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at stated periodic meetings.

[A] 108.8 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 a minimum of two-thirds of the board membership.

[A] 108.9 Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

[A] 108.10 Postponed hearing. When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

[A] 108.11 Board decision. The board shall modify or reverse the decision of the Code Official only by a concurring vote of a majority of the total number of appointed board members.

[A] 108.12 Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the Code Official.

[A] 108.13 Administration. The Code Official shall take immediate action in accordance with the decision of the board.

[A] 108.14 Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

[A] 108.15 Stays of enforcement. Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

[A] 108.16 Fees. The fee for appeal application will be set by Resolution. Fees are required for appeal requests regardless of the outcome of the request and are nonrefundable.

109.2 Schedule of Permits. Fees shall be set by Resolution of the City of Vermillion Governing Body.

109.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the Fire Official, or of a permit or certificate issued under the provisions of this code, shall be subject a fine set by Resolution in addition to any and all other penalties as prescribed by law.

113.3 Work commencing before permit issuance. Any person who commences any work, activity or operation regulated by this code before obtaining the necessary permits shall be subject to an established by Resolution of the City of Vermillion's Governing Body and shall be in addition to the required permit fees. Legal and/or civil proceedings may also be commenced.

109.4.1 Delinquent Accounts. The Fire Official may refuse to issue permits, or conduct inspections for any person or business that has a delinquent account with any City department.

912.2.2 Existing buildings. On existing buildings, the Fire Department connection shall be indicated by an approved sign mounted on the street front or on the side of the building. Such signs shall have the letters "FDC" at least 6 inches high and words in letters at least 2 inches high or an arrow to indicate the location. All such signs shall be subject to the approval of the Fire Code Official.

5704.2.9.6.1 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks outside of buildings is prohibited is the corporate limits of the City of Vermillion).

5706.2.4.4 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks is prohibited corporate limits of the City of Vermillion).

5806.2 (geographic limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited corporate limits of the City of Vermillion).

6104.2 (geographic limits in which the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas corporate limits of the City of Vermillion).

903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided through out all buildings with a Group R fire area.

Exceptions:

1. Group R-2 occupancies with four or fewer units.
2. Group R-3 occupancies

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Dated at Vermillion, South Dakota this 17th day of March, 2014.

THE GOVERNING BODY OF THE CITY OF VERMILLION, SOUTH DAKOTA

By:

John (Jack) E. Powell, Mayor
ATTEST:

By:

Michael D. Carlson, Finance Officer

Adoption of the Ordinance was seconded by Alderman Meins. Thereafter, the question of the adoption of the Ordinance was put to a roll call vote of the Governing Body, and the members voted as follows: Collier-Wise-Y, Davies-Y, Grayson-Y, Meins-Y, Osborne-Y, Ward-Y, Willson-Y, Zimmerman-Y, Mayor Powell-Y

Motion carried 9 to 0. Mayor Powell declared that the Ordinance has been adopted and directed publication thereof as required by law.

B. Second Reading of Ordinance 1310 to amend Chapter 150 Building Regulations, Section 150.50 International Property Maintenance Code, Adopting and Enacting the 2012 International Property Maintenance Code as modified by the City; to amend Chapter 94 Rental Housing Code deleting Sections 94.07(3)(d),(e)(5)(a)(b),(6),(7) Enforcement Notice and Hearing and Section 94.09 (A) and (B) Board of Housing Appeals to Eliminate Conflicting Appeal Sections between the Rental Housing Code and the International Property Maintenance Code and Add Standards and Deadlines for Compliance for Emergency Escape and Rescue Openings in Existing Buildings and Return Air and Controllable Heat Sources in Existing Buildings.

Farrel Christensen, Building Official, reported that since first reading that there have been discussions with the Multihousing Association which have resulted in some changes to the proposed ordinance. Farrel stated that the dates in 94.02 (J) 1. & 2. were changed from 1988 to 1986 to reflect the building code. Farrel stated that an exception was added to the ordinance. This exception states that egress windows that are less than 18" in width, 24" in height or less than 3 square foot in area need to be replaced by September 1, 2014. All other egress windows in structures built prior 1974 will have until July 1, 2019 to become compliant with this code. Farrel noted that egress windows that were changed and reduced the opening size are not included in this exception and will be required to be replaced with the correct size window no later than September 1, 2014. Farrel noted that any rental unit not currently registered will be required to comply with the minimum standards established in this code and none of the exceptions will apply. He stated that this exception maintains the 4.5 square foot requirement that the Fire Chief agreed is the minimum safe size but allows owners with windows that do not pose an imminent danger to the occupants as deemed hazardous by the Fire Chief to have until July 1, 2019 to bring existing windows up to code. The change referenced above has been included in the ordinance and is in section 94.02 J 3 Exception.

Farrel stated that one other item was the allegation that this code requirement should apply to owner occupied structures. He stated that the contention is that the use is the same under the code which is not correct. Farrel stated that the building code applies construction standards based on occupancy classification; apartment houses, boarding housing, and similar use are classified as Residential Group R division 2. Farrel stated that all single family homes are classified as Residential Group R division 3. Farrel stated that Single Family Dwellings whether owner occupied or rental do share the same classification R-3 however the use is very different. Rental units are owned by investors whose primary concern is a return on an investment. Owner occupied homes are not commercial investments and the owners primary concern is himself or family, a very different situation. A single family rental owner is making decisions based on how much an investment will return while the owner occupied single family owner is basing his decisions on his family. Farrel stated that it is important to remember that the new window replacement ordinance does apply to owner occupied structures.

Farrel stated that the ordinance will establish 4.5 square feet area as the minimum size for egress windows for all rental units.

Dan Siefgen, Multihousing Association, wanted to thank Alderman Willson and Zimmerman along with City staff for working with them on this issue. He noted that the association is in agreement with everything except the requirement that structures built prior to 1974 will need to have egress windows of at least 4.5 square feet in area in all bedroom windows. He noted that these homes may require structural alterations for these windows to be installed. Dan requested

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that the City Council establish a committee to review options for the older housing stock to accommodate this egress window requirement.

Discussion followed with Farrel stating that the Code Enforcement office has documented 157 windows that do not comply with this ordinance. Farrel noted that the exemption provides for a step if they do not meet the sill height and an exemption for building in the Historic District and in the Central Business District. Discussion followed on the option of only replacing noncompliant windows when the existing window fails. Farrel noted that this might be subjective and if properly maintained windows can last many years.

Dan stated that egress windows that were compliant but were replaced with a window that is non compliant will need to be replaced. He stated that the code is clear on this that you cannot remove life safety equipment and, as such, these windows will need to be replaced.

Dan stated that his organization's concern is the pre 1974 homes, many of which are single family, that have been rental property for many years and have passed the rental inspections and are now being required to have 4.5 square foot egress windows. He noted that the landlord's costs keep adding up and will impact the amount of rent. Dan again requested a committee be established to review the impact of this new ordinance on the older housing stock in the community.

Upon request, Shannon Draper, Fire Chief, stated that the minimum size egress window in the building code has been 4.5 square feet in area and the current code requires 5.7 square feet of area for egress windows.

Alderman Davies expressed his concern about if 4.5 square feet in area is the minimum acceptable size why is the ordinance allowing 5 years for the windows to become compliant. Jim McCulloch, City Attorney, stated that making a change in a code such as zoning or rental housing that requires immediate compliance can be considered a regulatory taking. Jim noted that properties may be leased for a period of time that does not allow the landlord the ability to adjust rents. Jim stated that he would recommend allowing the extra time to become compliant.

Another option suggested was to not have a minimum standard but to have the building inspector use his judgment as to what windows would be acceptable and which would need to be replaced. It was noted that an option might be to bring the windows up to code at which time the inspector determined they needed to be replaced. Jim McCulloch, City Attorney, stated that it would be best to have a minimum standard. That way everyone will know the requirement and it is not subjective to individual judgment.

Discussion followed on the establishment of a committee or task force to look at the long term objectives as it applies to rental housing in the community. It was noted that this committee or task force would be advisory only as statute does not provide for the creation of this committee or task force.

85-14 Second reading of title to Ordinance No. 1310, entitled AN ORDINANCE to amend Chapter 150 Building Regulations, Section 150.50 International Property Maintenance Code, Adopting and Enacting the 2012 International Property Maintenance Code as modified by the City; to amend Chapter 94 Rental Housing Code deleting Sections 94.07(3)(d),(e)(5)(a)(b),(6),(7) Enforcement Notice and Hearing and Section 94.09 (A) and (B) Board of Housing Appeals to Eliminate Conflicting Appeal Sections between the Rental Housing Code and the International Property Maintenance Code and Add Standards and Deadlines for Compliance for Emergency Escape and Rescue Openings in Existing Buildings and Return Air and Controllable Heat Sources in Existing Buildings for the City of Vermillion, South Dakota.

Mayor Powell read the title to the above named Ordinance, and Alderman Zimmerman moved adoption of the following:

BE IT RESOLVED that the minutes of this meeting shall show that the title to the proposed Ordinance No. 1310 entitled an ordinance to amend Chapter 150 Building Regulations, Section 150.50 International Property Maintenance Code, Adopting and Enacting the 2012 International Property Maintenance Code as modified by the City; to amend Chapter 94 Rental Housing Code deleting Sections 94.07(3)(d),(e)(5)(a)(b),(6),(7) Enforcement Notice and Hearing and Section 94.09 (A) and (B) Board of Housing Appeals to Eliminate Conflicting Appeal Sections between the Rental Housing Code and the International Property Maintenance Code and Add Standards and Deadlines for Compliance for Emergency Escape and Rescue Openings in Existing Buildings and Return Air and Controllable Heat Sources in Existing Buildings for the City of Vermillion, South Dakota was first read and the Ordinance considered substantially in its present form and

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content at a regularly called meeting of the Governing Body on the 3rd day of March, 2014 and that the title was again read at this meeting, being a regularly called meeting of the Governing Body on this 17th day of March, 2014 at the City Hall Council Chambers in the manner prescribed by SDCL 9-19-7 as amended.

BE IT RESOLVED and ordained that said Ordinance be adopted to read as follows:

ORDINANCE NO. 1310 AN ORDINANCE AMENDING CHAPTER 150 BUILDING REGULATION SECTION 150.50 INTERNATIONAL PROPERTY MAINTENANCE CODE, ADOPTING AND ENACTING THE 2012 INTERNATIONAL PROPERTY MAINTENANCE CODE AS MODIFIED BY THE CITY OF VERMILLION; AND AMENDING CHAPTER 94: RENTAL HOUSING CODE DELETING SECTIONS 94.07(3)(d),(e)(5)(a)(b),(6),(7) ENFORCEMENT NOTICE AND HEARING AND SECTION 94.09 (A) AND (B) BOARD OF HOUSING APPEALS TO ELIMINATE CONFLICTING APPEAL SECTIONS BETWEEN THE RENTAL HOUSING CODE AND THE INTERNATIONAL PROPERTY MAINTENANCE CODE AND ADDING STANDARDS AND DEADLINES FOR COMPLIANCE FOR EMERGENCY ESCAPE AND RESCUE OPENINGS IN EXISTING BUILDINGS AND RETURN AIR AND CONTROLLABLE HEAT SOURCES IN EXISTING BUILDINGS. BE IT ORDAINED, by the Governing Body of the City of Vermillion, South Dakota that Chapter 150, Section 150.50 International Property Maintenance Code is repealed and the 2012 International Property Maintenance Code is enacted, and the 2012 International Property Maintenance Code shall be amended, added, or deleted by the City as follows. All other portions of the 2012 International Property Maintenance Code as published shall remain the same.

AN ORDINANCE of the City of Vermillion adopting the 2012 edition of the International Property Maintenance Code as amended, regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures in the City of Vermillion; providing for the issuance of permits and collection of fees therefore; repealing and replacing current section 150.50 of the City of Vermillion and all other ordinances or parts of laws in conflict therewith

BE IT ORDAINED, by the Governing Body of the City of Vermillion, South Dakota, that Chapter 94 Rental Housings Code Sections 94.07(3)(d),(e)(5)(a)(b),(6),(7) and section 94.09 Board of Housing Appeals of the Revised Ordinances of the City of Vermillion be deleted and that Section 94.02 (G),(H),(I) & (J) Responsibilities of Owners and Occupants of Rental units is modified and amended and it is hereby ordained by authority of the same as follows:

§ 150.50 INTERNATIONAL PROPERTY MAINTENANCE CODE 2012 ADDITION ADOPTED. A certain document, one copy of which is on file in the office of the Building Official and one copy of which is on file in the Vermillion Public Library, designated as the International Property Maintenance Code, 2012 Edition, be and is hereby adopted as the property maintenance code of the City of Vermillion in the State of South Dakota.

The following additions, deletions, modifications and or amendments to the International Property Maintenance Code, 2012 Edition, are hereby incorporated into and made a part of the 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 Chapter 150, sections 150.02 and 150.03 and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the City's zoning regulations.

103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall set by Resolution of the City of Vermillion's Governing Body.

106.4 Violation penalties Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the Building Official, or of a permit or certificate issued under the provisions of this code, shall be subject a fine set by Resolution in addition to any and all other penalties as prescribed by law.

[A] 111.1 Application for appeal. Any person having any record title or legal interest in the dwelling,

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dwelling unit, rooming unit, or premises. 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 Appeals, provided that a written application for appeal is filed within 20 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 there under have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

[A] 111.2 Forms. Appeals shall be submitted on the forms provided by the Code Official. Applications must be accompanied with the application fee, applications without fees shall not be considered filed until the fee is received.

[A] 111.2.1 Membership of board. The Board of Appeals shall consist of the City of Vermillion Governing Body.

[A] 111.2.2 Chairman. The Governing Body's presiding member shall serve as the chairman of the Board of Appeals.

[A] 111.2.3 Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

[A] 111.2.4 Secretary. The chief administrative officer shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

[A] 111.2.5 Notice of Meeting. The Board of Appeals shall meet upon notice from the chairman within 30 days of the filing of an appeal, or at stated periodic meetings.

[A] 111.3 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 a minimum of two-thirds of the board membership.

[A] 111.4 Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

[A] 111.4.1 Postponed hearing. When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

[A] 111.5 Board decision. The board shall modify or reverse the decision of the Code Official only by a concurring vote of a majority of the total number of appointed board members.

[A] 111.6 Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the Code Official.

[A] 111.6.1 Administration. The Code Official shall take immediate action in accordance with the decision of the board.

[A] 111.6.2 Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

[A] 111.7 Stays of enforcement. Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

[A] 111.8 Fees. The fee for appeal application will be set by Resolution. Fees are required for appeal requests regardless of the outcome of the request and are nonrefundable.

202 General Definitions. Add the following definition.

Bedroom. A finished space that affords privacy to the occupant, at least seventy square feet in space with no dimensions less than seven feet. Bedrooms may not be located in a kitchen, dining room, living room, hallway or bathroom.

Exception: Efficiency units or units that are designed to be used as shared or group occupancy.

302.4 Weeds. Not adopted by the City

302.8 Motor Vehicles. Not adopted by the City

304.14 Insect Screens. During the period from May 1 to October 1, 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

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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:

1. Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

304.3 Premises Identification. Not adopted by the City

308 Rubbish and Garbage. Not adopted by the City

404.4.1 Room area. Every living room shall contain at least 120 square feet and every bedroom shall contain a minimum of 70 square feet. Bedrooms 100 square feet or less are allowed two occupants and every bedroom occupied by more than two persons shall contain a minimum of 50 additional square feet of floor area for each occupant thereof.

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 October 1 to May 1 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 a minimum temperature of 65°F shall be maintained.
- 602.4 Occupiable Work Spaces. Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to May 1 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.
- 702.4 Emergency escape openings. Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following:

All window replacement shall require a building permit. Replacement windows shall conform to the code for new construction whenever possible, including but not limited to light, ventilation, safety glazing and egress. Windows that cannot meet the code for new construction within the existing opening shall utilize the opening to its maximum potential to comply. Double hung windows or sliding windows that limit light, ventilation or egress are required to be changed to a casement style or similar to maximize the opening. Windows located in rental housing may require additional modification to comply with the minimum standards of section 94.02(J).

Exceptions: The replacement of glazing only, in non hazardous location shall not require a permit.

CHAPTER 94: RENTAL HOUSING CODE

Deleting 94.07 (3)(d)(e),(5),(6),(7) and 94.09. Modifying 94.02 (G)(H)

94.02 RESPONSIBILITIES OF OWNERS AND OCCUPANTS OF RENTAL UNITS (G) ~~In order to comply with the intent of this ordinance and protect the health, safety and welfare of occupants in rental units, effective January 1, 2014, All registered rental units shall be provided with smoke alarms that receive their primary power from the building wiring and when primary power is interrupted shall receive power from a battery.~~

Exceptions:

1. Smoke alarms shall be permitted to be battery operated when installed in buildings without commercial power.
2. Interconnection of hard-wired smoke alarms in existing areas shall not be required where the alterations or repairs 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 of hard-wired smoke alarms without the removal of interior finishes.

(H) ~~In order to comply with the intent of this ordinance and protect the health, safety and welfare of occupants in rental units, effective January 1, 2014, All registered rental units shall be provided with carbon monoxide alarms and shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units with fuel-fired appliances and/or attached garages.~~

(J) All registered rental units shall be provided with Emergency Es-