

ORDINANCE #653

AN ORDINANCE PROVIDING FOR THE ADOPTION OF THE 2021 INTERNATIONAL PROPERTY MAINTENANCE 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:

Adoption International Property Maintenance Code 2021.

The *International Property Maintenance Code*, 2021 edition, published by the International Code Council as amended, is hereby adopted as the property maintenance code to provide standards to safeguard life or limb, health, property, and public welfare by regulating, governing, and controlling the use, occupancy, conditions, and maintenance of all property, buildings, and structures within this jurisdiction and to provide for a just, equitable, and practicable method whereby buildings or structures, which from any cause endanger the life, limb, morals, property, safety, or welfare of the general public or their occupants, may be repaired, vacated, or demolished. The minimum requirements and standards of the 2021 *International Property Maintenance Code* will become effective and will be adopted on February 2, 2022.

A printed copy as amended is on file at the Brandon City Hall.

Amendments, additions, and deletions to the 2021 *International Property Maintenance Code*.

The following sections and subsections of the property maintenance code adopted in this article shall be amended, added, or not adopted by the city as follows. All other sections or subsections of the 2021 *International Property Maintenance Code* shall remain the same.

101.1 Title. These regulations shall be known as the International Property Maintenance Code of The City of Brandon, South Dakota, hereinafter referred to as "this code."

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 Existing Building Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, Uniform Plumbing Code* and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any of the Ordinances of Brandon, South Dakota.

103.1 Enforcement agency. The City of Brandon shall be the enforcement agency and the official in charge thereof shall be known as the Building Official.

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

104.1 Fees. The fees for building permits, activities, and services performed by the city in carrying out its responsibilities under this code shall be established by the Brandon City Council.

105.7 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, immunities and any 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 city, 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.

107.1 General. The *code official* shall order the *owner, or owner's authorized agent* of any *premises* upon which is located any structure, which in the *code official's* judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary, or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* option; or where there has been a cessation of normal construction of any structure for a period of more than 18 months, the *code official* shall order the *owner or owners authorized agent* to demolish and remove such structure. The structure must remain secured during the 18-month time period. This adopted language will replace the City of Brandon's adopted Ordinance Chapter 4-7 "Abatement of Dangerous Buildings".

107.5 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 Property Maintenance 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.

108.1 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 property maintenance and who are not employees of the jurisdiction.

108.2 Compensation of Members. Compensation of members shall be at a rate of \$40.00 for each scheduled meeting regardless of the number of agenda items. Members shall be compensated at this rate each time the Board of Adjustments is assembled for a scheduled meeting.

108.3 Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the *code official*, and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than four members of the planning commission.

108.4 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.

109.2 Notice to person responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3. Notwithstanding the above, this section shall not apply to the giving of notice as it relates to a violation of Brandon City Ordinance 13-2 Sections 13-2-2 and 13-2-7 concerning weeds and failure to mow violations.

109.6 Extension of time agreement. If the code official determines that an extension of time will not create or perpetuate a situation imminently dangerous to life or property, the code official may grant an extension of time, not to exceed 180 days, in which to complete the work listed in the Notice and Order. Any extension shall not extend the time to appeal the Notice and Order. Any extension shall be agreed to in writing in a document containing the following:

1. A reasonable and acceptable schedule, setting forth specific dates to complete corrective action for each violation listed in the Notice and Order.
2. A signature of the responsible party.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code, International Existing Building Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, Uniform International Plumbing Code, International Residential Code, NFPA 70* or the City of Brandon Zoning Ordinances, such terms shall have the meanings ascribed to them as stated in those codes.

302.4 Weeds. All weeds, grass height and plant growth shall be maintained and controlled in a manner so as to not be in conflict with the Brandon City Ordinance # 13-2-7.

302.4.1. The occupant, person in charge, or owner of any lot or parcel of land in the City of Brandon shall keep such lot, to include any abutting city, township, county or state right-of-way, free of such nuisance vegetation, as declared by Section 13-2 of Brandon City Ordinance # 13-2-7 by cutting, spraying, or removal, as may be appropriate. The City has the authority to require compliance with this article on all property within the city limits of Brandon.

302.8 Motor vehicles. Abandoned and inoperative vehicles shall be regulated by Brandon City Ordinances: 12-20-2 and 7-7. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any *premises*, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and *approved* for such purposes.

304.14 Insect screens. During the period from April 1st to September 30th, 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 is 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.

307.1 General. Every exterior and interior flight of stairs having four or more risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp, or other walking surface that is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall be not less than 34 inches (762 mm) in height or more than 38 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall be not less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp, or other walking surface.

Exception: *Guards* shall not be required where exempted by the adopted building code and a handrail is not required on a stairway if the guard is not required by the adopted building code.

402.1 Habitable spaces. Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall Not be deemed to face neither directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exceptions:

1. Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m). The exterior glazing area shall be based on the total floor area being served.
2. The glazed areas need not be provided in rooms where artificial light is provided capable of producing an average illumination of six foot-candles (6.46 lux) over the area of the room at a height of 30 inches (762 mm) above the floor level.

404.4.1 Room area. Every living room shall contain not less than 120 square feet (11.2 m²) and every bedroom shall contain not less than 70 square feet (6.5 m²), and bedrooms 100 square feet (9.33 m²) or less are allowed two occupants and every bedroom occupied by more than two one persons shall contain not less than 50 additional square feet (4.6 m²) of floor area for each occupant thereof.

505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet, or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs, and showers shall be supplied with hot or tempered and cold running water in accordance with the Uniform Plumbing Code.

602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperatures for the locality. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

Exception: In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

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 September 1st to April 30th to maintain a minimum temperature of 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 the 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.

602.4 Occupiable workspaces. Indoor occupiable workspaces shall be supplied with heat during the period from September 1st to April 30th to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage, and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

Adopted this 2nd day of February 2022.

Jim Heinitz
Mayor

ATTEST:

Christina Smith
Municipal Finance Officer

(SEAL)

First Reading: December 20, 2021

Second Reading: January 3, 2022

Publication: January 12, 2022

Effective Date: February 2, 2022