CHAPTER 54-21.3
STATE BUILDING CODE

54-21.3-01. Purposes of chapter.

The purposes of this chapter are to:

1. Provide the citizens of this state with nationally recognized standards and requirements for construction and construction materials.
2. Eliminate restrictive, obsolete, conflicting, and unnecessary construction regulations that tend to increase construction costs unnecessarily or restrict the use of new materials, products, or methods of construction or provide preferential treatment to types or classes of materials or products or methods of construction.
3. Ensure adequate construction of buildings throughout the state and to adequately protect the health, safety, and welfare of the people of this state.

54-21.3-02. Definitions.

As used in this chapter, unless the context requires otherwise:

1. "Agricultural purposes" includes purposes related to agriculture, farming, ranching, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry.
2. "Building" means a combination of any materials fixed to form a structure and the related facilities for the use or occupancy by persons, or property. The word "building" shall be construed as though followed by the words "or part or parts thereof".
3. "City" means any city organized under the laws of this state.
4. "Code enforcement agency" means an agency of the state or local government with authority to inspect buildings and enforce the law, ordinances, and regulations which establish standards and requirements applicable to the construction, installation, alteration, repair, or relocation of buildings.
5. "Construction" means the construction, erection, reconstruction, alteration, conversion, or repair of buildings.
6. "Jurisdictional area" means the area within which a city or township has zoning jurisdiction.
7. "State building code" means the state building code provided for in this chapter.
8. "Temporary work camp housing" includes a modular residential structure used to house workers on a temporary basis for a maximum period of five years.

54-21.3-03. State building code.

1. The department of commerce, in cooperation with the state building code advisory committee, shall adopt rules to implement, amend, and periodically update the state building code, which must consist of the international building, residential, mechanical, and fuel gas codes.
2. The state building code advisory committee consists of:
   a. Two representatives appointed by the North Dakota building officials association, one of whom must be from a jurisdiction of fewer than ten thousand people.
   b. One representative appointed by the North Dakota chapter of the American institute of architects.
   c. One representative appointed by the North Dakota society of professional engineers.
   d. One representative appointed by the North Dakota association of builders.
   e. One representative appointed by the North Dakota association of mechanical contractors.
   f. One representative appointed by the associated general contractors.
   g. A fire marshal appointed by the state fire marshal.
   h. One individual appointed by the state electrical board.
3. The state building code advisory committee shall meet with the department of commerce or a designee of the commissioner of commerce at least once each

calendar year to address proposed amendments to the state building code. The department of commerce may not adopt an amendment to the state building code unless the amendment is approved by a majority vote of:

a. One representative appointed by the North Dakota chapter of the American institute of architects;
b. One representative appointed by the North Dakota society of professional engineers;
c. One representative appointed by the North Dakota association of builders;
d. One representative appointed by the North Dakota association of mechanical contractors;
e. One representative appointed by the associated general contractors; and
f. Representatives of eligible jurisdictions as established by administrative rule.

4. The state building code or a building code adopted by a city, township, or county may not include a requirement that fire sprinklers be installed in a single family dwelling or a residential building that contains no more than two dwelling units. The state building code, plumbing code, electrical code, or an equivalent code adopted by a political subdivision must provide that a building designed for and used as a school portable classroom may be constructed and inspected as a temporary structure as defined by the state building code or may be permitted as a permanent school portable classroom. The foundation system of such a structure must comply with the recommendations of the manufacturer's engineering report for a pre-engineered unit or a structural engineer's report. Frost-free footings may not be required for a temporary structure that meets the requirements of the state building code unless required by an engineering report. Temporary electrical and plumbing installations may be allowed for any structure by the governmental entities governing those areas of construction or the applicable codes.
5. For the purposes of manufactured homes, the state building code consists of the manufactured homes construction and safety standards under 24 CFR 3280 adopted pursuant to the Manufactured Housing Construction and Safety Standards Act [42 U.S.C. 5401 et seq.].
6. The governing body of a city, township, or county that elects to administer and enforce a building code shall adopt and enforce the state building code. However, the state building code may be amended by cities, townships, and counties to conform to local needs.
7. A modular residential structure or a prebuilt home placed in the state must be constructed in compliance with the state building code. A modular residential structure or a prebuilt home placed in a jurisdiction that has amended the state building code must be constructed in compliance with the state building code and the amendments adopted by that jurisdiction.

54-21.3-04. Exemptions.

1. Except as specifically provided in this chapter, the following statewide codes are exempt from this chapter:
   a. The Standards for Electrical Wiring and Equipment, as contained in North Dakota Administrative Code article 24-02.
   b. The State Plumbing Code, as contained in North Dakota Administrative Code article 62-03.
   c. The State Fire Code, as contained in the rules of the state fire marshal as provided in section 18-01-04.
2. The following buildings are exempt from this chapter:
   a. Buildings which are neither heated nor cooled.
   b. Buildings used whose peak design rate of energy usage is less than one watt per square foot [929.0304 square centimeters] or three and four-tenths British thermal units an hour per square foot [929.0304 square centimeters] of floor area.
   c. Restored or reconstructed buildings deliberately preserved beyond their normal term of use because of historical associations, architectural interests, or public

policy, or buildings otherwise qualified as a pioneer building, historical site, state monument, or other similar designation pursuant to state or local law.

3. Any building used for agricultural purposes, unless a place of human habitation or for use by the public, is exempt from this chapter.

54-21.3-04.1. Accessibility standards - Automatic doors.

1. Notwithstanding section 54-21.3-04, every building or facility subject to the federal Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327] must conform to the 2010 Americans with Disabilities Act standards for accessible design as contained in title 28, Code of Federal Regulations, parts 35 and 36 [28 CFR 35 and 36].
2. A state agency or the governing body of a political subdivision shall require from any individual preparing plans and specifications for a building or facility subject to the Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327], a statement that the plans and specifications are, in the professional judgment of that individual, in conformance with the Americans with Disabilities Act standards for accessible design as provided under subsection 1. A statement of conformance must be submitted to the department of commerce division of community services for recording.
3. After July 31, 2013, a newly designed and constructed building in excess of seven thousand five hundred square feet [696.77 square meters] which is classified within the state building code as assembly, business, educational, institutional, or mercantile occupancy and required by the state building code to be accessible must include at the primary exterior public entrance an automatic door or power-assisted manual door that complies with the requirements of the Americans with Disabilities Act of 1990, revised 2010. If a multiple unit building does not have a primary exterior public entrance, an individual unit within that building is not required to include an automatic door or power-assisted manual door unless that individual unit is in excess of seven thousand five hundred square feet [696.77 square meters].

54-21.3-04.2. Notice of federal accessibility guidelines required.

A building permit issued under section 11-33-18, subsection 6 of section 40-05-02, or other similar grant of authority must contain the following statement:

Federal law may require this construction project to conform with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities.

54-21.3-04.3. Used temporary work camp housing - Exemption.

State or local government code enforcement agencies may allow exemptions or accept alternate methods for construction and placement of temporary work camp housing that has been previously used as housing or temporary work camp housing in a different location, provided that the waiver does not substantially compromise the health or safety of workers. This authority is granted to code enforcement agencies enforcing the state building code, the State Electrical Code, and the State Plumbing Code when acting within their existing jurisdiction. This section does not apply to newly constructed temporary work camp housing.

1. State or local government code enforcement agencies, acting within their existing jurisdiction, may conduct a nondestructive walkthrough inspection of previously used temporary work camp housing to ensure compliance with applicable codes, including the state building code, State Electrical Code, and State Plumbing Code. If the housing is found to be compliant with these codes, or to not substantially compromise the health or safety of workers pursuant to a waiver under this section, the code enforcement agency may issue a limited certificate of inspection, which is effective for a period of five years. Residents may not be permitted to move into or live in temporary work camp housing unless the housing has a current limited certificate of inspection or has been found to meet all applicable codes and requirements by any code enforcement agency having jurisdiction.

2. The applicable codes, including the state building code, the State Electrical Code, and the State Plumbing Code, are applicable as a standard for liability in legal actions against owners or operators of temporary work camp housing if exemptions are granted.
3. An owner of temporary work camp housing has the duty to remove that housing and all related above-grade and below-grade infrastructure within one hundred twenty days after the temporary work camp housing is vacated. Any city or county may abate any public nuisance caused by vacated temporary work camp housing within its jurisdiction. An owner of temporary work camp housing shall provide the city or county where the temporary work camp housing is installed with a surety bond, letter of credit, or other security instrument in the form and in an amount specified by the city or county. These funds must be used to cover actual expenses that may be incurred by the city or county in removal of the temporary work camp housing, including any above-grade or below-grade infrastructure. The owner is liable for any expenses that are reasonably incurred by the city or county which exceed the amount of the security.

54-21.3-05. Enforcement of code by city, township, or county - Relinquishment.

A city or township may administer and enforce the state building code only within its jurisdictional area. A county may administer and enforce the state building code within those areas of the county in which the state building code is not administered by a city or township. Cities and townships may relinquish their authority to administer and enforce the state building code to the county in which they are located in the manner provided by section 54-40.5-03. The governing body of a city, township, or county electing to administer and enforce the state building code may designate an enforcement agency. Cities, townships, and counties may provide by agreement for joint administration and enforcement and may contract for private enforcement of the state building code.

54-21.3-06. Continuing education - Responsibility.

Repealed by S.L. 1983, ch. 511, § 8.

54-21.3-07. Modular residential and commercial structures - Third-party inspections - Rules.

The manufacturer of a modular residential or commercial structure that is built in a factory shall contract with a third party for the inspection of the structure for compliance with all applicable building, electrical, fire, and plumbing codes and standards during the manufacturing process in the factory. A third party that conducts inspections and certifies compliance with all applicable codes and standards must be approved as a certified third-party inspector by the division of community services. The department of commerce shall adopt rules for the certification of inspectors and for the procedures to be followed in conducting inspections of modular residential and commercial structures. When a manufacturer of modular residential or commercial structures contracts with a certified third-party inspector to monitor compliance with all applicable building, electrical, fire, and plumbing codes and standards for a modular residential or commercial structure, no further inspection by state or local building, electrical, fire, or plumbing inspectors may be required for that structure during the manufacturing process in the factory. This section does not apply to a factory manufacturing fewer than two residential or commercial structures per year.

54-21.3-08. Adoption of an installation program - Penalty.

The department of commerce shall adopt rules establishing a manufactured home installation program for all manufactured homes built in accordance with the manufactured homes construction and safety standards under 24 CFR 3280 adopted pursuant to the Manufactured Housing Construction and Safety Standards Act [42 U.S.C. 5401 et seq.]. The rules must establish minimum installation standards. The rules may include standards, fees, and requirements for certification and training of installers, inspections of installations, dispute resolution, penalties for noncompliance, and costs of processing complaints. The standards do

not apply to manufactured homes installed before the original effective date of the rules. Manufactured homes may be installed in accordance with either standards adopted in the rules or the manufacturer's instructions. The rules must include provisions for the enforcement of these standards. Any person who violates this section or any rule adopted under this section is guilty of a class A misdemeanor.