

CITY OF HARRISBURG ORDINANCE #2018-10,  
TO ADOPT THE 2018 PMC WITH LOCAL AMENDMENTS,  
FOR CHAPTER 9.07 OF THE REVISED MUNICIPAL ORDINANCES

BE IT ORDAINED by the City Council of the City of Harrisburg as follows:

**ARTICLE I – PURPOSE AND JURISDICTION**

**SECTION 1 – PURPOSE.**

Ordinance #2018-10 is an ordinance to amend Chapter 9.07 of the Revised Municipal Ordinances of the City of Harrisburg by adopting the 2018 edition of the International Property Maintenance Code with local amendments. The City Council of the City of Harrisburg has deemed these regulations and controls to be reasonable and reasonably related to the purpose of promoting the health, safety, and general welfare of the City of Harrisburg.

**SECTION 2 – JURISDICTION.**

This Ordinance shall govern all territory within the statutory jurisdiction of the City of Harrisburg, South Dakota.

**SECTION 3 – SEVERABILITY AND SEPARABILITY.**

Should any Article, Section, Subsection, or Provision of this Ordinance be found to be or declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the Ordinance as a whole or any part thereof, other than the portion so declared to be invalid or unconstitutional.

**ARTICLE II – REPLACEMENT OF CHAPTER 9.07, PROPERTY  
MAINTENANCE CODE**

**Chapter 9.07 Property Maintenance Code**

**9.07.01. Adopted.**

The City Council hereby adopts Chapters 1 through 8 the International Property Maintenance Code, 2018 Edition, including Appendix A, as published by the International Code Council, Inc. as the Property Maintenance Code of the City to provide standards to safeguard life or limb, health, property, and public welfare by regulating, governing, and controlling the use, occupancy, conditions, and maintenance of all property, buildings, and structures within this City and to provide for a just, equitable, and practicable method whereby buildings or structures, which from any cause endanger the life, limb, morals, property, safety, or welfare of the general public or their occupants, may be repaired, vacated, or demolished. The minimum requirements and standards of the 2018 International Property Maintenance Code will become effective on July 1, 2018. A copy of this Code shall be kept on file in the office of the Building Official.

**9.07.02. Local amendments, additions, and deletions to the 2018 International Property Maintenance Code.**

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The following sections and subsections of the property maintenance code adopted in this Ordinance shall be amended, added, or deleted as follows. All other sections or subsections of the 2018 International Property Maintenance Code shall remain as originally published.

**101.1 Title.** These regulations shall be known as the Property Maintenance Code of the City of Harrisburg, South Dakota, hereinafter referred to as “this code.”

**101.3 Intent.** This code shall be construed to secure its expressed intent, which is to ensure public health, safety, and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to, and change of occupancy in existing buildings shall comply with this Ordinance and with any other applicable City ordinances or regulations.

**102.3 Application of other codes.** Repairs, additions, or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Existing Building Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, and the Plumbing and Electrical Codes adopted by the State of South Dakota. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Zoning Ordinance of the City of Harrisburg, South Dakota.

**103.1 Creation of enforcement agency.** Building services is hereby created and the official in charge thereof shall be known as the Building Official.

**103.2 Appointment.** Not adopted by the City.

**103.3 Deputies.** Not adopted by the City.

**103.4 Liability.** The Building Official, members of the board of appeals, or employees charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and are hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code

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shall be afforded all the protection by the city's insurance pool and any immunities and defenses provided by other applicable state and federal laws and be defended by the legal representative of the City until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for costs in an action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

**103.5 Fees.** The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be adopted by resolution by the Council.

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

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

**111.1 Application for appeal.** Any person directly affected by a decision of the Building Official or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 10 days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. The Board shall have no authority relative to the interpretation of the administrative provisions of this code nor shall the Board be empowered to waive requirements of this code.

**111.2 Designation of Board of Appeals.** 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, the Council hereby assumes the responsibilities of the Board of Appeals for this code. All decisions and findings of the Board shall be final and shall be rendered in writing to the appellant with a duplicate copy to the Building Official.

**111.2.1 Alternate members.** Not adopted by the City.

**111.2.2 Chairman.** Not adopted by the City.

**111.2.3 Disqualification of member.** Not adopted by the City.

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**111.2.4 Secretary.** Not adopted by the City.

**111.2.5 Compensation of members.** Not adopted by the City.

**111.3 Notice of meeting.** Not adopted by the City.

**111.4 Submission of appeals.** All appeals must be submitted in writing to the Building Official within ten days of the order, decision, or determination of the Building Official that is being appealed. Once the appeal is received by the Building Official, he shall place the appeal on the Council's next regular meeting agenda that is more than seven days (inclusive) from the date of receipt of the appeal.

**111.4.1 Appeal hearings.** All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Building Official, any member of the City's staff, or any person whose interests are affected shall be given an opportunity to be heard.

**111.4.1 Procedure.** Not adopted by the City.

**111.5 Postponed hearing.** Not adopted by the City.

**112.4 Failure to comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed in violation of this Ordinance and subject to the penalties prescribed by this Ordinance.

**201.3 Terms defined in other codes.** Where terms are not defined in this code and are defined in the International Building Code, International Existing Building Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, or the electrical and plumbing codes of the State of South Dakota, such terms shall have the meanings ascribed to them as stated in those codes.

**302.4 Weeds.** All premises and exterior property shall be maintained free from weeds, or tall grasses in excess of 8" in height. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants, and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds or tall grasses after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the City or contractor hired by the

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City shall be authorized to enter upon the property in violation and cut and destroy the weeds or tall grasses growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

**303.2 Enclosures.** Private swimming pools, hot tubs, and spas containing water more than 18 inches in depth shall be completely surrounded by a fence or barrier at least 42 inches in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. The latch release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position. No existing pool enclosure shall be removed, replaced, or changed in a manner that reduces its effectiveness as a safety barrier.

**Exception:** Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

**304.14 Insect screens.** During the period from April 1 to September 30, every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch, and every screen door used for insect control shall have a self-closing device in good working condition.

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

**304.18 Building security.** Doors, windows, or hatchways for dwelling units, room units, or housekeeping units shall be provided with devices designed to provide security for the occupants and property within and shall comply with Section 702.3.

**305.1 General.** The interior of a structure and equipment therein shall be maintained in good repair, structurally sound, and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

**404.4.1 Room area.** Every living room shall contain at least 120 square feet and every bedroom shall contain a minimum of 70 square feet. Bedrooms 100 square feet or less are allowed two occupants and every bedroom occupied by more than two persons shall contain a minimum of 50 additional square feet of floor area for each occupant thereof.

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**502.5 Public toilet facilities.** Public toilet facilities shall be maintained in a safe, sanitary, and working condition in accordance with the current codes adopted by the State of South Dakota for plumbing. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during occupancy of the premises.

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

**602.2 Residential occupancies.** Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

**Exception:** In areas where the average monthly temperature is above 30°F, a minimum temperature of 65°F shall be maintained.

**602.3 Heat supply.** Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 1 to April 30 to maintain a minimum temperature of 68°F in all habitable rooms, bathrooms and toilet rooms.

**Exceptions:**

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity.
2. In areas where the average monthly temperature is above 30°F a minimum temperature of 65°F shall be maintained.

**602.4 Occupiable work spaces.** Indoor occupiable work spaces shall be supplied with heat during the period from September 1 to April 30 to maintain a temperature of not less than 65°F during the period the spaces are occupied.

**Exceptions:**

1. Processing, storage, and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

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BE IT FURTHER ORDAINED by the City Council of the City of Harrisburg that this Ordinance shall become effective in accordance to law.

CITY OF HARRISBURG

ATTEST:

Mayor Julie Burke – Van Luvanee

Finance Officer Mary McClung

(SEAL)

First Reading: May 21, 2018

Second Reading: June 4, 2018

Published: June 14, 2018

Effective: July 4, 2018