

CITY OF HARRISBURG ORDINANCE #2021-18,  
TO ADOPT THE 2021 EBC WITH LOCAL AMENDMENTS,  
FOR CHAPTER 9.05 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 #2021-18 is an ordinance to amend Chapter 9.05 of the Revised Municipal Ordinances of the City of Harrisburg by adopting the 2021 edition of the International Existing Building 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 9.05, EXISTING BUILDING CODE**

**Chapter 9.05 EXISTING BUILDING CODE**

**9.05.01. Adopted.**

The City Council hereby adopts Chapters 1 through 16 the International Existing Building Code, 2021 Edition, including Resource A (Guidelines on Fire Ratings of Archaic Materials and Assemblies), as published by the International Code Council, Inc., and amendments and additions thereto as provided in this Section, as the Existing Building Code of the City as an alternative for regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, including historic buildings, as herein provided and provides for the issuance of permits and the collection of fees therefore. The alternate minimum building standards of the 2021 International Existing Building Code and amendments thereto shall be applied to any building permit issued on or after December 31, 2021. A copy of this Code shall be kept on file in the office of the Building Official.

**9.05.02. Local amendments, additions, and deletions to the 2021 Existing Building Code.**

The following sections and subsections of the existing building code adopted in this Ordinance shall be amended, added, or deleted as follows. All other sections or

CITY OF HARRISBURG ORDINANCE #2021-18,  
TO ADOPT THE 2021 EBC WITH LOCAL AMENDMENTS,  
FOR CHAPTER 9.05 OF THE REVISED MUNICIPAL ORDINANCES  
subsections of the 2021 International Existing Building Code shall remain as originally  
published.

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

**103.1 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.

**104.8 Liability.** The Building 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 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 Building Official or the City be held as assuming any such liability by reason of the inspections authorized by this code or any permits or certificates issued under this code.

**104.8.1 Legal defense.** Any suit 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 afforded all the protection provided by the City's insurance pool and immunities and defenses provided by other applicable state and federal laws. The Building 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.

**105.1 Required.** Any owner or authorized agent who intends to repair, add to, alter, relocate, demolish, or change the occupancy of a building or to repair, install, add, alter, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit. The Building Official may exempt permits for minor work.

**105.1.1 Annual permit.** Not adopted by City.

**105.1.2 Annual permit records.** Not adopted by City.

**106.3.1 Approval of construction documents.** When the Building Official issues a permit, the construction documents shall be submitted and reviewed. One set of

CITY OF HARRISBURG ORDINANCE #2021-18,  
TO ADOPT THE 2021 EBC WITH LOCAL AMENDMENTS,  
FOR CHAPTER 9.05 OF THE REVISED MUNICIPAL ORDINANCES

construction documents so reviewed shall be retained by the Building Official. The other set shall be returned to the Applicant, shall be kept at the site of work, and shall be open to inspection by the Building Official or his designee.

**108.4 Work commencing before permit issuance.** Any person who commences work requiring a permit on a building, structure, gas, or mechanical system before obtaining the necessary permit(s) shall be subject to a Late Application Fee established by resolution by the City Council that shall be in addition to the required permit fees. Legal and/or civil proceedings may also be commenced by the City.

**110.1 Change of occupancy.** No building undergoing a change in occupancy shall be used or occupied, and no change in the existing occupancy classification of a building or portion thereof shall be made until the Building Official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the City.

**110.2 Certificate issued.** After the Building Official or his designee inspects the building and finds no violations of the provisions of this code or other laws that are enforced by Building Services, the Building Official shall issue a certificate of occupancy that shall contain the following:

1. The building permit number.
2. The address of the structure.
3. The name and address of the owner or the owner's authorized agent.
4. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
5. The name of the Building Official.
6. The edition of the code under which the permit was issued.
7. The use and occupancy in accordance with the provisions of the International Building Code.
8. The type of construction as defined in the International Building Code.
9. The design occupant load in assembly occupancies only.
10. If fire protection systems are provided, whether the fire protection systems are required.
11. Any special stipulations and conditions of the building permit.

**112.1 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 Planning Commission 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.

CITY OF HARRISBURG ORDINANCE #2021-18,  
TO ADOPT THE 2021 EBC WITH LOCAL AMENDMENTS,  
FOR CHAPTER 9.05 OF THE REVISED MUNICIPAL ORDINANCES

**112.2 Limitations on authority.** An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. If the appeal is based on a claim that an equally good or better form of construction was improperly denied, the appellant must submit the alternate material, design, or method of construction they are proposing. The appellant also has the burden to demonstrate to the Board that the alternative method or material that they are proposing is an equally good or better form of construction. The Board shall have no authority relative to the administrative provisions of this code nor shall the Board have authority to waive the requirements of the International Existing Building Code as adopted by the City.

**112.3 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 Planning Commission's next regular meeting agenda that is more than seven days (inclusive) from the date of receipt of the appeal.

**112.3.1 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.

**302.2 Additional codes.** Alterations, repairs, additions and changes of occupancy to, or relocation of, existing buildings and structures shall comply with the provisions for alterations, repairs, additions and changes of occupancy or relocation, respectively, in this code and the International Fuel Gas Code, International Mechanical Code, International Property Maintenance Code, International Residential Code and electrical and plumbing codes of the State of South Dakota. Where provisions of the other codes conflict with provisions of this code, the provisions of this code shall take precedence.

**408.1 Materials.** Plumbing materials and supplies shall not be used for repairs that are prohibited in the plumbing code of the State of South Dakota.

**702.7 Materials and methods.** All new work shall comply with the materials and methods requirements in the International Building Code, International Residential Code, International Mechanical Code, International Fuel Gas Code, and the electrical and plumbing codes of the State of South Dakota, as applicable, that specify material standards, detail of installation and connection, joints, penetrations, and continuity of any element, component, or system in the building.

**804.4.1.2.1 Fire escape access and details.** Fire escapes shall comply with all of the following requirements:

CITY OF HARRISBURG ORDINANCE #2021-18,  
TO ADOPT THE 2021 EBC WITH LOCAL AMENDMENTS,  
FOR CHAPTER 9.05 OF THE REVISED MUNICIPAL ORDINANCES

1. Occupants shall have unobstructed access to the fire escape without having to pass through a room subject to locking.
  
2. Access to a new fire escape shall be through a door, except that windows shall be permitted to provide access from single dwelling units or sleeping units in Group R-1, R-2 and I-1 occupancies or to provide access from spaces having a maximum occupant load of 10 in other occupancy classifications.
  - 2.1. The window shall have a minimum net clear opening of 5 square feet.
  - 2.2. The minimum net clear opening height shall be 24 inches and net clear opening width shall be 20 inches.
  - 2.3. The bottom of the clear opening shall not be greater than 48 inches above the floor.
  - 2.4. The operation of the window shall comply with the operational constraints of the International Building Code.
  
3. Newly constructed fire escapes shall be permitted only where exterior stairs cannot be utilized because of lot lines limiting the stair size or because of the sidewalks, alleys, or roads at grade level.
  
4. Openings within 10 feet of fire escape stairs shall be protected by fire assemblies having minimum  $\frac{3}{4}$ -hour fire-resistance ratings.

**Exception:** Opening protection shall not be required in buildings equipped throughout with an approved automatic sprinkler system.

5. In all buildings of Group E occupancy, up to and including the 12th grade, buildings of Group I occupancy, rooming houses and childcare centers, ladders of any type are prohibited on fire escapes used as a required means of egress.

**1009.1 Increased demand.** Where the occupancy of an existing building or part of an existing building is changed such that the new occupancy is subject to increased or different plumbing fixture requirements or to increased water supply requirements in accordance with the plumbing code of the State of South Dakota, the new occupancy shall comply with the intent of the respective plumbing code provisions.

**1009.2 Food-handling occupancies.** If the new occupancy is a food-handling establishment, all existing sanitary waste lines above the food or drink preparation or storage areas shall be panned or otherwise protected to prevent leaking pipes or condensation on pipes from contaminating food or drink. New drainage lines shall not be installed above such areas and shall be protected in accordance with the plumbing code of the State of South Dakota.

CITY OF HARRISBURG ORDINANCE #2021-18,  
 TO ADOPT THE 2021 EBC WITH LOCAL AMENDMENTS,  
 FOR CHAPTER 9.05 OF THE REVISED MUNICIPAL ORDINANCES

**1009.3 Interceptor required.** If the new occupancy will produce grease or oil-laden wastes, interceptors shall be provided as required in the plumbing code of the State of South Dakota.

**1009.5 Group I-2.** If the occupancy group is changed to Group I-2, the plumbing system shall comply with the applicable requirements of the plumbing code of the State of South Dakota.

<b>Table 1011.5 Means of Egress Hazard Categories</b>	
<b>Relative Hazard</b>	<b>Occupancy Classification</b>
1 (Highest Hazard)	H, I-2, I-3, I-4
2	I-1, R-1, R-2, R-4 Condition 2
3	A, E, M, R-4 Condition 1
4	B, F-1, S-1, R-3
5 (Lowest Hazard)	F-2, S-2, U
<b>Table 1011.6 Heights and Areas Hazard Categories</b>	
<b>Relative Hazard</b>	<b>Occupancy Classification</b>
1 (Highest Hazard)	H, I-2, I-3, I-4
2	A-1, A-2, A-3, A-4, I-1, R-1, R-2, R-4 Condition 2
3	E, F-1, S-1, M
4 (Lowest Hazard)	B, F-2, S-2, A-5, R-3, R-4 Condition 1, U

**1011.5.1 Means of egress for change to higher hazard category.** When a change of occupancy classification is made to a higher hazard category (lower

CITY OF HARRISBURG ORDINANCE #2021-18,  
TO ADOPT THE 2021 EBC WITH LOCAL AMENDMENTS,  
FOR CHAPTER 9.05 OF THE REVISED MUNICIPAL ORDINANCES  
number) as shown in Table 1011.5, the means of egress shall comply with the  
requirements of Chapter 10 of the International Building Code.

**Exceptions:**

1. Stairways shall be enclosed in compliance with the applicable provisions of Section 903.1.
2. Existing stairways including handrails and guards complying with the requirements of Chapter 9 shall be permitted for continued use subject to approval of the Building Official.
3. Any stairway replacing an existing stairway within a space where the pitch or slope cannot be reduced because of existing construction shall not be required to comply with the maximum riser height and minimum tread depth requirements.
4. Existing corridor walls constructed on both sides of wood lath and plaster in good condition or ½-inch-thick gypsum wallboard shall be permitted. Such walls shall either terminate at the underside of a ceiling of equivalent construction or extend to the underside of the floor or roof next above.
5. Existing corridor doorways, transoms and other corridor openings shall comply with the requirements in Sections 805.5.1, 805.5.2 and 805.5.3.
6. Existing dead-end corridors shall comply with the requirements in Section 805.6.
7. An existing operable window with clear opening area no less than 4 square feet and minimum opening height and width of 22 inches and 20 inches, respectively, provided the operable window has a sill height of not more than 48 inches above the floor, shall be accepted as an emergency escape and rescue opening.

**1011.7.2 Exterior wall rating for change of occupancy classification to an equal or lesser hazard category.** When a change of occupancy classification is made to an equal or lesser hazard category as shown in Table 1011.7, existing exterior walls, including openings, shall be accepted.

**Exception.** Where a property line is platted creating a Group R-3, multifamily dwelling (town house), the walls separating the dwelling units shall be constructed to provide a continuous fire separation using construction materials consistent with the existing wall or complying with the requirements for a new structure. The fire-resistive elements are not required to be continuous between concealed floor spaces, although there shall be provided a draft stop, located above and in line with the dwelling unit separation walls.

**1301.2 Applicability.** Structures existing prior to March 11, 1968, in which there is work involving additions, alterations or changes of occupancy shall be made to conform to the requirements of this chapter or the provisions of Chapters 6 through 10. The provisions of Sections 1301.2.1 through 1301.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M,

CITY OF HARRISBURG ORDINANCE #2021-18,  
TO ADOPT THE 2021 EBC WITH LOCAL AMENDMENTS,  
FOR CHAPTER 9.05 OF THE REVISED MUNICIPAL ORDINANCES  
R and S. These provisions shall not apply to buildings with occupancies in Group H  
or I.

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 Derick Wenck

Finance Officer Mary McClung

(SEAL)

First Reading: November 2, 2021

Second Reading: November 16, 2021

Published: November 25, 2021

Effective: January 1, 2022