

CITY OF HARRISBURG ORDINANCE #2021-20,
TO ADOPT THE 2021 IPMC 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 #2021-20 is an ordinance to amend Chapter 9.07 of the Revised Municipal Ordinances of the City of Harrisburg by adopting the 2021 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, 2021 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 2021 International Property Maintenance Code will become effective on January 1, 2022. 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 2021 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 2021 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.”

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. The office of enforcement 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.

103.2 Appointment. Not adopted by the City.

104.1 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.

105.7 Liability. The Code 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 rendered liable personally, and is hereby relieved from 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.

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 notices or orders issued under this code.

105.7.1 Legal defense. 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, 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 and be defended by the legal representative of the City until the final termination of the proceedings. The Code

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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.

107.1 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, the City Planning Commission hereby assumes the duties 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 Code Official.

107.2 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 not have authority to waive the requirements of the International Property Maintenance Code as adopted by the City.

107.3 Qualifications. Not adopted by the City.

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

107.4 Administration. Not adopted by the City.

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

Section 108 Board of appeals. Not adopted by the City.

110.4 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

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Code, NFPA 70, 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 109.4 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 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.

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.

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

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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.

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:

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Mayor Derick Wenck

Finance Officer Mary McClung

(SEAL)

First Reading: November 2, 2021

Second Reading: November 16, 2021

Notice of Adoption Published: November 25, 2021 and December 2, 2021

Effective: January 1, 2022