

ORDINANCE #653
AN ORDINANCE PROVIDING FOR THE ADOPTION OF THE 2021
INTERNATIONAL EXISTING BUILDING CODE AND AMENDMENTS AND
ADDITIONS THERETO; AND FOR THE REPEAL OF ALL ORDINANCES AND
RESOLUTIONS IN CONFLICT THEREWITH.

BE IT ORDAINED BY THE CITY OF BRANDON, SOUTH DAKOTA:

SECTION 1. Adoption International Existing Building Code 2021.

The International Existing Building Code, 2021 edition, including Resource A, Guidelines on Fire Ratings of Archaic Materials and Assemblies, as published by the International Code Council Inc., and amendments and additions thereto as provided in this ordinance are hereby adopted as the Existing Building Code by the City of Brandon as an alternate for regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, including historic buildings, as herein provided and provides for the issuance of permits and collection of fees therefore. The alternate minimum building standards in the 2021 edition of the International Existing Building Code and amendments thereto shall be applied to any building permit issued after February 1, 2022. The adoption of the International Existing Building Code, 2021 edition will become effective February 2, 2021. A printed copy of such code and additions and amendments thereto is on file with the City of Brandon.

SECTION 2. Amendments, additions and deletions to the 2021 International Existing Building Code. The following sections and subsections of building code adopted in this subchapter shall be amended, added, or deleted as follows. All other sections or subsections of the 2021 International Existing Building Code shall remain the same.

101.1 Title. These regulations shall be known as the Existing Building Code of the City of Brandon, South Dakota hereinafter referred to as “this code.”

103.1 Enforcement agency. The City of Brandon shall be the enforcement agency and the individual in charge thereof shall be known as the Building Official. The function of the agency shall be the implementation, administration, and enforcement of the provisions of this code.

103.2 Appointment. This section not adopted by the City of Brandon.

104.8 Liability. The building official, member of the board of adjustment, 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 an act or by reason of an act or omission in the discharge of official duties. Any suit brought against the building official, officer or employee because of such act or omission performed by the building official, officer or employee in the lawful discharge of duties and enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the enforcement of this code or enforced by the code enforcement agency shall be afforded all the protection provided by the City’s liability insurance and any immunities and defenses provided by other applicable state and

federal laws. 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 county, its officers, and employees be held as assuming any such liability by reason of the inspections authorized by this code or any permits or certificates issued under this code.

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

105.1 Required. Any owner or owner's authorized agent who intends to repair, add to, alter, relocate demolish, or change the occupancy of a building or to repair, install, add, alter, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code unless a separate permit for each building or structure has first been obtained from the building official or designate. Permits for minor work may be exempted by the building official or designate.

105.1.1 Annual permit. Not adopted by the city.

105.1.2 Annual permit record. Not adopted by the city.

107.1 General. The building official is authorized to issue a permit for temporary uses. Such permits shall be limited as to time of service but shall not be permitted for more than 365 days. Extensions beyond 365 days are not allowed. Structures used as a temporary business office shall be provided with an accessible route that meets accessibility requirements of this code.

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

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

110.2 Certificate issued. After the building official inspects the structure and finds no violations of the provisions of this code or other laws that are enforced by the City, the building official shall issue a certificate of occupancy that shall contain the following:

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

111.1 Application for appeal. Any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the Board of Adjustments, provided that a written application for appeal is filed within 10 days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code is adequately satisfied by other means. The Board is additionally charged with the review of all proposed changes to the Existing Building Code and to submit recommendations to the responsible official and the city council. The board shall have authority relative to the interpretation of the administrative provisions of the code. The board shall not be empowered to waive requirements of this code. The appeal process will align with the City of Brandon's zoning ordinance section 15-18. The City of Brandon's Board of Adjustments will be the representative body to hear all appeals.

111.2 Membership of board. The Board of Adjustments shall consist of a minimum of six members who are qualified by experience and training to pass on matters pertaining to building codes and who are not employees of the jurisdiction.

112.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the building official or employee relative to the application and interpretation of this code, there shall be and is hereby created a Board of Appeals consisting of the members of the City of Brandon Board of Adjustment.

112.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority relative to the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

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

SECTION 202-GENERAL DEFINITIONS. Add the following definition.

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

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

303 Storm Shelters. Not adopted by the city.

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

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

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

- (1) *Kitchens.* Each kitchen shall have a minimum of one 20-ampere circuit serving a countertop receptacle and a grounded receptacle serving a refrigerator.
- (2) *Overcurrent device location.* Each occupant shall have access to his branch circuit overcurrent devices without going outdoors or through another occupancy.
- (3) *Habitable areas.* All habitable areas, other than closets, kitchens, basements, garages, hallways, laundry areas, utility areas, storage areas, and bathrooms, shall have a minimum of two duplex receptacle outlets, or one duplex receptacle outlet and one ceiling or wall-type lighting outlet.
- (4) *Minimum lighting outlets.* At least one lighting fixture shall be provided in every habitable room, bathroom, hallway, stairway, attached garage, and detached garage with electrical power, in utility rooms and basements where such spaces are used for storage or contain equipment requiring service, and to illuminate outdoor entrances and exits. A switched receptacle is allowed in lieu of a lighting fixture in habitable rooms only.
- (5) *Ground fault circuit interrupters.* Ground fault circuit interrupter protection shall be provided for all receptacles in bathrooms, above kitchen counters, attached and detached garages provided with power, at readily accessible receptacles within 6 feet of sinks, basements, and at outdoor locations. The exceptions of the *National Electrical Code* 210.8(A) 3 and 5 shall apply.
- (6) *Laundries.* Each laundry shall be provided with at least one separate 20-ampere circuit.
- (7) *Heat sources.* The primary heat source shall be provided with a separate circuit.
- (8) *Exposed wiring methods.* All exposed wiring methods shall be installed in accordance with the applicable *National Electrical Code* article.
- (9) *Bathrooms.* Each bathroom shall have one receptacle outlet located within 3 feet of the basin. Any bathroom receptacle outlet shall have ground fault circuit interrupter protection.
- (10) *Emergency disconnect.* An emergency disconnect shall be provided as required in Section 230.85 of the *National Electric Code* for one- and two-family dwelling units and townhomes.

408.1 Materials. Plumbing materials and supplies shall not be used for repairs that are

prohibited in the *Uniform Plumbing Code*.

702.7 Materials and methods. New work shall comply with the materials and methods requirements in the International Building Code, International Residential Code, International Energy Conservation Code, International Mechanical Code, International Fuel Gas Code, NFPA70, and Uniform Plumbing Code, as applicable, that specify material standards, detail of installation and connection, joints, penetrations, and continuity of any element, component, or system in the building.

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

1. All of Chapter 3, entitled "General Regulations," except Sections 303.7 and 306.
2. All of Chapter 8, entitled "Chimneys and Vents."
3. All of Chapter 9, entitled "Specific Appliances."

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

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

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

1. Occupants shall have unobstructed access to the fire escape without having to pass through a room subject to locking.
2. Access to a new fire escape shall be through a door, except that windows shall be permitted to provide access from single-dwelling units or sleeping units in Group R-1, R-2 and I-1 occupancies or to provide access from spaces having a maximum occupant load of 10 in other occupancy classifications.

- 2.1. The window shall have a minimum net clear opening of 5 square feet (0.46 m²).
 - 2.2. The minimum net clear opening height shall be 24 inches (610 mm) and net clear opening width shall be 20 inches (508 mm).
 - 2.3. The bottom of the clear opening shall not be greater than 48 inches (1220 mm) above the floor.
 - 2.4. The operation of the window shall comply with the operational constraints of the International Building Code.
3. Newly constructed fire escapes shall be permitted only where exterior stairs cannot be utilized because of lot lines limiting the stairway size or because of the sidewalks, alleys, or roads at grade level.
 4. Openings within 10 feet (3048 mm) of fire escape stairways shall be protected by fire assemblies having minimum 3/4-hour fire-resistance ratings.

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

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

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

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

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

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

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

**Table 1011.5
Means of Egress Hazard Categories**

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

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

1. An existing operable window shall provide a minimum net clear opening of 4 square feet (0.38 m²) with a minimum net clear opening height of 22 inches (559 mm) and a minimum net clear opening width of 20 inches (508 mm), provided the operable window has a sill height of not more than 48 inches (1,219 mm) above the floor.
2. A replacement window where such window complies with both of the following:
 - 2.1. The replacement window meets the size requirements in Item 1.
 - 2.2. The replacement window is the manufacturer’s largest standard size window that will fit within the existing frame or existing rough opening. The replacement window shall be permitted to be of the same operating style as the existing window or a style that provides for an equal or greater window opening area than the existing window.

**Table 1011.6
Heights and Areas Hazard Categories**

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

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

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

Adopted this 2th day of February, 2022.

Jim Heinitz
Mayor

ATTEST:

Christina Smith
Municipal Finance Officer

(SEAL)

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