

TITLE V.

BUILDINGS

CHAPTERS:

- 5-01. Building Code.
- 5-02. Dangerous Buildings.
- 5-03. Moving Buildings.
- 5-04. Flood Damage Prevention.
- 5-05. Minimum Housing Standards.

CHAPTER 5-01

BUILDING CODE

SECTIONS:

- 5-0101. Adoption of State Building Code.
- 5-0102. Modifications of State Building Code.
- 5-0103. Penalty.
- 5-0104. Fee for Copy of Relevant Code Provisions.

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5-0101. **ADOPTION OF STATE BUILDING CODE.** The erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the City of Horace, North Dakota, shall meet with the provisions of the rules and regulations of the State Building Code, a copy of which is on file in the office of the building inspector for the City of Horace, with the exception of the sections hereinafter set forth affecting local conditions in the City of Horace, which sections shall be substituted for and in lieu of like sections or paragraphs in said State Code; and the City Council of said City of Horace, by this section hereby approves and adopts such rules and regulations, as so modified, for use and application in the City of Horace, North Dakota, as well as for any area within the extraterritorial zoning jurisdiction of the City. Provided, that any amendments of the State Building Code may be adopted by the City by resolution.

5-0102. **MODIFICATIONS OF STATE BUILDING CODE.** The provisions of the State Building Code, which encompass the Uniform Building Code (as proscribed by Section 54-21.3-03 of the North Dakota Century Code), in order to conform to local needs, is hereby changed and amended as follows:

1. Section 107 - Fees is hereby amended to read as follows:

107.2 Permit Fees. The fee for each permit shall be based on the permit fee schedule as adopted by resolution of the City Council for the City of Horace.

107.3 Plan Review Fees. When submittal documents are required by Section 106.3.2, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee shall be 65% of the building permit fee as indicated in Section 107.2.

The plan review fees specified in this subsection are separate from the permit fees specified in Section 107.2 and are in addition to the permit fees.

When submittal documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittal items as defined in Section 106.3.4.2, an additional plan review fee shall be charged in an amount equal to 50%, if required, of the building permit fee at the rate indicated in Section 107.2.

2. Whenever a reference is made in said building code regarding the frost line, said frost line shall be determined to be four (4) feet. Four (4) feet should, therefore, be the minimum depth below finish grade to the bottom of footings, excluding detached residential garages.
3. Section 105.1 is hereby changed and amended as follows:

Appeals. A person may appeal an order, decision or determination made by the building official relative to the application and interpretation of this code to the Horace City Council. The appeal must be filed in writing with the City Auditor of the City of Horace within thirty (30) days from the date of the decision, order or determination of the building official.

5-0103. **PENALTY.** Any person violating any provision of the State Building Code adopted by this title or any section of this title shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

5-0104. **FEE FOR COPY OF RELEVANT CODE PROVISIONS.** Every licensed contractor, pursuant to Chapter 43-07 of the North Dakota Century Code, upon applying for a building permit, shall be provided a copy of the Building Code Ordinances of the City of Horace and the relevant portions of the State Building Code adopted by the City which apply to residential construction, or commercial construction, depending on the type of permit sought. The contractor will be charged a fee for such copies in an amount set by the City Council. A contractor will only be provided one copy of the relevant Building Code sections and pay one fee for residential construction and one fee for commercial construction, no matter how many building permits are requested by that particular contractor. Provided, however, that if the City later adopts another Building Code, the contractor will again be required to pay another fee to get the revised Building Code provisions. Notwithstanding the above provisions, if a contractor shows the Building Official his/her copy of the appropriate Building Code, then the contractor shall just be supplied a copy of the Horace Building Code Ordinances and shall not be required to be provided nor pay the charge for obtaining a copy of the relevant Building Code.

## CHAPTER 5-02

### DANGEROUS BUILDINGS

#### SECTIONS:

- 5-0201. Definitions
- 5-0202. Standards for Repair, Vacation, or Demolition.
- 5-0203. Dangerous Buildings - Nuisances.
- 5-0204. Duties of Building Administrator.
- 5-0205. Duties of City Council.
- 5-0206. Owner Absent from the City.
- 5-0207. Appeal.
- 5-0208. Penalty.

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5-0201. **DEFINITIONS.** All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings":

- (a) Those whose interior walls or other vertical structural members lean, list or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (b) Those which, exclusive of the foundation, show thirty-three percent or more of damage or deterioration of the supporting member or members, or fifty percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- (c) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
- (d) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the city.
- (e) Those which have become, or are, so dilapidated, decayed, unsafe or unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause or aggravate sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein.

- (f) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.
- (g) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.
- (h) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- (i) Those which because of their condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of this city.
- (j) Those buildings existing in violation of any provision of the Building Code, zoning ordinances, any provision of the Fire Prevention Code or other ordinances of this city.

5-0202. **STANDARDS FOR REPAIR, VACATION, OR DEMOLITION.** The following standards shall be followed in substance by the Board of City Council in ordering repair, vacation, or demolition:

- (a) If the "dangerous building" can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.
- (b) If the "dangerous building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants it shall be ordered to be vacated.
- (c) In any case where a "dangerous building" is fifty percent damaged, decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer be in violation of the terms of this chapter, it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this chapter or any ordinance of this city or statute of the state of North Dakota, it shall be demolished.

5-0203. **DANGEROUS BUILDINGS - NUISANCES.** All "dangerous buildings" within the terms of Section 5-0201 are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided.

5-0204. **DUTIES OF BUILDING ADMINISTRATOR.** The building administrator shall:

- (a) Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this chapter.

- (b) Inspect any building, wall, or structure reported (as hereinafter provided for) by any agent of the City as probably existing in violation of the terms of this chapter.
- (c) Notify in writing the owner, occupant, lessee, mortgagee, and all other persons having an interest in said building, as shown by the records in the office of the register of deeds of the county of Cass, of any building found by the building administrator to be a "dangerous building" within the standards set forth in Section 5-0201 of this chapter, that: (1) the owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this chapter; (2) the owner or occupant must vacate said building or may have it repaired in accordance with the notice and remain in possession. Provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding thirty days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.
- (d) Set forth in the notice provided for in subsection (c) hereof a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a "dangerous building," and an order requiring the same to be put in such condition as to comply with the terms of this ordinance within such length of time, not exceeding thirty days, as is reasonable.
- (e) Report to the City Council any noncompliance with the "notice" provided for in subsections (c) and (d) hereof.
- (f) Appear at all hearings conducted by the City Council and testify as to the condition of "dangerous buildings."
- (g) Place a notice on all "dangerous buildings" reading as follows: "This building has been found to be a 'dangerous building' by the building administrator. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with."

**5-0205. DUTIES OF CITY COUNCIL.** The City Council shall:

- (a) Upon receipt of a report of the building administrator as provided for in Section 5-0204, subsection (e), give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before it on the date specified in the notice to show cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building administrator's notice provided for herein in Section 5-0204, subsection (d).

- (b) Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer relative to the "dangerous building".
- (c) Make written findings of fact from the testimony offered pursuant to subsection (b) as to whether or not the building in question is a "dangerous building" within the terms of Section 5-0201.
- (d) Issue an order based upon findings of fact made pursuant to subsection (c) hereof commanding the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the records of the register of deeds of the County of Cass to repair, vacate, or demolish any building found to be a "dangerous building" within the terms of this chapter and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said "dangerous building".
- (e) If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in subsection (d) hereof, within thirty days, the City Council shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards, hereinbefore provided for in Section 5-0202 of this chapter. The cost to the City of Horace of demolishing, repairing or removing any building or structure under this chapter shall be determined by the City Council after written notice to the property owner of a hearing thereon; and shall then be certified to the County Auditor as a special assessment levied upon the described property and to be spread upon the taxes against said property.
- (f) Report to the city attorney the names of all persons not complying with the order provided for in subsection (d) of this section.

5-0206. **OWNER ABSENT FROM THE CITY.** All notices or orders provided for herein shall be sent by registered mail to such owner, occupant, lessee or mortgagee, and all other persons having an interest in said building, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the "dangerous building" to which it relates. Such mailing and posting shall be deemed adequate service.

5-0207. **APPEAL.** The owner and the occupant shall have thirty (30) days from the date of the order provided for in Section 5-0205 hereof in which to appeal to the Courts from the action of the City Council. The City Council shall not demolish, repair, or remove the building or structure or cause the same to be done during the period of time herein provided for appeal.

5-0208. **PENALTY.** Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

## CHAPTER 5-03

### MOVING BUILDINGS

#### SECTIONS:

- 5-0301. Permit Required.
  - 5-0302. Permit Application.
  - 5-0303. Information Contained for Permit Application.
  - 5-0304. Building Permit Required.
  - 5-0305. House-Mover's License - Requirements.
  - 5-0306. Removal of Overhead Wires and Cables - Notice.
  - 5-0307. Removal of Attached Wires, Cables and Pipes.
  - 5-0308. Building in Street - Warning Light Required.
  - 5-0309. Equipment in Street - Lights Required.
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5-0301. **PERMIT REQUIRED.** No person shall move, remove, raise or support free of its foundation, any building or structure within the limits of the City of Horace, or cause or hire said work to be done, or assist in said work, unless a permit for said work has been obtained from the City of Horace in accordance with the provisions of this chapter.

5-0302. **PERMIT APPLICATION.** No permit to move, remove, raise or support free of its foundation, any building or structure within the limits of the City of Horace shall be issued until written application for permit has been filed with the City Engineer on forms provided by the City of Horace, and the application for permit has been approved by the City Auditor. The City Auditor in granting a moving permit may condition the permit upon the applicant meeting certain conditions such as having a licensed mover move the building, time limits in which the building must be moved, routes that must be followed, posting a bond, and any other similar conditions as deemed advisable by the City Auditor. Any person denied a moving permit or contesting any conditions placed on the permit, may appeal to the City Council, who shall review the permit and its conditions at its next regularly scheduled meeting.

5-0303. **INFORMATION CONTAINED FOR PERMIT APPLICATION.** Written application for permit to move, remove, raise or support free of its foundation any building or structure within the limits of the City of Horace shall contain the following information concerning the building or structure to be moved, removed, raised or supported:

1. Date of application.
2. Name and address of applicant for permit.
3. Name and address of owner of building.
4. Name and address of person, firm or corporation the applicant for permit will employ to do the moving.



5. Size of building or structure.
6. Age and general description of building or structure.
7. Location of building or structure at time of making application.
8. Proposed new location for building or structure.
9. Route or road along which it is proposed to move the building or structure from present location to proposed new location.
10. Condition of building or structure at time application is made for permit.
11. How long the moving of building or structure is expected to take and when moving is expected to be completed if permit is granted.
12. What changes in condition of building or structure will be made after building or structure is moved to proposed new location, and when these changes will be completed.

5-0304. **BUILDING PERMIT REQUIRED.** No moving permit shall be granted to a structure being moved into the city limits of the City of Horace unless and until the applicant also receives a building permit from the Building Administrator.

5-0305. **HOUSE-MOVER'S LICENSE - REQUIREMENTS.** The City Auditor may require as a condition to the approval of application for permit and issuance of permit under this chapter that the moving be done only by one holding a license for the moving of buildings and structures within the City of Horace. No such license shall be granted until the person applying therefor shall have paid to the City Auditor a license fee of Five Dollars (\$5.00), and shall have given a surety bond payable to the City in the sum of Five Thousand Dollars (\$5,000), on a form satisfactory to the City Auditor, and conditioned, among other things, that said party will pay any and all damages which may be caused to any property, either public or private, within the City, whether said damages or injury be inflicted by said party, his employees, agents or workmen; and conditioned also that said party will save and indemnify and keep harmless the said City against all liabilities, judgments, costs and expenses which may in any way accrue against the City in consequence of the granting of such license, and will in all things strictly comply with the provisions of this chapter and with the conditions of any and all permits which may be issued hereunder to said house-mover or one employing him.

Upon the execution of such bond, and its acceptance by the City Auditor, the "house-mover's" license for the moving of buildings and structures within the City of Horace shall be issued. All such licenses shall expire one (1) year from date of issue.

5-0306. **REMOVAL OF OVERHEAD WIRES AND CABLES - NOTICE.**

1. In every case in which a permit shall be issued as herein provided for the removal of any house or structure, when such removal requires the displacement of any overhead electrical or other wire or cable, it shall be the duty of the person, association or corporation owning, operating or controlling such wire or cable to remove or displace the same as far as may be necessary to permit the removal of such house, building or structure.

2. The person to whom a removal permit shall have been issued shall notify the person, association or corporation owning, operating or controlling such wire or cable, to remove or displace the same to facilitate the removal of said house, building or structure and shall exhibit to said person, association or corporation the properly issued permit authorizing the removal of said house, building or structure, and it shall thereupon be the duty of said person, association or corporation, within a reasonable time, not exceeding twenty-four (24) hours thereafter to remove or displace such wires or cables sufficiently to allow the passage of said house, building or structure.

5-0307. **REMOVAL OF ATTACHED WIRES, CABLES AND PIPES.** The person to whom a removal permit has been issued shall, before raising, moving or removing any building or structure to which electric wires are attached, notify the persons, associations or corporations owning or controlling such electric wiring, cables or piping of the proposed moving of said building or structure. The person, association or corporation so notified shall within a reasonable time, not exceeding twenty-four (24) hours, thereafter, disconnect and make safe all such electric wiring, cables or piping.

5-0308. **BUILDING IN STREET - WARNING LIGHT REQUIRED.** When any building or structure is being moved across or through any street or alley, a warning light must be in operation at each corner of such building or structure, from sunset to sunrise.

5-0309. **EQUIPMENT IN STREET - LIGHTS REQUIRED.** All ropes, blocks, winches, windlasses, or other equipment used in the moving of said building or structure must, when obstructing the free use of a street or alley, be protected by suitable warning lights from sunset to sunrise.

## CHAPTER 5-04

### FLOOD DAMAGE PREVENTION

Source: Ord. 2015-1, Sec. 1

#### SECTIONS:

5-0401.	Statutory Authorization.
5-0402.	Findings of Fact.
5-0403.	Statement of Purpose.
5-0404.	Methods of Reducing Flood Losses.
5-0405.	Adoption of Flood Proofing Code.
5-0406.	Definitions.
5-0407.	Lands to Which This Ordinance Applies.
5-0408.	Basis for Establishing the Areas of Special Flood Hazard.
5-0409.	Compliance.
5-0410.	Abrogation and Greater Restrictions.
5-0411.	Interpretation.
5-0412.	Warning and Disclaimer of Liability.
5-0413.	Establishment of Development Permit.
5-0414.	Designation of the Building Administrator.
5-0415.	Duties and Responsibilities of the Building Administrator.
5-0416.	Variance Procedure.
5-0417.	Provisions for Flood Hazard Reduction - General Standards
5-0418.	Provisions for Flood Hazard Reduction - Specific Standards
5-0419.	Floodways.
5-0420.	Validity.
5-0421.	Penalty.

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5-0401. **STATUTORY AUTHORIZATION.** The Legislature of the State of North Dakota has in Chapter 40-05 of the North Dakota Century Code delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Horace, North Dakota does ordain as follows:

#### 5-0402. **FINDINGS OF FACT.**

1. The flood hazard areas of Horace are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

2. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

5-0403. **STATEMENT OF PURPOSE.** It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health;
2. To minimize expenditure of public money for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
6. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. To insure that potential buyers are notified that property is in an area of special flood hazard; and
8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

5-0404. **METHODS OF REDUCING FLOOD LOSSES.** In order to accomplish its purposes, this ordinance includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling filling, grading, dredging, and other development which may increase flood damage;

4. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

5-0405. **ADOPTION OF FLOOD PROOFING CODE.** There is hereby adopted by the City Council of the City of Horace for the purpose of providing minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within the "Floodway and the Special Flood Hazard Area" and certain equipment specifically regulated herein, including permits and penalties, that certain code known as the Flood Proofing Code, of which not less than three (3) copies have been and now are filed in the office of the City Auditor of the City of Horace, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this title shall take effect, the provisions thereof shall be controlling in the construction of all buildings and structures therein contained within the jurisdiction of the City of Horace.

5-0406. **DEFINITIONS.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. "Appeal" means a request for a review of the Building Administrator's interpretation of any provisions of this ordinance or a request for a variance.
2. "Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.
3. "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.
4. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
5. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland waters and/or
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.

6. "Flood Insurance Rate Map" (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
7. "Flood Insurance Study" means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.
8. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
9. "Lowest floor (including basement)" means the lowest floor of a structure including the basement.
10. "Floodproofing" means any combination of structural and non-structural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.
11. "Flood proofing Code" means the Flood Proofing Code of the City of Horace, North Dakota, hereinbefore referred to and adopted in Section 5-0405.
12. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. This term also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.
13. "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
14. "New construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.
15. "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

16. "Structure" means a walled and roofed building or manufactured home that is principally above ground.
17. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:
  - a. Before the improvement or repair is started, or
  - b. If the structure has been damaged and is being restored before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
  - b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
18. "Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

5-0407. **LANDS TO WHICH THIS ORDINANCE APPLIES.** This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Horace.

5-0408. **BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.** The areas of special flood hazard identified by the Federal Emergency Management Agency in the scientific and engineering report entitled "The Flood Insurance Study, Cass County, North Dakota" dated January 16, 2015, and any subsequent amendments to that map, with an accompanying "Flood Insurance Rate Map" is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the City Hall in Horace.

5-0409. **COMPLIANCE.** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations.

5-0410. **ABROGATION AND GREATER RESTRICTIONS.** This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deeded restrictions.

However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5-0411. **INTERPRETATION.** In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

5-0412. **WARNING AND DISCLAIMER OF LIABILITY.** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Horace, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

5-0413. **ESTABLISHMENT OF DEVELOPMENT PERMIT.** A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 5-0408. Application for a development permit shall be made on forms furnished by the City Council of Horace and may include, but are not limited to: plans in duplicate drawn to scale showing the nature, location, dimension, and elevations of the area in question; existing or proposed structures, fill, storage of materials, and drainage facilities; and the location of the foregoing. All elevation readings must be certified by a professional engineer, and compliance with flood proofing regulations must be certified to by a professional engineer. Specifically, the following information is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
2. Elevation in relation to mean sea level to which any structure has been floodproofed.
3. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
4. Description of structures (temporary or permanent), in compliance with the "Flood Proofing Code of the City of Horace" which is made a part of the ordinance by reference.



5. A statement as to whether or not, if the permit application is for a new structure or the substantial improvement of an existing structure, such structure contains a basement.
6. If the application for a permit relates to a manufactured home park or a manufactured home subdivision, a copy of the excavation plan indicating alternative vehicular access and escape routes for said manufactured home park or manufactured home subdivision shall be attached to said application as well as a statement by the applicant that such plan has been filed with the Disaster Emergency Services Office of Cass County, North Dakota.

5-0414. **DESIGNATION OF THE BUILDING ADMINISTRATOR.** The Building Administrator is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

5-0415. **DUTIES AND RESPONSIBILITIES OF THE BUILDING ADMINISTRATOR.** Duties of the Building Administrator shall include, but not be limited to:

A. Permit Review

1. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
2. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5-0419(1) are met.

B. Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 5-0408, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Building Administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer Sections 5-0418(A) SPECIFIC STANDARDS, Residential Construction, and 5-0418(B) SPECIFIC STANDARDS, Nonresidential Construction.

C. Information to be Obtained and Maintained

Information to be obtained and maintained with all elevation readings certified by a professional engineer, and all compliance with Flood proofing regulations to be certified to by a professional engineer.

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
2. For all new or substantially improved floodproofed structures:
  - a. Verify and record the actual elevation (in relation to mean sea level), and
  - b. Verify that all structures (temporary or permanent) shall be constructed in accordance with the "Flood Proofing Code of the City of Horace" which is made a part of this ordinance by reference.
3. Maintain for public inspection all records pertaining to the provisions of this ordinance.

D. Alteration of Watercourses

1. Notify adjacent communities and the North Dakota State Engineer prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

5-0416. **VARIANCE PROCEDURE.**

A. Appeal Board

1. The City Council as established by the City of Horace shall hear and decide appeals and requests for variances from the requirements of this ordinance.
2. The City Council shall hear and decide appeals when it is alleged there is an error in any requirements, decision, or determination made by the Building Administrator or City Engineer in the enforcement or administration of this ordinance.
3. Those aggrieved by the decision of the City Council, or any taxpayer, may appeal such decision to the appropriate court, as provided in North Dakota law.
4. In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

- a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity to the facility of a waterfront location, where applicable;
  - f. The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
  - g. The compatibility of the proposed use with existing and anticipated development;
  - h. The relationship of the proposed use to the comprehensive plan and flood plain management program;
  - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
5. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, providing items a-k of Section 5-0416(A)(4) have been fully considered. As the lot size increases beyond the one half acre, the technical justification required for issuing the variance increases.
6. Upon consideration of the factors of Section 5-0416(A)(4) and the purposes of this ordinance, the City Council may attach conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

7. The Building Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

#### B. Conditions for Variances

1. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
2. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Variances shall only be issued upon:
  - a. A showing of good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 5-1416(A)(4), or conflict with existing local laws or ordinances.
5. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

5-0417. **PROVISIONS FOR FLOOD HAZARD REDUCTION -- GENERAL STANDARDS.** In all areas of special flood hazards the following standards are required:

- A. Anchoring
  1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
  2. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the

hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be:

- a. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;
- b. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;
- c. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
- d. Any additions to the manufactured home be similarly anchored.

#### B. Construction Materials and Methods

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

#### C. Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

5-0418. **PROVISIONS FOR FLOOD HAZARD REDUCTION – SPECIFIC STANDARDS.** In all areas of special flood hazards where base flood elevation data has been provided as set in Section 5-0408 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 5-0415(B), Use of Other Base Flood Data, the following provisions are required:

A. Residential Construction

1. Conform to structural and technical provisions set forth in the Flood Proofing Code of Horace.
2. Be designed so that the lowest foundation opening is at least two and one-half feet (2½') above the base flood elevation. Any basement area, together with attendant utilities and sanitary facilities, below that level shall be designed so that the structure is watertight without human intervention (i.e., the base or sill of all external openings such as windows and doors must be two and one-half feet (2½') above the 100-year base flood elevation). Basement walls shall be built with the capacity to resist hydrodynamic loads and the effects of buoyancy resulting from the 100-year frequency flood and shall be designed so that minimal structural damage will occur if this design is exceeded.
3. Be certified by a professional engineer that the floodproofing measures used in the structure satisfy the Flood Proofing Code.
4. The Building Administrator shall verify that the structure has been built in accordance with the Flood Proofing Code.

5. Require within the AO and AH Zones on the FIRM that all new construction and improvements of residential structures have the lowest floor (including basement) elevated on fill two and one-half feet (2½') above the highest adjacent grade as high as the depth number specified in feet on the FIRM unless conforming to the provisions in the Flood Proofing Code.
6. Require within Zones AO and AH adequate drainage paths around slopes to guide waters around and away from proposed structures.

B. Nonresidential Construction.

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated on fill to at least two and one-half feet (2½') above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed to at least two and one-half feet (2½') above the base flood elevation, so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
3. Be certified by a professional engineer that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 5-0415.
4. Require within the AO and AH Zones on the FIRM that all new construction and improvements of nonresidential structures have the lowest floor (including basement) elevated on fill two and one-half feet (2½') above the highest adjacent grade as high as the depth number specified in feet on the FIRM, or together with attendant utility and sanitary facilities be completely floodproofed two and one-half feet (2½') over the base flood elevation to meet the flood proofing standards specified in number 1 above.

C. Manufactured Homes

1. Manufactured homes shall be anchored in accordance with Section 5-0417(A).
2. All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated on fill to at least two and one-half

feet (2½') above the base flood elevation and is securely anchored to an adequately anchored foundation system.

- D. All elevation readings required by this section shall be certified by a professional engineer, and all compliance with Flood proofing regulations must be certified to by a professional engineer.

5-0419. **FLOODWAYS.** Located within areas of special flood hazard established in Section 5-0408 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachment, including fill, new construction, substantial improvements, and other development unless certification by a professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. If Section 5-0419(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions in Sections 5-0417, 5-0418, and 5-0419.

5-0420. **VALIDITY.** If any section, clause, paragraph, provision, or portion of these regulations shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph, provision, or portion of these regulations.

5-0421. **PENALTY.** Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.



## CHAPTER 5-05

### MINIMUM HOUSING STANDARDS

#### SECTIONS:

- 5-0501. Adoption of Housing Code.
- 5-0502. Exceptions to Housing Code.
- 5-0503. Penalty.

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5-0501. **ADOPTION OF HOUSING CODE.** There is hereby adopted by reference by the City Council, for the purpose of prescribing regulations governing standards, relative to housing in the City of Horace, that certain code known as the Uniform Housing Code, recommended and compiled by the International Conference of Building Officials, being particularly the 1988 edition thereof, as the same are now established in said code, a copy of which is on file in the office of the Auditor for the City of Horace, with the exception of the sections hereinafter set forth affecting local conditions of the City of Horace, which sections shall be substituted for and in lieu of like sections or paragraphs in said Uniform Housing Code; the City Council of said City of Horace, by this section hereby approves and adopts such rules and regulations, so modified, for the use and application within the city limits of Horace, North Dakota. Provided, that any amendments of the 1988 edition of the Code may be adopted by the City by resolution.

5-0502. **EXCEPTIONS TO HOUSING CODE.** When any provisions of the Uniform Housing Code are in conflict with the Building Code, Mechanical Code, zoning provisions or other ordinances of the City of Horace, those other ordinances shall prevail and supersede the provisions of the Uniform Housing Code.

5-0503. **PENALTY.** Any person violating any section of this chapter shall upon conviction be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day that a violation is permitted to exist shall constitute a separate offense.

Source: Ord. 2015-13, Sec. 3