

ORDINANCE NO. 2011-05

AN ORDINANCE OF CLAY COUNTY, SD, ADOPTING THE 2009 INTERNATIONAL BUILDING CODE AND AMENDMENTS THERETO FOR AREAS WITHIN THE JOINT JURISDICTIONAL AREA OF CLAY COUNTY AND THE CITY OF VERMILLION.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CLAY COUNTY, SOUTH DAKOTA:

Section 1. Adopted. A certain document, one (1) copy of which is on file in the office of the City of Vermillion Building Official, a copy of which is on file at the Vermillion Public Library, designated as the International Building Code, 2009 Edition, including Appendix J, as published by the International Code Council, Inc., be and is hereby adopted as the erection, construction, enlargement, alteration, moving, removal, demolition, conversion, occupancy, height, area, 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 for the condemnation of buildings and structures unfit for human occupancy and used for the demolition of the structures as herein provided, and providing for the issuance of permits and collection of fees therefore. Each and all of the regulations, provisions, penalties, conditions, and terms of the International Building Code, 2009 Edition, on file in the locations mentioned above are hereby referred to, adopted, and made a part hereof, as if fully set out in the ordinance, with the additions, insertions, deletions, and changes if any, prescribed below. The minimum building standards of the International Building Code, 2009 Edition, and amendment thereto shall be applied to any building permit issued after the adoption, publication and enforcement of the Joint Zoning Regulations for Clay County and the City of Vermillion.

Section 2. Modifications to the 2009 International Building Code. The following sections and subsections of the 2009 International Building Code adopted in this Ordinance shall be amended, added, or not adopted by the County as follows. All other sections or subsections of the 2009 International Building Code as published shall remain the same.

- (1) *Section 104.4.1 Electrical.* The provisions of the National Electric Code shall apply to the installation of electrical systems, including equipment, appliances, fixtures, fittings and/or appurtenances thereto. All references to the International Electrical Code shall refer to the National Electrical Code. Permits and inspections for electrical work shall be obtained through the State Electrical Commission.
- (2) *Section 101.4.2 Gas.* The provisions of the Uniform Mechanical Code shall apply to the installation of gas piping. All references to the International Fuel Gas Code shall refer to the Uniform Mechanical Code.

- (3) *Section 101.4.3 Mechanical.* All references to the International Mechanical Code shall refer to the provisions of the Uniform Mechanical Code.
- (4) *Section 101.4.4 Plumbing.* All references to the International Plumbing Code shall refer to the provisions of the Uniform Plumbing Code. The provisions of The Uniform Plumbing Code as modified by the state of South Dakota shall apply to the installation of plumbing systems, including design, construction, installation, improvement, extension and alteration of materials, piping, venting, fixtures, appliances and appurtenances in relation to plumbing and plumbing systems. Permits and inspection for plumbing work shall be obtained through the State Plumbing Commission.
- (5) *Section 101.1 Title.* These regulations shall be known as the Building Code of the Joint Jurisdictional Area of Clay County and the City of Vermillion, hereinafter referred to as "this code."
- (6) *Section 103.1 Enforcement Agency.* The City of Vermillion Code Compliance Office shall be the enforcement agency and the official in charge thereof shall be known as the Building Official or such other agency and official as appointed by the Board of County Commissioners.
- (7) *Section 103.2 Appointment.* Deleted.
- (8) *Section 104.8 Liability.* The Clay County Zoning Administrator, Building Official, member of the Board of Appeals 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 any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection provided by the County's and/or City's insurance pool and any immunities and defenses provided by other applicable state and federal law and shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The Clay County Zoning Administrator, 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 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.

- (9) *Section 105.1 Permit Required.* Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure which is regulated by this code, or to cause any such work to be done, shall first make application to the Clay County Zoning Administrator and obtain the required permit. The Clay County Zoning Administrator and the Building Official may exempt permits for minor work.
- (10) *Section 105.2 Work exempt from permit.* Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

Building:

1. One-story detached accessory structures with side walls no greater than 8 feet in height, used as tool and storage sheds, playhouses, and similar uses, provided the floor area is 120 square feet, or less. (Except: Outdoor smoking structures).
2. Retaining walls that are not over 4 feet (1,219 mm) in height measured from the bottom of the grade elevation to the top of the wall, unless supporting a surcharge.
3. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,927 L) and the ratio of height to diameter or width does not exceed 2 to 1.
4. Painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work.
5. Prefabricated swimming pools that are less than 36 inches deep.
6. Swings and other playground equipment.
7. Window awnings supported by an exterior wall which do not project more than 54 inches (1,372 mm) from the exterior wall and do not require additional support.
8. Decks not exceeding 200 square feet in area, not more than 30 inches above grade at any point within 3 feet of the deck.
9. Replacement of window in existing openings.
10. Exterior Siding, Design and installation shall conform to Chapter 7 wall covering.

11. Roofing, Design and installation shall conform to Chapter 9 roof assemblies.
 12. Sidewalks and driveways. A driveway permit is required from the City Engineer.
 13. Temporary motion picture, television, and theater stage sets and scenery.
 14. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
 15. Structures for the storage of equipment and materials incidental to the operation of agriculture such as tractors, combine harvesters and feed for the exclusive use of dairy or production animals. This does not include any exemption for general animal care and housing facilities. The exempt structures must be located on A-1 Agricultural zoned property.
- (11) *Section 107.3.1 Approval of Construction Documents.* When the Clay County Zoning Administrator issues a building permit, the construction documents shall be reviewed by the Building Official.
 - (12) *Section 109.2 Schedule of Permit Fees.* Fees shall be set by resolution of the Clay County Board of Commissioners.
 - (13) *Section 109.4 Work Commencing Before Permit Issuance.* Any person who commences work requiring a permit on a building or structure before obtaining the necessary permits shall be subject to a fee established by resolution of the Clay County Board of Commissioners and shall be in addition to the required permit fees. Legal and/or civil proceedings may also be commenced.
 - (14) *Section 109.7 Delinquent Accounts.* The Clay County Zoning Administrator and /or Building Official may refuse to issue permits, register rental units or conduct inspections for any person or business that has a delinquent account with any City or County department.
 - (15) *Section 110.3 Required Inspection.* The Building Official shall indicate on the building permit documentation the inspections required for each job and upon notification shall make the inspections.
 - (16) *Section 113.1 General.* In order to hear and decide appeals of orders, decisions or determinations made by the Clay County Zoning Administrator and/or Building Official relative to the application and interpretation of this code, there shall be and is hereby created a Board of Appeals. The Clay County Zoning Administrator and Building Official shall be ex officio members of said Board but shall have no vote on any matter before the Board. The Board of Appeals shall consist of the Clay County Board of Commissioners and the Vermillion

City Council. All requests to the Board of Appeals shall be acted upon at a joint meeting of the Board of County Commissioners and the City Council. The Board of County Commissioners and the City Council must each vote in favor of the proposed action. The Board of Appeals shall render all decisions in writing to the appellant with a duplicate copy to the Clay County Zoning Administrator and Building Official.

(17) *Section 113.2 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 of Appeals shall have no authority to waive requirements of this code.

(18) *Section 113.3 Qualifications.* Deleted.

(19) Add the following definitions.

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.

Outdoor smoking shelters. An "outdoor smoking shelter" is an attached addition to, or detached structure located on the same lot as the primary structure.

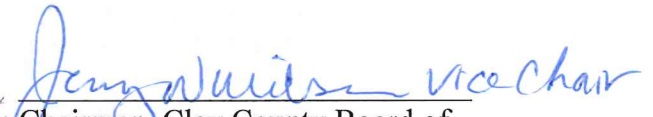
Outdoor smoking shelters shall:

- Comply with all provisions of the building code, and any other ordinances of the jurisdiction as adopted, regardless of size;
- Shelters 120 square feet, or less, in size may be constructed of any materials permitted by the building code.
- Shelters 120 square feet, or more, in size shall be constructed of noncombustible materials only.
- Have not more three sides or more than seventy-five percent (75%) of the aggregate wall area enclosed.
- Shall not be located within 10 feet of the primary entrance or interfere in any way with the operation of any required entrances or exits.
- Be lighted with appropriate weatherproof fixtures;
- Not be taller than the primary structure; and

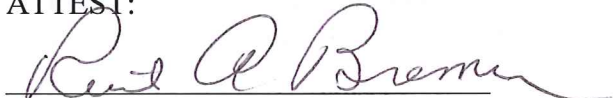
- Be both aesthetically and structurally similar to the primary structure.

(20) [F] 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-1 fire area and a Group R-4 fire area. An automatic fire-extinguishing system shall be provided throughout all buildings with a Group R-2 fire area more than two stories in height, including basements, or having more

Adopted this 13 day of December, 2011.


Vice Chairman, Clay County Board of
County Commissioners

ATTEST:


Auditor



First Reading: Dec 6, 2011
Second Reading & Adoption: Dec 13, 2011
Publication: Dec 23 + 30, 2011
Effective Date: JAN 19, 2012