

CITY OF HARRISBURG ORDINANCE #2021-21,  
TO ADOPT THE 2021 SP&SC WITH LOCAL AMENDMENTS,  
FOR CHAPTER 9.09 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 #2021-21 is an ordinance to create Chapter 9.09 of the Revised Municipal Ordinances of the City of Harrisburg by adopting the 2021 edition of the International Swimming Pool & Spa 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 – CREATION OF CHAPTER 9.09, SWIMMING POOL & SPA CODE**

**Chapter 9.09 Swimming Pool & Spa Code**

**9.09.01. Adopted.**

The City Council hereby adopts the International Swimming Pool and Spa Code, 2021 Edition as published by the International Code Council, Inc. as the swimming pool and spa code of the City for regulating the design, construction, alteration, repair, and maintenance of swimming pools, spas, hot tubs, and aquatic facilities in the City as herein provided and provides for the issuance of permits and the collection of fees therefore. 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. A copy of this Code shall be kept on file in the office of the Building Official.

**9.09.02. Local amendments, additions, and deletions to the 2021 International Swimming Pool & Spa Code.**

The following sections and subsections of the building code adopted in this Ordinance shall be amended, added, or deleted as follows. All other sections or subsections of the 2021 International Swimming Pool & Spa Code shall remain as originally published.

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**101.1 Title.** These regulations shall be known as the Swimming Pool and Spa Code of the City of Harrisburg, and shall be referred to herein as “this code”.

**103.1 Creation of agency.** Building services is hereby created and the official in charge thereof shall be known as the Building Official. The function of the agency shall be the implementation, administration, and enforcement of the provisions of this code.

**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 City 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 civilly or criminally 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 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 City, or its officers and employees, 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 any immunities and defenses provided by other applicable state and federal law and defended by legal representative of the City until the final termination of the proceedings. 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.

**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 Building 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.

**104.12.4 Construction documents.** The registered design professional shall submit to the Building Official one complete set of signed and sealed construction

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documents in an electronic submittal in PDF format for the alternative engineered design.

**104.12.5 Design approval.** Where the Building 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 Building Official shall notify the registered design professional, stating the reasons why the alternative was not approved.

**105.4.1 Approved construction documents.** When the Building Official issues the permit where construction documents are required, the construction documents shall be retained by the Building Official and be considered as approved. Such approved construction documents shall not be changed, modified or altered without authorization from the Building Official. Work shall be done in accordance with the approved construction documents.

The Building 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.

**106.1 Construction documents.** Construction documents, engineering calculations, diagrams and other such data shall be submitted electronically in PDF format with each application for a permit. The Building 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.

**106.2 Retention of construction documents.** One set of approved construction documents shall be retained by the Building 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.

**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 fee schedule adopted by resolution by the City Council.

**108.3 Permit valuations.** Not adopted by the City.

**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

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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.

**108.7 Delinquent accounts.** The City may refuse to issue permits or conduct inspections for any person or business who is financially delinquent to the City.

**111.1 General.** 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 City 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.

**111.3 Qualifications.** Not adopted by the City.

**111.3 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 City Council's next regular meeting agenda that is more than seven days (inclusive) from the date of receipt of the appeal.

**111.3.1 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.

**113.4 Violation penalties.** Persons 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 mechanical work in violation of the approved construction documents or directive of the Building Official, or of a permit or certificate issued under the provisions of this code, shall be guilty of an ordinance violation, which is a Class 2 Misdemeanor. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

**302.1 Electrical.** Electrical requirements for aquatic facilities shall be in accordance with NFPA 70, as applicable in accordance with Section 102.7.1.

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

**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 State Plumbing Code. Fittings shall be approved for installation with the piping installed.

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**302.5 Backflow protection.** Water supplies for pools and spas shall be protected against backflow in accordance with the State Plumbing Code, as applicable in accordance with Section 102.7.1.

**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 State Plumbing Code, as applicable in accordance with Section 102.7.1.

**SECTION 303 ENERGY** Not adopted by the City

**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, the areas where those spas or hot tubs are located shall not be required to comply with Sections 305.2 through 305.7.

**306.9.1 Hose bibbs.** Hose bibbs shall be provided for rinsing down the entire deck and shall be installed in accordance with the State Plumbing Code, as applicable in accordance with Section 102.7.1, and shall be located not greater than 150 feet 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 intervals, or have a dedicated hose bibb for water-powered devices.

**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.

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

**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 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.

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

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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