

ORDINANCE NO. 735

BUILDING CODE AND  
CONSTRUCTION ORDINANCE

(Revised 10-26-22)

- A. *Applicability.* This Ordinance shall apply to erecting, constructing, enlarging, moving, or demolishing any building or structure or any appurtenances connected or attached to such buildings or structures.
- B. *Standards.* The most current edition of the International Building Code, including Appendix C and Appendix I and the most current edition of the International Residential Code, as published by the International Code Council Inc., and any approved Amendments and additions as approved by the Board of Commissioners.
- C. *Exceptions.*
1. *Electrical.* The National Electric Code means the National Electrical Code as adopted by the State of South Dakota and shall apply to the installation of electrical systems including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances thereto. National Electrical Code shall be administered by the State of South Dakota.
  2. *Gas.* The term Fuel Gas Code shall mean the National Fuel Gas Code as adopted by the State of South Dakota and shall apply to the installation of gas piping from the point of delivery, gas appliances, and related accessories as covered in this code. The requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories. The National Fuel Gas Code shall be administered by the State of South Dakota.
  3. *Plumbing.* The term Uniform Plumbing Code shall mean the 2015 Uniform Plumbing Code, International Association of Plumbing and Mechanical Officials, as in effect January 1, 2015, as adopted by the State of South Dakota and shall apply to the installation, alteration, repair, and replacement of plumbing systems including equipment, appliances, fixtures, fittings, and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. The Uniform Plumbing Code shall be administered by the State of South Dakota.
  4. *Fire Prevention.* The term International Fire Code shall mean the International Fire Code as adopted by the State of South Dakota and shall apply to matters affecting or relating to structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, material or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration or removal of fire suppression and alarm systems for fire hazard in the structure or on the premises from occupancy or operation. The International Fire Code shall be administered by the State of South Dakota with the exception of the requirements set forth in PCZO §§ 325, 326, and 327 which are in addition to these requirements.

D. *Liability.*

The building inspector, or any Pennington County employee charged with the enforcement of this Ordinance, while acting for the County in good faith and without malice in the discharge of the duties required by this Ordinance 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 an act or by reason of an act or omission in the discharge of official duties.

E. *Building Permit(s) Required.* No building or structure shall be erected, constructed, enlarged, moved, or demolished unless a Building Permit has been obtained in accordance with this Ordinance and PCZO § 506.

1. *Building Permit does not authorize unlawful work.* The issuance of a Building Permit, site plans, or specifications shall not be interpreted to be a Permit for, or an approval of, any violation of any of the provisions of this Ordinance, any adopted building codes, or any other Ordinance of the County or of any state or federal laws.
2. *Validity.* Permits presuming to give authority to violate or cancel the provisions of this Ordinance or any other Ordinance shall not be valid. Certain Variances that have been granted shall be deemed valid.

F. *Commercial Construction.* New commercial construction, alterations or building expansion of commercial buildings in excess of 2,400 square feet will require a Professional SD Registered Architect or Engineer to provide a set of applicable stamped building plans for review by the County.

G. *Submittal Requirements.*

1. *Site Plans/Plans.* Show proposed new structure and any existing buildings or structures, all property lines with dimensions, all streets, easements and setbacks. Show all water, sewer, electrical points of connection, proposed service routes and existing utilities on the site. Show all required parking, drainage and grading information. Indicate drainage inflow and outflow locations and specify areas required to be maintained for drainage purposes. When appropriate include a topographical survey. Show north arrow. The minimum allowed plan size is 8½" x 11".
2. *Foundation Plan.* Show all foundations and footings. Indicate size, locations, thicknesses, materials and strengths and reinforcing. Show all imbedded anchoring such as anchor bolts, hold-downs, post bases, etc.
3. *Floor Plan.* Show all floors including basements. Show all rooms, with their use, overall dimensions and locations of all structural elements and openings. Show all doors and windows. Provide door and window schedules. All fire assemblies, area and occupancy separations and draft stops shall be shown.
4. *Exterior Elevations.* Show all views. Show all vertical dimensions and heights. Show all openings and identify all materials and show lateral bracing system, where applicable.

H. *Building Inspection Required.* Building Inspections are required for initial siting and as-built inspection(s). The Planning Department may, at any time, require additional inspections, information, and verification to ensure the building or structure is being built in accordance with the stamped plans, the PCZO, the Flood Damage Prevention Ordinance, and this Ordinance.

1. Building inspections will be required for:
  - a. All Commercial Building Permits.
  - b. Single-family residence or dwelling unit Building Permits.
  - c. Multi-family residence Building Permits.
  - d. Residential dwelling unit Building Permits (includes any building or structure which will contain living space or a portion of the building or structure will be used as living space).
  - e. Residential addition Building Permits (include basement finishes or finishing of unfinished space).
  - f. Accessory structure Building Permits for structures exceeding 400 square feet.
  - g. Mobile homes, modular homes, manufactured home Building Permits.
2. *Exemptions.* Exemptions to the building inspection requirements are for buildings and structures that are:
  - a. Accessory structures 400 square feet or less.

I. *Inspections – General Requirements.*

1. All construction or work for which an inspection is required shall be subject to inspection by the Building Inspector or designee, and all such construction or work shall remain accessible and exposed for inspection purposes until approved by the Building Inspector.
2. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this Ordinance, any state law or regulation or other County Ordinances.
3. It shall be the duty of the property owner or applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Building Inspector nor the County shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.
4. A location survey of the lot may be required by the Building Inspector prior to installation of foundation to verify that the structure is located in accordance with the approved Building Permit.

J. *Inspection Requests.*

1. It shall be the permit holder or permit holder's agent to notify the Building Inspector that such work is ready for inspection. The Building Inspector may require that every request for inspection be filed at least 72 hours before such inspection is desired. Such a request may be in any form approved by the Building Inspector.

2. It shall be the duty of the permit holder or contractor who performed the work to provide access to and means for inspection of such work. The approved site and floor plans shall be on site at the time of inspection.
- K. *Initial Siting.* Following the approval of a Building Permit Application, the Building Inspector will perform a site visit to verify the location of the proposed building or structure. The inspector will be verifying the size and location of the structure. It is the responsibility of the *property owner* to show that the location of the structure meets applicable setbacks and is being constructed in the location depicted on the submitted site plan in the approved Building Permit Application.
- L. *As-Built Inspection.* The As-Built inspection will only be performed after the State Inspectors have completed their inspections and approved the work and after final grading is complete. The As-Built inspection will consist of the following:
1. Verify that the electrical system is installed according to the approved plans and the South Dakota Electrical Code Standards (verification from State Inspector).
  2. Verify that the plumbing system is installed according to the approved plans and the South Dakota Plumbing Code Standards (verification from State Inspector).
  3. Verify that the mechanical system is installed according to the approved plans and the South Dakota Mechanical Code Standards (verification from State Inspector).
  4. Verify the location of the building or structure. An affidavit from the property owner or a location survey from a Registered Land Surveyor may be required for verification and approval by the Building Inspector.
  5. Verify the interior of the building or structure with the submitted floorplan. This will include viewing the interior construction and number of bedrooms.
  6. Verify the elevation of the building or structure is in compliance with the Flood Damage Prevention Ordinance (A completed and stamped Elevation Certificate is provided to the Building Inspector at time of inspection).
  7. Verify that the onsite wastewater treatment system (OSWTS) was installed by a licensed OSWTS installer and approved by Pennington County or the City of Rapid City inside the one-mile OSWTS jurisdiction.
- M. *Building or Structure Approval.* Upon successful verification and completion of the As-Built inspection, a Certificate of Compliance with this Ordinance will be issued.
- N. *Contractor's License Required.* It shall be unlawful for any person to engage in any of the trades, businesses or occupations enumerated below in the County, or in any construction work pursuant to such trades, businesses or occupations in the County, without having first obtained a license from the County for the work authorized by such license.
1. *Requirement.* One of the following licenses is required:
    - a. Class A, for construction of any and all types of structures; or
    - b. Class B, for construction of detached single-family houses, attached single-family houses, and 2-family dwellings, as defined by the U.S. Census Bureau.

2. *Application.* Each applicant for a license and registration required by this Ordinance must provide to the Planning Department the following information:
  - a. A completed Application for the license desired;
  - b. A copy of the applicant's South Dakota excise tax license, as applicable;
  - c. The applicant's address and phone number;
  - d. If available, the name, address, phone number, and email of an agent residing in South Dakota;
  - e. For firms required to file organizing or incorporating documents with the Secretary of State, proof that it is a validly existing legal entity authorized to transact business in South Dakota; and,
  - f. Payment of the application fee.
3. Each applicant for a general building contractor license, that is a business and not a person, must designate on the application at least one (1) license holder who shall sit for the required examination, if applicable.
  - a. If the applicant is a business, it may designate an employee of the firm as a license holder. A **business** under this Ordinance is defined as a partnership, limited partnership, limited liability partnership, limited liability limited partnership, limited liability company, corporation or other legal entity.
  - b. An applicant may designate multiple license holders, all of whom, upon successful completion of the examination, must be listed on the license issued to the contractor.
4. Before a general building contractor license may be issued, at least one (1) designated license holder shall be required to pass an examination as to his or her qualifications to perform building contracting. Applicants are responsible for scheduling and paying the examination fee for each exam. The following are acceptable exams for licensing:
  - a. Class A: F-11 National Standard General Building Contractor (A).
  - b. Class B: F-12 National Standard Building Contractor (B).
  - c. Proof of passing exam from contractors who hold a valid, current Class A or Class B contractor's license from the City of Rapid City.
5. Every applicant for every license shall present to the Planning Department for review a valid certificate of insurance at the time of application. It is the duty of every licensee to continually maintain valid liability insurance, naming Pennington County as Certificate Holder. The minimum required general aggregate liability shall be \$1,000,000 with \$300,000 fire damage and \$1,000,000 each occurrence. Proof of insurance must be validated every year.
6. *Exceptions.* The following exceptions do not require a license from Pennington County:
  - a. Employees of a general building contractor license if they are under the supervision of a license holder.

- b. A homeowner who builds, constructs, alters, adds to or demolishes any building or structure or any portion thereof that constitutes the owner's residence or a building or structure accessory thereto that is intended for the owner's personal use.\* An owner may not build more than one (1) single-family dwelling in a 5-year period without obtaining a contractor's license.  
  
\*A homeowner may not act as a general building contractor under this provision.
- 7. In accordance with South Dakota law, proof of worker's compensation insurance shall be verified by the Planning Department prior to the issuance of a license.
- 8. No licensee or landlord shall allow his or her name to be used by any other person directly or indirectly, either to obtain a building permit or to perform work under this Ordinance outside his or her supervision.
- 9. It is the duty of each general building contractor that is a business to immediately notify the Building Inspector in writing upon the designation of a license holder or the termination or separation of a license holder listed on the contractor's license.
  - a. Upon the termination or separation of a designated license holder, the general building contractor license shall expire 10 business days following such separation or termination unless:
    - i. There is another license holder listed on its license;
    - ii. The contractor immediately designates another license holder who has passed the examination; or,
    - iii. The license is extended as provided herein.
  - b. The contractor may, within 10 business days of any such termination or separation, request in writing from the Planning Department an extension of its general building contractor license, and the Planning Department shall grant an extension for a period not to exceed 30 days from the date of termination or separation.
  - c. No contractor may be issued a new permit during the period where no license holder is listed on its general contractor's license.
- 10. Except as provided below, all Class A and Class B licenses issued under the provisions of this chapter are valid for 3 years.
- 11. Licensees failing to renew their applications prior to expiration, have a 30-day grace period during which to renew before the license lapses. Licensees who fail to renew their license by the date of expiration or within the 30-day grace period shall be required to reapply for a new license, meeting all requirements of this Ordinance one year after expiration, then the licensee must pass any examination required pursuant to this Ordinance.
  - a. If an applicant who was previously licensed by the County or City of Rapid City obtains a license within a year of expiration of the previous license, then no re-examination is required.

- b. No renewal license may be issued until the licensee has completed the requirements for continuing education.
- 12. The Planning Department will review the application and all submittal information to verify compliance with this Ordinance. Not until the Planning Department has approved the application will the License be issued.
- 13. *Continuing Education.* Proof of continuing education hours must be submitted by the applicant at the time of any license renewal application under this Ordinance. The continuing education requirement for license renewal of general building contractor licenses is six hours per license period.
- 14. *Suspension of License.* It shall be within the discretion of the Planning Director to suspend, revoke or refuse to issue, renew or approve the license of any person if the Planning Department finds the following:
  - a. Suspension, revocation or refusal to renew is in the public interest; and,
  - b. Based upon evidence presented, the applicant or licensee:
    - i. Has filed an application for a license which is incomplete in any material respect or contains 1 or more statements which are false or misleading;
    - ii. Has engaged in any fraudulent, deceptive, or dishonest act or practice in the performance of building contracting and/or the trade;
    - iii. Has violated any applicable provision of this Ordinance, the adopted Building Codes, County Ordinances, state regulation or law, or federal law or regulation;
    - iv. Fails to maintain the requirements of licensure, including insurance, excise tax license or current phone and address as required by this Ordinance;
    - v. Fails to provide copies of records in his or her possession related to a matter under review;
    - vi. Fails to pay fees in a timely manner; or
    - vii. Fails to respond to a lawful order or directive of the Building Inspector, Planning Director or Board of Commissioners.
- 15. A licensee who is the subject of a review by the Planning Director shall cooperate fully with the Planning Department. Cooperation includes, but is not limited to:
  - a. Responding fully and promptly to questions raised by the Planning Department;
  - b. Providing copies of records in the person's possession relative to the matter under review, as requested by the Planning Department; and,
  - c. Appearing at hearings scheduled by the Planning Department.
- 16. *Appeals.* A decision by the Planning Director or designee granting, denying or revoking a Contractor's License may be appealed to the Board of Adjustment as prescribed under SDCL 11-2-55.

O. *Fees.*

1. Building Inspection (paid at time of Building Permit submittal).
  - a. Initial Inspection - \$25.00
  - b. Final Inspection - \$100.00
2. Contractor's License.
  - a. Class A License - \$300.00
  - b. Class B License - \$150.00

P. *Enforcement.*

1. Failure to comply with this Section is a violation of the Pennington County Zoning Ordinance and subject to the enforcement provisions of PCZO § 514.