



2022 South Dakota Legislature

Senate Bill 90

Introduced by: **Senator Herman Otten**

1 **An Act to revise certain provisions regarding local building codes.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That chapter 11-10 be amended with a NEW SECTION:**

4 Terms used in this Act mean:

5 (1) "Building," any building or structure, other than a residential structure, and any
6 appurtenances connected or attached to such building or structure;

7 (2) "Residential structure," any detached dwelling or townhouse not more than three
8 stories above grade plane in height with a separate means of egress, and their
9 accessory structures not more than three stories above grade plane in height;

10 (3) "Standards," any rule or regulation, other than a zoning requirement, governing
11 the construction, alteration, movement, enlargement, replacement, repair,
12 equipment, use and occupancy, location, removal and demolition of a building or
13 residential structure.

14 **Section 2. That chapter 11-10 be amended with a NEW SECTION:**

15 A municipality or county may prescribe minimum standards for a residential
16 structure by enacting an ordinance adopting the 2018 edition of the International
17 Residential Code, as published by the International Code Council, Incorporated—of the
18 Code. The ordinance and any amendment to the ordinance may deviate from the
19 International Residential Code by adding to, deleting, or substituting any of its provisions
20 of the Code. No ordinance may require installation of a sprinkler system in a residential
21 structure or impose any standards that are more stringent than the standards prescribed
22 by the 2018 edition of the International Residential Code or any applicable state statute
23 or administrative rule. This section applies to any code or standards incorporated in the
24 International Residential Code by reference.

1 **Section 3. That chapter 11-10 be amended with a NEW SECTION:**

2 Before enacting any ordinance under section 2 of this Act, the municipality or
3 county must prepare a housing impact report. The report must identify each proposed
4 change to the existing ordinance, the reason for the change and an estimate of the cost
5 per residential structure of complying with the change. To determine the estimated cost
6 of compliance, the municipality or county shall obtain from three licensed contractors, or
7 other applicable building trades professionals, operating in the state, an estimate of the
8 total cost to consumer of all materials, labor, and taxes necessary to comply with the
9 proposed change. The municipality or county shall use the average of these estimates. In
10 preparing the report, the municipality or county may rely on any relevant information
11 contained in a housing impact report published by any other municipality or county.

12 **Section 4. That chapter 11-10 be amended with a NEW SECTION:**

13 Upon completion of the housing impact report under section 3 of this Act, an official
14 responsible for enforcing the municipality or county's building codes shall hold a public
15 informational meeting with local home builders and other interested parties to review the
16 proposed ordinance and the report. After the informational hearing, the municipality or
17 county may make any revisions to the ordinance that it deems appropriate. The
18 municipality or county shall then publish the final draft of the proposed ordinance and the
19 housing impact report on its official website for a period of sixty days before the first
20 reading of the ordinance.

21 **Section 5. That chapter 11-10 be amended with a NEW SECTION:**

22 The minimum standards for a residential structure in a municipality or county that
23 has not enacted an ordinance pursuant to section 2 of this Act are the standards contained
24 in an ordinance enacted by the nearest first-class municipality.

25 **Section 6. That § 11-10-5 be AMENDED:**

26 **11-10-5.** If the governing body of any local unit of government adopts any
27 ordinance prescribing standards for ~~new construction~~ any building, the ordinance shall
28 comply with the 2021 edition of the International Building Code as published by the
29 International Code Council, Incorporated. The governing body may amend, modify, or
30 delete any portion of the International Building Code before enacting such an ordinance.
31 Additional deletions, modifications, and amendments to the municipal ordinance may be

1 made by the governing body and are effective upon their adoption and filing with the
2 municipal finance officer. Additional deletions, modifications, and amendments to the
3 county ordinance may be made by the governing body, and are effective upon their
4 adoption and filing with the county auditor. No ordinance may apply to mobile or
5 manufactured homes as defined in chapter 32-7A that are constructed in compliance with
6 the applicable prevailing standards of the United States Department of Housing and Urban
7 Development at the time of construction. ~~No ordinance may require that any fire sprinkler~~
8 ~~be installed in a single family dwelling.~~ No ordinance may apply to any specialty resort or
9 vacation home establishment as defined in chapter 34-18 that is constructed in compliance
10 with the requirements of Group R-3 of the 2021 edition of the International Building Code.

11 **Section 7. That § 11-10-6 be AMENDED:**

12 **11-10-6.** ~~The design standard~~ standards for any ~~new construction commenced~~
13 ~~after July 1, 2021,~~ building located within the boundaries of any local unit of government
14 that has not adopted an ordinance prescribing standards ~~for new construction~~ pursuant to
15 § 11-10-5 shall be based on the 2021 edition of the International Building Code as
16 published by the International Code Council, Incorporated. Each local unit of government
17 may adopt an ordinance allowing local administration and enforcement of the ~~design~~
18 ~~standard~~ standards. ~~The provisions of this section do not apply to new construction for~~
19 ~~any one or two family dwelling, mobile or manufactured home, townhouse, or farmstead~~
20 ~~and any accessory structure or building thereto. For purposes of this section the term,~~
21 ~~farmstead, means a farm or ranch, including any structure or building located on the land.~~
22 The provisions of this section do not apply to any mobile or manufactured home as defined
23 in chapter 32-7A that is used for purposes other than residential that is constructed in
24 compliance with the applicable prevailing standards of the United States Department of
25 Housing and Urban Development at the time of construction if the structure complies with
26 applicable accessibility standards for the occupancy intended. The provisions of this
27 section do not apply to any specialty resort or vacation home establishment as defined in
28 chapter 34-18 that is constructed in compliance with the requirements of Group R-3 of
29 the 2021 edition of the International Building Code.

30 **Section 8. That § 11-10-11 be AMENDED:**

31 **11-10-11.** If the governing body of any local unit of government adopts any
32 ordinance prescribing standards for maintenance of an ~~existing structures and premises~~
33 building, the ordinance shall comply with the 2021 edition of the International Property

1 Maintenance Code as published by the International Code Council, Incorporated. The
2 governing body may amend, modify, or delete any portion of the International Property
3 Maintenance Code before enacting such an ordinance. Additional deletions, modifications,
4 and amendments to the municipal ordinance may be made by the governing body and are
5 effective upon their adoption and filing with the municipal finance officer. Additional
6 deletions, modifications, and amendments to the county ordinance may be made by the
7 governing body, and are effective upon their adoption and filing with the county auditor.
8 However, no ordinance may impose standards that conflict with the applicable prevailing
9 standards of the United States Department of Housing and Urban Development at the
10 time of construction for manufactured homes as defined in chapter 32-7A.