue gases and condensate at temperatures up to 1,800°F (982°C).
 - a. Aluminum (1100 or 3003 alloy or equivalent) not less than 0.032 inches thick up to 8 inches in diameter.
 - b. Stainless steel (304 or 430 alloy or equivalent) not less than 26 gauge (0.018 inches thick) to 8 inches in diameter or not less than 24 gauge (0.024 inches thick) 8 inches in diameter and larger.

When a metal liner is used other than a listed chimney liner a condensation drip tee shall be installed and supported in an approved manner.

SECTION G2427.5.2 is hereby amended to read as follows:

G2427.5.2 (503.5.3) Masonry chimneys. Masonry chimneys shall be built and installed in accordance with NFPA211 and shall be lined ~~with approved clay flue lining, a listed chimney lining system, or other approved material that will resist corrosion, erosion, softening or cracking from vent gases at temperatures up to 1,800 F (982 C)~~ as per G2425.12.

Exception: Masonry chimney flues serving listed gas appliances with *draft hoods*, Category I *appliances* and other gas *appliances* listed for use with Type B vents shall be permitted to be lined with a *chimney* lining system specifically listed for use only with such *appliances*. The liner shall be installed in accordance with the liner manufacturer's installation instructions. A permanent identifying attached at the point where the connection is to be made to the liner. The label shall read: This *chimney* liner is for *appliances* that burn gas only. Do not connect to solid or liquid fuel-burning appliances or incinerators."

SECTION G2442.6 is hereby amended to read as follows:

G2442.6 (618.6) Screen. Required outdoor air inlets shall be covered with a screen having ¼ inch (6.4 mm) openings. Required outdoor air inlets serving a nonresidential portion of a building shall be covered with screen having openings larger than ¼ inch (6.4 mm) and not larger than ± ½ inch ~~(25 mm)~~.

SECTION G2445 is hereby deleted in its entirety.

CHAPTERS 25 through 43 are hereby deleted in their entirety.

5-0703. **PENALTY.** Any person violating any section of this chapter shall upon conviction be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

Source: Ord. 2014-56, Sec. 5 (2015)

5-0704. **FEE FOR COPY OF RELEVANT CODE PROVISIONS.** Every licensed contractor, pursuant to Chapter 43-07 of the North Dakota Century Code, upon applying for a building permit, shall be provided a copy of the Building Code Ordinances of the City of Kindred and the relevant portions of the International Residential Code adopted by the City which apply to residential construction. The contractor will be charged a fee for such copies in an amount set by the City Council. A contractor will only be provided one copy of the International Residential Code sections and pay one fee for residential construction, no matter how many building permits are requested by that particular contractor. Provided, however, that if the City later adopts another Building Code, the contractor will again be required to pay another fee to get the revised Building Code provisions. Notwithstanding the above provisions, if a contractor shows the Building Official his/her copy of the appropriate Building Code, then the contractor shall just be supplied a copy of the Kindred Building Code Ordinances and shall not be required to be provided nor pay the charge for obtaining a copy of the relevant Building Code.

5-0705. **APPEALS.** A person shall have the right to appeal a decision of the Code Official to the Board of Appeals. The Kindred City Council shall be the Board of Appeals. An appeal in writing to the Code Official must be made within 20 days of the decision of the Code Official. The Kindred City Council shall hear the appeal within 30 days of the Code Official receiving written notice of the appeal. The Council may only reverse or modify a decision of the Code Official by a vote of at least three members of the Council. If not all members of the Council are present at the hearing, the person appealing the decision may request a postponement, which may extend the 30-day period to hold such a hearing. An application for an appeal shall be based on a claim that the true intent of the Code has been incorrectly interpreted, the provisions of the Code do not fully apply, or an equally good or better form of construction is proposed. The Council shall have no authority to waive requirements of the Code.

CHAPTER 5-08

INTERNATIONAL EXISTING BUILDING CODE

(Source: Ord. 2011-35, Sec. 1 [2011])

SECTIONS:

- 5-0801. Adoption of International Existing Building Code.
- 5-0802. Amendment to International Existing Building Code.
- 5-0803. Penalty.
- 5-0804. Appeals.

5-0801. **ADOPTION OF INTERNATIONAL EXISTING BUILDING CODE.** There is hereby adopted by reference by the City Council, for the purpose of prescribing regulations governing standards, relative to housing in the City of Kindred, that certain code known as the International Existing Building Code, recommended and compiled by the International Code Council, being particularly the 2009 edition thereof, as the same are now established in said code, a copy of which is on file in the office of the Building Administrator for the City of Kindred, with the exception of the sections hereinafter set forth affecting local conditions of the City of Kindred, which sections shall be substituted for and in lieu of like sections or paragraphs in said International Existing Building Code; the City Council of said City of Kindred, by this section hereby approves and adopts such rules and regulations, so modified, for the use and application within the city limits of Kindred, North Dakota, as well as for any area within the extraterritorial zoning jurisdiction of the City. Provided, that any amendments of the 2009 edition of the Code may be adopted by the City by resolution.

5-0802. **AMENDMENT TO INTERNATIONAL EXISTING BUILDING CODE.** The International Existing Building Code, as adopted in Section 5-0801 is hereby changed and amended as follows:

SECTION 101.1 is hereby amended to read as follows:

101.1 Title. These regulations shall be known as the Existing Building Code of ~~(NAME OF JURISDICTION)~~ the City of Kindred hereinafter referred to as “this code.”

SECTION 104.2.1.1 is hereby amended to read as follows:

104.2.1.1 Building evaluation. The code official is authorized to require an existing building to be investigated and evaluated at the owner's expense by a registered design professional based on the circumstances agreed upon at the preliminary meeting to determine the existence of any potential nonconformance with the provisions of this code.

SECTION 104.8 is hereby amended to add a new final paragraph to read as follows:

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 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 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 representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for the cost in any action, suit or proceeding that is instituted in pursuant 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 104.10.1 is hereby deleted in its entirety.

SECTION 105.2 is hereby amended to read as follows:

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:

1. Sidewalks, retaining walls, and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below and that are not part of an accessible route.
2. Painting, papering, tiling
6. Movable cases, counters and partitions not over 96 inches (1753 mm) in height.

7. Fences not over 8.5 feet high.
8. Swimming pools not located on a building roof.
9. Water tanks supported directly on grade.
10. Reroofing.

SECTION 107.3.1 is hereby amended to read as follows:

107.3.1. **Approval of construction documents.** When the *code official*...
...One set of construction documents so reviewed shall be retained by the
code 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
by a duly authorized representative.~~

**SECTION 109.3.3 is hereby deleted in its entirety and subsequent sections
renumbered accordingly.**

SECTION 112 is hereby deleted in its entirety.

SECTION 113.1 is hereby amended to read as follows:

113.1 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 board of
appeals. The board of appeals shall be ~~appointed by the applicable
governing authority~~ the City Council of the City of Kindred and shall hold
office at its pleasure. The board shall adopt rules of procedure for
conducting its business.

SECTION 113.3 is hereby deleted in its entirety.

SECTION 201.3 is hereby amended to add the following:

201.3 Terms defined in other codes. Where terms are not defined in this
code and are defined in the other *International Codes* that have been
adopted by Kindred, such terms shall have the meanings ascribed to them
in those codes.

Wherever the term “International Plumbing Code” and/or the “International
Private Sewage Disposal Code” is used in this Code, it shall mean the North
Dakota State Plumbing Code. Wherever the term “ICC Electrical Code” is
used in this Code, it shall mean the National Electric Code together with the
North Dakota State Wiring Standards. Wherever the term “Flood Hazard
Area” is used, it shall mean the Kindred Flood Plain Management ordinance
together with the Flood Proofing Code of the City of Kindred, North
Dakota.

SECTION 302.2 is hereby deleted in its entirety.

SECTION 303.2 is hereby deleted in its entirety.

SECTION 304.5 is hereby deleted in its entirety.

SECTION 308.2 is hereby deleted in its entirety.

SECTION 501.3 is hereby deleted in its entirety.

SECTION 506.2.4 is hereby deleted in its entirety.

SECTION 601.3 is hereby deleted in its entirety.

SECTIONS 603.3, 606.3.1 AND 606.3.2 are hereby deleted in their entirety.

SECTION 1003.5 is hereby deleted in its entirety.

SECTION 1101.4 is hereby deleted in its entirety.

SECTION 1201.2 is hereby amended by adding a new second paragraph to read as follows:

1201.2 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. Buildings to be moved within this jurisdiction shall comply with provisions of this Chapter. Buildings to be moved into this jurisdiction shall comply with the provisions of the International Codes for new buildings and shall be certified as to that compliance by an agency approved by the code official.~~

SECTION 1202.6 is hereby deleted in its entirety.

SECTION 1301.2 is hereby amended to read as follows:

1301.2 Applicability. Structures existing prior to ~~{DATE TO BE INSERTED BY THE JURISDICTION}~~ 1952 in which there is work involving *additions, alterations, or changes of occupancy* shall be made to conform to the requirements of this chapter or the provisions of Chapters 4 through 12. The provisions of Section 1301.2.1 through 1301.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, and S. These provisions shall not apply to buildings with occupancies in Group H or Group I.

5-0803. **PENALTY.** Any person violating any provision of the International Existing Building Code adopted by this title or any section of this title shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

5-0804. **APPEALS.** A person shall have the right to appeal a decision of the Code Official to the Board of Appeals. The Kindred City Council shall be the Board of Appeals. An appeal in writing to the Code Official must be made within 20 days of the decision of the Code Official. The Kindred City Council shall hear the appeal within 30 days of the Code Official receiving written notice of the appeal. The Council may only reverse or modify a decision of the Code Official by a vote of at least three members of the Council. If not all members of the Council are present at the hearing, the person appealing the decision may request a postponement, which may extend the 30-day period to hold such a hearing. An application for an appeal shall be based on a claim that the true intent of the Code has been incorrectly interpreted, the provisions of the Code do not fully apply, or an equally good or better form of construction is proposed. The Council shall have no authority to waive requirements of the Code.

CHAPTER 5-09

INTERNATIONAL ENERGY CONSERVATION CODE

(Source: Ord. 2011-36, Sec. 1 [2011])

SECTIONS:

- 5-0901. Adoption of International Energy Conservation Code.
- 5-0902. Amendment to International Energy Conservation Code.
- 5-0903. Penalty.
- 5-0904. Appeals.

5-0901. ADOPTION OF INTERNATIONAL ENERGY CONSERVATION CODE.

There is hereby adopted by reference by the City Council, for the purpose of prescribing regulations governing standards, relative to housing in the City of Kindred, that certain code known as the International Energy Conservation Code, recommended and compiled by the International Code Council, being particularly the 2009 edition thereof, as the same are now established in said code, a copy of which is on file in the office of the Building Administrator for the City of Kindred, with the exception of the sections hereinafter set forth affecting local conditions of the City of Kindred, which sections shall be substituted for and in lieu of like sections or paragraphs in said International Energy Conservation Code; the City Council of said City of Kindred, by this section hereby approves and adopts such rules and regulations, so modified, for the use and application within the city limits of Kindred, North Dakota, as well as for any area within the extraterritorial zoning jurisdiction of the City. Provided, that any amendments of the 2009 edition of the Code may be adopted by the City by resolution.

5-0902. AMENDMENT TO INTERNATIONAL ENERGY CONSERVATION CODE. The International Energy Conservation Code, as adopted in Section 5-0901 is hereby changed and amended as follows:

SECTION 101.1 is hereby amended to read as follows:

101.1 Title. These regulations shall be known as the Energy Conservation Code of ~~(NAME OF JURISDICTION)~~ the City of Kindred hereinafter referred to as “this code.”

SECTION 103.3.1 is hereby amended to read as follows:

103.3.1 Approval of construction documents. When the *code official*...
...One set of construction documents so reviewed shall be retained by the *code 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 is hereby deleted in its entirety.

SECTION 291.3 is hereby amended to read as follows:

201.3 Terms defined in other codes. Terms that are not defined in this code but are defined in the *International Building Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, ~~*International Plumbing Code*~~, or the *International Residential Code* shall have the meanings ascribed to them in those codes.

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

SECTION 401.2 is hereby amended to read as follows:

401.2 Compliance. Projects shall comply with Sections 401, 402.4, 402.5, and 403.1, 403.2.2, 403.2.3, and 403.3 through 403.9 (referred to as the mandatory provisions) and either:

1. Sections 402.1 through 402.3, 403.2.1 and 404.1 (prescriptive); or
2. Section 405 (performance).

Compliance with this chapter may also be demonstrated by compliance with Chapter 11 of the International Residential Code.

5-0903. **PENALTY.** Any person violating any provision of the International Energy Conservation Code adopted by this title or any section of this title shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

5-0904. **APPEALS.** A person shall have the right to appeal a decision of the Code Official to the Board of Appeals. The Kindred City Council shall be the Board of Appeals. An appeal in writing to the Code Official must be made within 20 days of the decision of the Code Official. The Kindred City Council shall hear the appeal within 30 days of the Code Official receiving written notice of the appeal. The Council may only reverse or modify a decision of the Code Official by a vote of at least three members of the Council. If not all members of the Council are present at the hearing, the person appealing the decision may request a postponement, which may extend the 30-day period to hold such a hearing. An application for an appeal shall be based on a claim that the true intent of the Code has been incorrectly interpreted, the provisions of the Code do not fully apply, or an equally good or better form of construction is proposed. The Council shall have no authority to waive requirements of the Code.