

ORDINANCE NO. 2023-04

AN ORDINANCE OF THE CITY OF VIBORG, SD, AMENDING THE REVISED MUNICIPAL ORDINANCES OF THE CITY OF VIBORG BY ADDING CHAPTER 9.05, PROPERTY MAINTENANCE CODE.

BE IT ORDAINED BY THE CITY OF VIBORG, SD:

Section 1. That the Revised Municipal Ordinances of Viborg, SD, are hereby amended by adding a chapter to be numbered 9.05 to read as follows:

CHAPTER 9.05 - PROPERTY MAINTENANCE CODE

9.0501 Adopted. The *International Property Maintenance Code*, 2021 edition, published by the International Code Council, as amended, is hereby adopted as the Property Maintenance Code to provide standards to safeguard life or limb, health, property, and public welfare by regulating, governing, and controlling the use, occupancy, conditions, and maintenance of all property, buildings, and structures within this jurisdiction and to provide for a just, equitable, and practicable method whereby buildings or structures, which from any cause endanger the life, limb, morals, property, safety, or welfare of the general public or their occupants, may be repaired, vacated, or demolished. The minimum requirements and standards of the 2021 International Property Maintenance Code will become effective after (ORDINANCE EFFECTIVE DATE).

A printed copy as amended is on file with the Viborg Finance Officer.

9.0502 Amendments, additions, and deletions to the 2021 International Property Maintenance Code. The following sections and subsections of the property maintenance code adopted in this article shall be amended, added, or deleted as follows. All other sections or subsections of the 2021 International Property Maintenance Code shall remain the same.

101.1 Title. These regulations shall be known as the *Property Maintenance Code* of City of Viborg, South Dakota hereinafter referred to as “this 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 the *International Building Code, International Residential Code, Uniform Plumbing Code, National Electrical Code, Uniform Mechanical Code* and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the *Zoning Ordinance* of the City of Viborg, South Dakota.

103.2 Appointment. The Viborg Code Official or his or her designee is designated as the *code officials* and shall enforce the provisions of this code.

103.3 Deleted.

103.4 Liability. The *code 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 all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official

duties. Any suit instituted against any 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 by the City's insurance and any immunities and defenses provided by other applicable state and federal laws and be defended by the legal representative of the City until the final termination of the proceedings. The *code official* or any subordinate shall not be liable for costs in an action suit or proceeding that is instituted in pursuance of the provisions of this code.

103.5 Fees. The fees for building permits, activities and services performed by the department in carrying out its responsibilities under this code shall be as established by resolution of the City Council.

In addition, an administrative fee of \$250 may be assessed for the preparation of bids and contracts to correct or abate a violation.

107.7 Extension of time agreement. If the code official determines that an extension of time will not create or perpetuate a situation imminently dangerous to life or property, the code official may grant an extension of time, not to exceed 180 days in which to complete the work listed in the Notice and Order. Any extension shall not extend the time to appeal the Notice and Order. Any extension shall be agreed to in writing in a document containing the following:

1. A reasonable and acceptable schedule, setting forth specific dates to complete corrective action for each violation listed in the Notice and Order.
2. A signature of the responsible party.

110.1 General. The *code official* shall order the *owner* of any *premises* upon which is located any structure, which in the *code official* judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* option; or where there has been a cessation of normal construction of any structure for a period of more than 18 months, the *code official* shall order the *owner* to demolish and remove such structure.

Section 111.1 Application for appeal. Any person directly affected by a decision of the Code Official or a Notice and Order issued under this code shall have the right to appeal such Notice and Order to the Viborg City Council, provided that a written application for appeal is filed within twenty (20) days after the day a decision, notice or order was served. An application for appeal shall be based upon 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 that the requirements of this code are adequately satisfied by other means. An application for appeal will be deemed timely filed if filed in the office of the Finance Officer at Viborg City Hall within the timeframe set forth hereinabove.

Section 111.2 Appeal hearing. Upon receipt of a properly filed application for appeal, the Viborg City Council shall hear the appeal within 30 days after the date of the filing of the application for appeal at a regularly scheduled meeting of the Viborg City Council or a special meeting of the Viborg City Council which is properly noticed under South Dakota law. At the hearing before the Viborg City Council, the appellant, the appellant's representative, the Code Official and any person whose interests are affected shall be given an opportunity to be heard.

Section 111.3 City Council decision. At the close of the hearing or at the next regularly scheduled meeting, the City Council shall uphold, modify or reverse the Notice and Order of the Code Official.

Notice of said decision shall be sent, in writing, to the appellant and the Code Official at their last known addresses.

Section 111.4 Court review. The decision of the Viborg City Council is subject to judicial review by the circuit court as provided for in the Codified Laws of the State of South Dakota.

Section 111.5 Stays of enforcement. Any appeals filed on 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. If an Imminent Danger notice is issued by the Code Official and upheld on an appeal, the Code Official may take immediate action to insure compliance with the Immediate Danger notice. All other notice and orders shall be enforced by the Code Official upon exhaustion of all appeals by the appellant.

111.6 Deleted.

111.7 Deleted.

111.8 Deleted

112.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to administrative citations through the code enforcement process.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code, International Residential Code, Uniform Plumbing Code, National Electrical Code, Municipal and Zoning Code* of the City of Viborg, *Uniform Mechanical Code* or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes.

302.4 Weeds. All *premises* and *exterior property* shall be maintained free from weeds or plant growth pursuant to Title 3 of the City of Viborg Municipal Code.

302.8 Motor vehicles. Abandoned and inoperative vehicles shall be regulated by Title 3 and Title 7 of the City of Viborg Municipal Code.

302.9 Defacement of property. Placement of graffiti shall be regulated by Title 3 and Title 5 of the City of Viborg Municipal Code.

303.2 Deleted.

304.14 Insect screens. On properties rented, leased or let: During the period from April 1 to September 30, every 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 per inch (16 mesh per 25 mm).

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

308.2 Disposal of rubbish. Every *occupant* of a structure shall dispose of all *rubbish* pursuant to Title 3 of the City of Viborg Municipal Code.

308.2.1 Rubbish storage facilities. The *owner* of every occupied *premises* shall supply *approved* covered containers for *rubbish*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish* in accordance with Title 3 of the City of Viborg Municipal Code.

308.2.2 Refrigerators. Refrigerators, iceboxes or other similar airtight containers or equipment not in operation shall not be discarded, abandoned or stored on *premises* in accordance with Title 3 of the City of Viborg Municipal Code.

308.3 Disposal of garbage. Every *occupant* of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an *approved* garbage disposal facility or *approved* garbage containers in accordance with Title 3 of the City of Viborg Municipal Code.

308.3.1 Garbage facilities. Every dwelling shall be supplied with an *approved* leak-proof, covered, outside garbage container in accordance with Title 3 of the City of Viborg Municipal Code.

308.3.2 Containers. The *operator* of every establishment producing garbage shall provide, and at all times cause to be utilized, *approved* leak-proof containers provided with close-fitting covers for the storage of such materials until removed from the *premises* for disposal in accordance with Title 3 of the City of Viborg Municipal Code.

402.1 Habitable spaces. Every *habitable space* shall have at least one window of *approved* size facing directly to the outdoors or to a court. The minimum total glazed area for every *habitable space* shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception:

1. Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m²). The exterior glazing area shall be based on the total floor area being served.
2. The glazed areas need not be provided in rooms where artificial light is provided capable of producing an average illumination of six footcandles (6.46 lux) over the area of the room at a height of 30 inches (762 mm) above the floor level.

404.5 Overcrowding. The number of persons occupying a *dwelling unit* shall not create conditions that, in the opinion of the *code official or City Council*, endanger the life, health, safety or welfare of the *occupants*.

505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an *approved* private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the applicable *South Dakota Plumbing Commission Code*.

602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms*. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

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 September 1st to April 30th 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.

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from September 1st to April 30th 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.

John Edeleman, Mayor

ATTEST:

Lisa Rudd, Finance Officer

First Reading: November 13, 2023

Second Reading: December 11, 2023

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