ARTICLE 108-01
NORTH DAKOTA STATE BUILDING CODE

Chapter
108-01-01 North Dakota State Building Code

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108-01-01-01. History.

In 1979, the legislative assembly created the state building code. This code is codified in North Dakota Century Code chapter 54-21.3. At that time, the legislative assembly designated the 1976 uniform building code published by the international conference of building officials as the state building code. In 1983, the code was updated to the 1982 edition of the uniform building code, and expanded to include the recognition of the manufactured homes construction and safety standards under 24 CFR 3280 pursuant to the Manufactured Housing Construction and Safety Standards Act [42 U.S.C. 5401 et seq.] as the standard for the construction of manufactured housing. In addition, the responsibility for the state building code was transferred to the office of intergovernmental assistance.

In 1985, the legislative assembly added the 1982 uniform mechanical code published by the international conference of building officials. The state building code was updated in 1987 to the 1985 edition of the uniform building code and uniform mechanical code. In 1989, the legislative assembly added a state amendment to section 504(f) of the uniform mechanical code pertaining to liquefied petroleum gas appliances.

In 1991, the legislative assembly updated the state building code to the 1991 uniform building code and 1991 uniform mechanical code and amended North Dakota Century Code chapter 54-21.3 to permit cities, townships, and counties to amend the code to conform to local needs. Then in 1993, the legislative assembly provided for the office of management and budget to adopt rules to implement and periodically update the code as well as to adopt rules to amend the code; designated effective August 1, 1994, the state building code as the code to be adopted by jurisdictions electing to adopt and enforce a building code; and added the Americans with Disabilities Act accessibility guidelines as the state's accessibility standards.

The 2001 legislative assembly changed the contents of the state building code to the international building code, international residential code, international mechanical code, and international fuel gas code published by the international code council. In addition, the legislative assembly created a state building advisory code committee to help develop the administrative rules and to solicit input on and develop recommendations for amending the state building code. The law also permits the five

nongovernmental entities on the advisory committee to vote along with eligible jurisdictions on the recommendations made by the advisory committee.

The first rules developed to update, amend, and implement the state building code became effective in December 1994, as article 4-08, chapter 4-08-01. Those rules were developed by the office of intergovernmental assistance under the authority granted to the office of management and budget. In 1999, the office of intergovernmental assistance became the division of community services.

As a result of legislation in 2001, the division of community services was transferred from the office of management and budget to the department of commerce. This change meant the development of new rules for the state building code under the authority given to the department of commerce, and the deletion of the rules for the state building code that became effective in December 1994, article 4-08, chapter 4-08-01.

History: Effective September 1, 2002.
General Authority: NDCC 54-21.3-03(1)
Law Implemented: NDCC 18-12-06, 54-21.3-01, 54-21.3-02, 54-21.3-03, 54-21.3-04, 54-21.3-05

108-01-01-02. Definitions.

1. "DCS" means the division of community services.
2. "IBC" means the international building code.
3. "ICC" means the international code council.
4. "IFGC" means the international fuel gas code.
5. "IMC" means the international mechanical code.
6. "IRC" means the international residential code.
7. "Qualified appointed representative" means a code-knowledgeable individual designated by an eligible jurisdiction or organization to vote on the proposed published versions of the IBC, IRC, IMC, and IFGC and recommendations on proposed amendments from the building code advisory committee.

History: Effective September 1, 2002.
General Authority: NDCC 54-21.3-03(1)
Law Implemented: NDCC 18-12-06, 54-21.3-01, 54-21.3-02, 54-21.3-03, 54-21.3-04, 54-21.3-05

108-01-01-03. Intent.

It is the intent of this chapter to prescribe the rules for implementing, updating, and amending the nationally recognized standards for construction, alteration, movement, demolition, repair, and use of buildings in the state of North Dakota.

History: Effective September 1, 2002.
General Authority: NDCC 54-21.3-03(1)
Law Implemented: NDCC 18-12-06, 54-21.3-01, 54-21.3-02, 54-21.3-03, 54-21.3-04, 54-21.3-05

108-01-01-04. Scope.

1. This chapter supplements all laws defined within the North Dakota Century Code relating to construction, alterations, improvements, and siting of buildings, unless specifically exempted.
2. This chapter applies to all cities, townships, and counties that elect to adopt and enforce building codes within their jurisdictional boundaries.

3. This chapter applies to all state and local government buildings.

4. This chapter applies to all public and private schools.

History: Effective September 1, 2002.
General Authority: NDCC 54-21.3-03(1)
Law Implemented: NDCC 18-12-06, 54-21.3-01, 54-21.3-02, 54-21.3-03, 54-21.3-04, 54-21.3-05

108-01-01-05. Implementation.

The DCS is responsible for developing and implementing the administrative rules for implementing, updating, and amending the state building code. Cities, townships, and counties that elect to enforce a building code are responsible for adopting and enforcing the state building code, but may amend the code to conform to local needs. State agencies are responsible for assuring that plans and specifications for alterations and new construction of their buildings comply with the state building code, and that all work is inspected for compliance with the state building code. Schools located in jurisdictions that have not elected to adopt and enforce the state building code are responsible for assuring that plans and specifications for alterations and new construction comply with the state building code. Local governments that have not elected to adopt and enforce the state building code are responsible for assuring that plans and specifications for alterations and new construction of their buildings comply with the state building code.

History: Effective September 1, 2002.
General Authority: NDCC 54-21.3-03(1)
Law Implemented: NDCC 18-12-06, 54-21.3-03(1)(3), 54-21.3-05

108-01-01-06. Effective date of adoption of the state building code.

Effective August 1, 1994, any city, township, or county that has previously elected to adopt and enforce a building code, or any jurisdiction that elects to adopt and enforce a building code, must adopt and enforce the state building code. A city, township, or county may, however, amend the state building code to conform to local needs.

History: Effective September 1, 2002.
General Authority: NDCC 54-21.3-03(1)
Law Implemented: NDCC 18-12-06, 54-21.3-01, 54-21.3-02, 54-21.3-03, 54-21.3-04, 54-21.3-05

108-01-01-07. Inquiries.

Inquiries regarding the state building code may be addressed to:

ADA/Building Code Manager
Division of Community Services

History: Effective September 1, 2002.
General Authority: NDCC 54-21.3-03(1)
Law Implemented: NDCC 54-21.3-03(1)

108-01-01-08. Building code advisory committee.

The building code advisory committee, by law, consists of nine representatives from the following agencies and organizations:

1. Two members from the North Dakota building officials association. One member must be from a jurisdiction of less than ten thousand people. The size of a county will be determined by the population of nonincorporated areas, and jurisdictions that have relinquished their authority to administer and enforce the codes to the county;

2. One member from the North Dakota chapter of the American institute of architects;

3. One member from the North Dakota society of professional engineers.

4. One member from the North Dakota association of builders;

5. One member from the North Dakota association of mechanical contractors;

6. One fire marshal nominated by the North Dakota state fire marshal;

7. One member nominated from the North Dakota electrical board; and

8. One member from the associated general contractors.

The building code advisory committee may meet and vote on recommendations with less than nine members. In the event of a tie vote on a proposed code change, the code change will be presented to the voting jurisdictions as a tie vote.

History: Effective September 1, 2002.
General Authority: NDCC 54-21.3-03(1)
Law Implemented: NDCC 18-12-06, 54-21.3-01, 54-21.3-02, 54-21.3-03, 54-21.3-04, 54-21.3-05

108-01-01-09. Updating and amending the state building code.

The legislative assembly has mandated that the state building code consist of the IBC, IRC, IMC, and IFGC. These are nationally recognized codes published by the ICC and updated nationally every three years, with annual supplements published consisting of approved code changes. The first published version of these codes that will be adopted is the 2000 publication.

Each year, the DCS will meet with the building code advisory committee to either consider amendments to the newly published updated versions of the codes, or to consider amending the state building code with the nationally published interim supplements. To accomplish this, the following procedures will be used:

1. **Review of the newly published updates.** When the codes are updated nationally every three years, the DCS will schedule a meeting with the building code advisory committee to establish a code updating and amendment cycle to begin no earlier than six months from the receipt of the newly published updates. Once the DCS publishes the updating and amendment cycle schedule, any interested party may submit proposals for amendments. The DCS will provide a form for submitting proposals.

   All proposed amendments will first be reviewed by the building code advisory committee, and the committee, at that time, may develop amendments. Once all amendments have been reviewed, they will be sent to all voting jurisdictions identified by the DCS; to the organizations represented on the building code advisory committee; and to certain state agencies. They will be made available upon request to any other interested person or entity.

   At least one public hearing will be scheduled for the building code advisory committee to receive public comments on the proposed amendments. After each proposed amendment is discussed, the committee will develop a recommendation to adopt the amendment, to adopt with modification, or to reject the amendment.

   After the hearing, the DCS will publish and distribute to eligible voting organizations and jurisdictions the proposed amendments and the recommendations, including voting results of the committee on each proposed amendment.

2. **Review of the annual published supplement.** The DCS will meet with the building code advisory committee to discuss the approved changes published in the annual supplement. If

the committee determines that these changes are not significant to warrant a code change cycle, no further consideration will be given. If, however, the committee determines that these changes should be considered, a code updating and amendment cycle will be established and the procedures identified in subsection 1 will be followed.

History: Effective September 1, 2002.
General Authority: NDCC 54-21.3-03(1)
Law Implemented: NDCC 54-21.3-03(1)

108-01-01-10. Voting.

Voting on the recommendations for amendments to the codes will be limited to the following:

1. A qualified appointed representative from each city and county identified by the DCS as having adopted the state building code or, in the case of home rule cities, those that have adopted the same published codes used in the state building code. The DCS will be responsible for certifying up to one week prior to the voting meeting those jurisdictions that will be eligible to vote.

2. The qualified appointed representative of each of the following organizations on the building code advisory committee:

   a. North Dakota association of builders;

   b. North Dakota association of mechanical contractors;

   c. Associated general contractors;

   d. North Dakota chapter of the American institute of architects; and

   e. North Dakota society of professional engineers.

History: Effective September 1, 2002.
General Authority: NDCC 54-21.3-03(1)
Law Implemented: NDCC 54-21.3-03(1)

108-01-01-11. Voting procedures.

Each jurisdiction and organization eligible and present to vote will be allowed one vote. In the event of a tie or when there is less than a two-thirds majority on a recommendation, cities and counties will receive votes as follows to determine the outcome:

Number of Residents			Number of Votes
1	-	999	1
1,000	-	4,999	2
5,000	-	9,999	3
10,000	-	29,999	4
30,000	-	49,999	5
50,000	+		6

The population for a county will be determined by subtracting the population of eligible cities. The most recent population figures published by the census bureau will be used.

As each recommendation for each proposed amendment is presented, time will be provided for anyone present to indicate support or opposition to each proposed amendment or to propose amending the recommendation. A proposed amendment to a recommendation must be approved by a two-thirds majority of the voting qualified appointed representatives to be considered.

After all proposed amendments have been acted on, a final vote will be taken for the purpose of recognizing the specific publication year of the IBC, IRC, IMC, and IFGC adopted and all of the amendments approved.

History: Effective September 1, 2002.
General Authority: NDCC 54-21.3-03(1)
Law Implemented: NDCC 54-21.3-03(2)

108-01-01-12. Publication of amendments.

The DCS will publish, distribute, and make available a state building code book that identifies the published versions of the IBC, IRC, IMC, and IFGC and amendments adopted that are the current state building code.

History: Effective September 1, 2002.
General Authority: NDCC 54-21.3-03(1)
Law Implemented: NDCC 54-21.3-03(1)

108-01-01-13. Limitations.

Subsection 2 of North Dakota Century Code section 54-21.3-03, pertaining to the construction of manufactured homes, may not be amended. These are federal minimum standards for construction that are the responsibility of the federal department of housing and urban development. Each manufactured home carries a label of inspection indicating compliance with the manufactured home construction and safety standards.

North Dakota Century Code section 54-21.3-04.1 may not be amended because the accessibility standards contained in the Americans with Disabilities Act of 1990 are federal law.

History: Effective September 1, 2002.
General Authority: NDCC 54-21.3-03(1)
Law Implemented: NDCC 54-21.3-03(2)

108-01-01-14. Appendix chapters.

The appendix chapters of the IBC, IRC, IMC, and IFGC are not part of the state building code unless specifically adopted.

History: Effective September 1, 2002.
General Authority: NDCC 54-21.3-03(1)
Law Implemented: NDCC 54-21.3-03(1)