

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

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Cross-reference:

*Local provisions for building regulations, planning commission and ordinances, see Title XVII
Nuisances, see Ch. 90*

Statutory reference:

*Authority to adopt codes, see SDCL § 9-33-4.1
Fire protection and safety regulations, see SDCL Chapter 9-33*

GENERALLY

§ 150.01 AUTHORITY FOR ZONING AND PLANNING.

(A) The municipality shall have the power to regulation zoning and planning pursuant to SDCL § 11-4-1 and therein for the purpose of promoting health, safety, or the general welfare of the community the governing body may regulate and restrict the height, number of stories, and size of building and other structures; the percentage of lot that may be occupied; the size of the yards, courts, and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence, flood plain, or other purposes.

(SDCL § 11-4-1)

(B) For violations of SDCL Chapter 11-4, see § 150.06.

§ 150.02 PLANNING COMMISSION.

Pursuant to SDCL § 11-6-2, the municipality shall create a Planning and Zoning Commission to develop and implement a comprehensive plan and the zoning regulations in each of the municipality's districts. The municipality shall appropriate a fund for the expenditures of the commission and further set out the qualifications of the members, mode of appointment, tenure of office, compensation, powers, duties and rules governing such board.

§ 150.03 BUILDING CODE.

If the governing body of any local unit of government adopts any ordinance prescribing standards for new construction, the ordinance shall comply with the 2018 edition of the *International Building Code* as published by the International Code Council, Incorporated. The governing body may amend, modify, or delete any portion of the *International Building Code* before enacting such an ordinance. Additional deletions, modifications, and amendments to the municipal ordinance may be made by the governing body and are effective upon their adoption and filing with the municipal finance officer. Additional deletions, modifications, and amendments to the county ordinance may be made by the governing body, and are effective upon their adoption and filing with the county auditor. No ordinance may apply to mobile or manufactured homes as defined in SDCL Chapter 32-7A that are constructed in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of construction. No ordinance may require that any fire sprinkler be installed in a single family dwelling. No ordinance may apply to any specialty resort or vacation home establishment as defined in SDCL Chapter 34-18 that is constructed in compliance with the requirements of Group R-3 of the 2018 edition of the *International Building Code*.

(SDCL § 11-10-5) Penalty, see § 10.99

§ 150.04 WHEN BUILDING CODE ORDINANCE NOT ADOPTED.

The design standard for any new construction commenced after July 1, 2018, within the boundaries of any local unit of government that has not adopted an ordinance prescribing standards for new construction pursuant to SDCL § 11-10-5 shall be based on the 2018 edition of the *International Building Code* as published by the International Code Council, Incorporated. Each local unit of government may adopt an ordinance allowing local administration and enforcement of the design standard. The provisions of this section do not apply to new construction for any one or two family dwelling, mobile or manufactured home, townhouse, or farmstead and any accessory structure or building thereto. For purposes of this section the term, **FARMSTEAD**, means a farm or ranch, including any structure or building located on the land. The provisions of this section do not apply to any mobile or manufactured

home as defined in SDCL Chapter 32-7A that is used for purposes other than residential that is constructed in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of construction if the structure complies with applicable accessibility standards for the occupancy intended. The provisions of this section do not apply to any specialty resort or vacation home establishment as defined in SDCL Chapter 34-18 that is constructed in compliance with the requirements of Group R-3 of the 2018 edition of the *International Building Code*.
(SDCL § 11-10-6)

§ 150.05 DISCLOSURE OF INFORMATION OF ENERGY EFFICIENCY OF RESIDENTIAL BUILDING TO BUYER; ALTERNATIVE DISCLOSURE.

(A) Except as provided by division (B) below, any person building or selling a previously unoccupied new residential building which is a single-family or multifamily unit of four units or less shall disclose to the buyer or prospective buyer information regarding the energy efficiency of the residential building. The completed disclosure form shall be provided prior to the signing of the contract to purchase and prior to closing if changes have occurred or are requested, and at any other time upon request. For new residential buildings that are completed and suitable for occupancy but unsold, the completed disclosure form shall be made available to the buyer or prospective buyer by the builder or seller when the residence is shown and at any other time upon request. The disclosure shall be made on a form prepared and disseminated by the South Dakota Real Estate Commission.
(SDCL § 11-10-8)

(B) If the new residential building is subject to both the National Manufactured Housing Construction and the Safety Standards Act pursuant to the U.S.C. Title 42 § 5403 and the Federal Trade Commission regulation on labeling and advertising of home insulation pursuant to 16 C.F.R. § 460.16, both as in effect on January 1, 2009, the builder or seller may disclose, instead of the information required by division (A) above, the information regarding the new residential building that is required to be disclosed pursuant to the federal act and regulation.
(SDCL § 11-10-9)

Statutory reference:

Disclosure statement, see SDCL § 11-10-10

§ 150.06 VIOLATIONS.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of SDCL Chapter 11-10 or of any ordinance or other regulation made under authority conferred thereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance,

or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.
(SDCL § 11-4-7) Penalty, see § 10.99

CONTRACTORS

§ 150.20 REQUIREMENTS OF CONTRACTORS.

(A) Contractors doing work in or for the municipality are required to do the following prior to starting work.

(B) For the purposes of this section, ***CONTRACTORS*** would include any individual being hired to construct any structure or remodel any structure, install or repair any sewer or water lines, to do any excavating or landscaping or construct or repair any item such as a fence, road, drive and the like.

(1) The contractor shall be aware of the building permit process and file one or make sure the individual he or she is working for has done so. Building permits can be filed at the municipal finance office and are at no cost by either the contractor or a private individual.

(2) If doing any digging, excavating, landscaping or trenching, the contractor shall call the SD One Call 48 hours prior to work or if an emergency, call and identify it as such to be able to start work immediately, as per SDCL § 49-7A.

(3) The contractor shall file proof of insurance with the municipal finance officer if working on any public land (county, city, school, state, water district and the like) or if working in any right-of-way along municipal streets.