

INTERNATIONAL SWIMMING POOL AND SPA CODE

§ 150.401 ADOPTED.

- (a) The *International Swimming Pool and Spa Code*, 2021 [edition](#), as published by the International Code Council Inc., and amendments and additions thereto as provided in this article, are hereby adopted as the swimming pool and spa code by the city for regulating and governing the design, construction, alteration, repair and maintenance of swimming pools, spas, hot tubs and aquatic facilities, as herein provided and provides for the issuance of permits and the collection of fees therefor.
- (b) The adoption of the *International Swimming Pool and Spa Code*, 2021 edition, will become effective January 1, 2022. The minimum building standards in the 2021 edition of the *International Swimming Pool and Spa Code* and amendments thereto shall be applied to any building permit issued after December 31, 2021.
- (c) The city shall publish this ordinance, without attachments, after its passage. The attachments are on file and available for inspection at the office of the city clerk.

§ 150.402 AMENDMENTS, ADDITIONS, AND DELETIONS TO THE 2021 INTERNATIONAL SWIMMING POOL AND SPA CODE.

The following sections and subsections of the swimming pool and spa code adopted in this subchapter shall be amended, added, or deleted as follows. All other sections or subsections of the 2021 *International Swimming Pool and Spa Code* shall remain the same.

[A] **101.1 Title.** These regulations shall be known as the Swimming Pool and Spa Code of ~~[Name of Jurisdiction]~~ [the city of Sioux Falls](#), hereinafter referred to as “this code.”

Commentary: This simply inserts that these local modifications are applicable to the “City of Sioux Falls.”

[A] **102.7.1 Application of the International Codes.** Where the *International Residential Code* is referenced in this code, the provisions of the *International Residential Code* shall apply to related systems in detached one- and two-family dwellings and townhouses not more than three stories in height. Other related systems shall comply with the applicable International Code, [National Electric Code](#), [Uniform Plumbing Code](#), or referenced standard.

Commentary: This inserts the other codes that are adopted by the City of Sioux Falls in addition to the International Codes.

[A] **103.1 Creation of agency.** ~~The [NAME OF DEPARTMENT]~~ [Building services](#) is hereby created and the official in charge thereof shall be known as the *code official*. The function of the agency shall be the implementation, administration and enforcement of the provisions of this code.

Commentary: This inserts the correct title of the office that enforces minimum existing building standards, Building Services.

[A] 103.2 Appointment. ~~The code official shall be appointed by the chief appointing authority of the jurisdiction.~~ Not adopted by the city.

Commentary: This is eliminated because the building official is not an appointed position.

[A] 104.8 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 civilly or criminally liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or the city be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

Commentary: The second paragraph maintains language as it relates to assuming liability in the enforcement of the minimum building standards of the code.

[A] 104.8.1 Legal defenses. Any suit or criminal complaint instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be ~~defended by legal representatives of the jurisdiction until the final termination of the proceedings~~ afforded all the protection provided by the city's insurance pool and immunities and defenses provided by other applicable state and federal laws and shall be defended by legal representatives of the jurisdiction until the final termination of the proceedings. The *code official* or any subordinate shall not be liable for cost in any action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

Commentary: This amendment inserts that an employee who enforces the code is protected from liability within the limitations of the City's insurance pool or any other applicable state or federal law.

[A] 104.10 Alternative materials, design, and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any design or material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material, design, or method of construction shall be *approved* where the *code official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method, or work offered is, for the purpose intended, not less than the equivalent of that prescribed in this code in quality, strength, effectiveness, durability, and safety. ~~Where the alternative material, design or method of construction is not approved, the code official shall respond in writing, stating the reasons why the alternative was not approved.~~

Commentary: Building Services has always prided itself to open conversation on alternative methods; however, it has not been our practice to write a letter each time an alternative method has been requested to be used and denied.

[A] **104.12.4 Construction documents.** The registered design professional shall submit to the *code official* ~~two~~ one complete ~~sets~~ set of signed and sealed construction documents in an electronic submittal in PDF format for the alternative engineered design.

Commentary: Building Services does not use paper copies of plans. All documents for all projects shall be submitted electronically.

[A] **104.12.5 Design approval.** Where the *code official* determines that the alternative engineered design conforms to the intent of this code, the system shall be *approved*. If the alternative engineered design is not *approved*, the *code official* shall notify the registered design professional ~~in writing~~, stating the reasons why the alternative was not *approved*.

Commentary: Building Services has always prided itself to open conversation; however, it has not been our practice to write a letter each time an alternative method has been requested to be used and denied.

[A] **105.4.1 Approved construction documents.** When the *code official* issues the permit where construction documents are required, the construction documents shall be retained by the building official and be considered as approved. ~~endorsed in writing and stamped “APPROVED.”~~ Such *approved* construction documents shall not be changed, modified, or altered without authorization from the *code official*. Work shall be done in accordance with the *approved* construction documents.

The *code official* shall have the authority to issue a permit for the construction of a part of a system before the entire construction documents for the whole system have been submitted or *approved*, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holders of such permit shall proceed at their own risk without assurance that the permit for the entire system will be granted.

Commentary: Building Services documents with a written plan review or by making digital comments on the submitted plans. It is not the practice to stamp the submitted plans and does not require that a second copy be returned to the permit holder.

[A] **106.1 Construction documents.** Construction documents, engineering calculations, diagrams, and other such data shall be submitted electronically in PDF format ~~in two or more sets~~ with each application for a permit. The *code official* shall require construction documents, computations, and specifications to be prepared and designed by a registered design professional where required by state law. Construction documents shall be drawn to scale and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that the work conforms to the provisions of this code.

Commentary: Building Services does not use paper copies of plans. All documents for all projects shall be submitted electronically.

[A] 106.2 Retention of construction documents. One set of *approved* construction documents shall be retained by the *code official* for a period of not less than 180 days from date of completion of the permitted work, or as required by state or local laws. ~~One set of approved construction documents shall be returned to the applicant, and said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.~~

Commentary: Building Services has never had the policy to return a copy of the approved plans back to the applicant. It is expected that they make any and all corrections on their plans and they coordinate that to the builders.

[A] 108.2 Schedule of permit fees. ~~Where work requires a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing authority.~~ The fees for work shall be as indicated in Table No. 1-A Residential Building Permit Fees or Table No. 1-B as indicated in Section [A] 109.2 of the adopted International Building Code § 150.015.

Commentary: This references the fee schedules that have been adopted in the building code.

[A] 108.4 Work commencing before permit issuance. Any person who commences any work on a mechanical system before obtaining the necessary permits shall be subject to a fee as established by the *code official* that shall be in addition to the required permit fees. Administrative citations and legal and/or civil proceedings may also be commenced.

Commentary: This is a carryover from the 2018 IRC. This clarifies that work that is commenced without the issuance of a building permit can result in the issuance of administrative citations through the code enforcement process and which could include subsequent legal proceedings.

[A] R108.7 Delinquent accounts. The administrative authority may refuse to issue permits or conduct inspections for any person or business whose account is delinquent.

Commentary: This clarifies that permits and inspections can be refused for a contractor whose accounts are delinquent with the City.

[A] 111.1 General. ~~In order to hear and decide appeals of orders, decisions or determinations made by the code official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the code official.~~ In order to hear and decide appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation of this code, to review all proposed changes to the respective codes and to submit recommendations to the responsible official and the city council, to examine applicants for licensing, and to investigate matters brought before the board, there shall be and is hereby created a board of appeals and examiners. The building official shall be an ex officio member of said board but shall not have a vote on any matter before the board. Members shall be appointed by the mayor with the consent of the city council and shall hold office for a term of three years.

The board shall adopt rules of procedure for conducting its business and shall render decisions and findings in writing to the appellant with a duplicate copy to the building official.

Commentary: Whereas the primary purpose of the Board of Appeals is to review interpretations of the building, these modifications include the additional responsibilities of the Board which relates to review of ordinances and review of residential licensure. This also clarifies that the members are appointed by the Mayor with the advice and consent of the Council and that any findings are referred to the appellant in writing.

[A] 112.1 Membership of board. ~~The board of appeals shall consist of five members appointed by the chief appointing authority as follows: one for 5 years, one for 4 years, one for 3 years, one for 2 years and one for 1 year. Thereafter, each new member shall serve for 5 years or until a successor has been appointed.~~ Not adopted by the city.

Commentary: The board that will oversee the International Swimming Pool and Spa Code will be the Building Board of Appeals and this Board is already in place so this section is not needed.

[A] 113.3 Prosecution of violation. If the notice of violation is not complied with promptly, the code official shall request the legal counsel of the jurisdiction to deem the violation as a strict liability offense and institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful pool or spa in violation of the provisions of this code or of the order or direction made pursuant thereto.

Commentary: Strict liability offense is inserted to clarify that it is applicable to any violation of a swimming pool and spa code provision. This term brings the code in line with the current legal terminology used in other codes with regard to the prosecution of violations. With this term the prosecutor is not required to prove that code violations were intended by a defendant or were even due to negligence. It is difficult to prove such intentions or negligence in a court of law. This provision is located only in the Property Maintenance Code at the national level but is inserted into all of the adopted Building Services codes locally.

[A] 113.4 Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, or repair a pool or spa in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of ~~a [SPECIFY OFFENSE];~~ an ordinance violation and be subject to administrative citations through the code enforcement process. ~~punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.~~

Commentary: This references that a violation of a swimming pool and spa provision of this code is subject to the citations through the administrative code enforcement process.

Section 202 Definitions. [Add the following definition:](#)

STRICT LIABILITY OFFENSE. [An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited or failed to do an act which the defendant was legally required to do.](#)

Commentary: This term brings the code in line with the current legal terminology used in other codes with regard to the prosecution of violations. With this term, the prosecutor is not required to prove that code violations were intended by a defendant or were even due to negligence. It is difficult to prove such intentions or negligence in a court of law. This provision is located only in the Property Maintenance Code but is inserted into all of the adopted Building Services codes.

302.1 Electrical. Electrical requirements for aquatic facilities shall be in accordance with NFPA 70 ~~or the International Residential Code~~, as applicable in accordance with Section 102.7.1.

Exception: Internal wiring for portable residential spas and portable residential exercise spas.

Commentary: The reference for the IRC is taken out because the electrical portion of the IRC has not been adopted.

302.2 Water service and drainage. Piping and fittings used for water service, makeup and drainage piping for pools and spas shall comply with the ~~International~~ [Uniform Plumbing Code](#). Fittings shall be approved for installation with the piping installed.

Commentary: The reference to the International Plumbing Code was changed to the Uniform Plumbing Code as that is the plumbing code mandated by the state.

302.5 Backflow protection. Water supplies for pools and spas shall be protected against backflow in accordance with the ~~International~~ [Uniform Plumbing Code](#) ~~or the International Residential Code~~, as applicable in accordance with Section 102.7.1.

Commentary: The reference for the IRC is taken out because the plumbing portion of the IRC has not been adopted. The reference to the International Plumbing Code was changed to the Uniform Plumbing Code as that is the plumbing code mandated by the state.

302.6 Wastewater discharge. Where wastewater from pools or spas, such as backwash water from filters and water from deck drains discharge to a building drainage system, the connection shall be through an air gap in accordance with the ~~International~~ [Uniform Plumbing Code](#) ~~or the International Residential Code~~ as applicable in accordance with Section 102.7.1.

Commentary: The reference for the IRC is taken out because the plumbing portion of the IRC has not been adopted. The reference to the International Plumbing Code was changed to the Uniform Plumbing Code as that is the plumbing code mandated by the state.

SECTION 303 ENERGY. Not adopted by the city.

Commentary: *It was determined locally to not require this energy efficiency portion of the code to be required.*

305.1 General. The provisions of this section shall apply to the design of barriers for restricting entry into areas having pools and spas. Where spas or hot tubs are equipped with a lockable safety cover complying with ASTM F1346 ~~and swimming pools are equipped with a powered safety cover that complies with ASTM F1346~~, the areas where those spas, ~~or~~ hot tubs ~~or~~ pools are located shall not be required to comply with Sections 305.2 through 305.7.

Commentary: *It was determined locally to not allow a safety cover in lieu of a barrier for pools because it is not conceivable that patrons will be in attendance at the pool at all times.*

306.9.1 Hose bibbs. Hose bibbs shall be provided for rinsing down the entire deck and shall be installed in accordance with the ~~International Residential Code~~ *Uniform Plumbing Code* ~~or International Residential Code~~, as applicable in accordance with Section 102.7.1, and shall be located not greater than 150 feet (45,720 mm) apart. Water-powered devices, such as water-powered lifts, shall have a dedicated hose bibb water source.

Exception: Residential pools and spas shall not be required to have hose bibbs located at 150-foot (45,720 mm) intervals or have a dedicated hose bibb for water-powered devices.

Commentary: *The reference for the IRC is taken out because the plumbing portion of the IRC has not been adopted. The reference to the International Plumbing Code was changed to the Uniform Plumbing Code as that is the plumbing code mandated by the state.*

410.1 Toilet facilities. Class A and B pools shall be provided with toilet facilities having the required number of plumbing fixtures in accordance with the ~~International Building Code or the International Plumbing Code~~.

Commentary: *The amount of toilet fixtures is based upon the IBC for any projects located within the city limits of Sioux Falls.*

609.1 General. Dressing and sanitary facilities shall be provided in accordance with the minimum requirements of the ~~International Building Code and International Plumbing Code~~ and Sections 609.2 through 609.9.

Commentary: *The amount of dressing and sanitary fixtures is based upon the IBC for any projects located within the city limits of Sioux Falls.*

609.2 Number of fixtures. The minimum number of required water closets, urinals, lavatory, and drinking fountain fixtures shall be provided as required by the ~~International Building Code and International Plumbing Code~~, and the dressing facilities and number of cleansing and rinse showers shall be provided in accordance with Sections 609.2.1, 609.2.2, and 609.3.1.

Commentary: *The amount of plumbing fixtures is based upon the IBC for any projects located within the city limits of Sioux Falls.*