

**REVISED**

**MUNICIPAL ORDINANCES**

**CITY OF HARTFORD, SOUTH DAKOTA**

Ordinance No. 430

Effective Date: January 1, 2003

AN ORDINANCE IN REVISION OF THE MUNICIPAL ORDINANCES  
OF THE CITY OF HARTFORD, SOUTH DAKOTA

Revised under the direction of the City Council of the City of Hartford  
Prepared by the South Eastern Council of Governments

*Updated with Amendments as of September 15, 2024*

## SUMMARY AND GENERAL INFORMATION

This Ordinance in Revision of the Municipal Ordinances of the City of Hartford, South Dakota, revises the ordinances heretofore adopted, except special ordinances, appropriation ordinances, levying ordinances for the issuance of bonds, and other special ordinances of like character. Such ordinances not included in this revision and still having force and effect may be found in the Finance Office.

In the construction and interpretation of this ordinance, the following definitions shall apply unless otherwise provided:

"City" or "the City" The City of Hartford, South Dakota.

"City Council" or "Council" The governing body of the City.

"he", "his" or "him" Words imparting masculine gender shall extend and be implied to females and to any firm, partnership, association, corporation, organization, and other legally recognized entity, as well as to males.

"May" Permissive.

"Person" Any individual, firm, partnership, association, corporation, organization, or other legally recognized entity.

"S.D." or "State" The State of South Dakota.

"SDCL" South Dakota Codified Law.

"Shall" Mandatory.

Reference to SDCL has been made for each section or subsection, where applicable, indicated by numbers in parentheses.

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**TITLE 1 - ADMINISTRATIVE CODE**  
[MUNICIPAL OFFICERS AND EMPLOYEES SDCL 9-14]

- Chapter 1.01 - Officers
- Chapter 1.02 - Mayor and City Council
- Chapter 1.03 - Finance Regulations
- Chapter 1.04 - Tree Board
- Chapter 1.05 – Fire Department
- Chapter 1.06 – Park and Recreation Board

**CHAPTER 1.01 - OFFICERS**

1.0101 Appointment of Officers. At the first regular meeting in September, there shall be appointed a City Attorney and City Engineer. All such appointments shall be made by the Mayor with approval of the City Council.

*(Amended: Ordinance No. 483, 3-15-2005; Ordinance No. 613, 6-17-2014; Ordinance No. 639, 2-21-2017)*

1.0102 Salaries. The salaries of all employees of the City shall be paid bi-weekly unless otherwise provided. The City Administrator, Finance Officer and Utility Billing Clerk shall be bonded in such sum to be approved by the City Council and conditioned upon the faithful performance of the duties of such office. (9-14-28)

*(Amended: Ordinance No. 613, 6-17-2014; Ordinance No. 639, 2-21-2017)*

1.0103 Employment Policies. All policies regarding personnel regulations and benefits of the City shall be included in the Personnel Policy Manual, which shall be filed with the Finance Office. A copy shall be made available to all employees following the date of hire, following any amendment of personnel manual or upon request by city employee.

*(Amended: Ordinance No. 613, 6-17-2014; Ordinance No. 639, 2-21-2017)*

**CHAPTER 1.02 - MAYOR AND CITY COUNCIL**

1.0201 Mayor - Duties. The Mayor shall preside at all meetings of the City Council but shall have no vote except in case of a tie. He shall perform such other duties as may be prescribed by laws and ordinances and ensure that such laws and ordinances are faithfully executed. He shall have the power to sign or veto any ordinance or resolution passed by the City Council, and the power to veto any part or item of an ordinance appropriating money. (9-8-1, 3)

1.0202 Meetings. Regular meetings of the City Council shall be held at the place designated by the Mayor on the first and third Tuesdays of each month at 7:00 p.m. If a regular meeting day shall fall upon a holiday, the regular meeting shall be held on the day following.

1.0203 Special Meetings. Special meetings may be held at the call of the Mayor or by any two Council members at any time, to consider such matters as may be mentioned in the call for the meeting. (9-8-8)

1.0204 President and Vice-President of Council. At the first regular meeting in May after the qualifications of the newly elected council members, the City Council shall elect from among its members a president and vice-president, who shall hold their respective offices for the municipal year.

The president of the City Council, in the absence of the Mayor, shall be presiding officer of the City Council and during the temporary disability or absence of the Mayor from the City, shall be Acting Mayor and possess all of the powers of the Mayor. In the absence or disability of the Mayor and president of the City Council, the vice-president shall perform the duties of the Mayor and president of the Council. (SDCL 9-8-7)

1.0205 Compensation. The Mayor shall receive annual compensation in the amount of one thousand eight hundred dollars (\$1,800.00) payable semi-annually, plus one hundred dollars (\$100.00) per attended regular scheduled meeting and seventy-five dollars (\$75.00) per attended special meeting. Council members shall receive one thousand two hundred dollars (\$1,200.00) payable semi-annually, plus one hundred dollars (\$100.00) per attended regular scheduled meeting and seventy-five dollars (\$75.00) per attended special meeting. This compensation rate will become effective May 1, 2017 and thereafter.

*(Amended: Ordinance No. 453, 2-3-2004; Ordinance No. 642,4-18-2017)*

1.0206 Elections and Terms. The term of Council members, which include the Mayor shall be two years unless otherwise provided herein.

- a. In Ward One in calendar year 2012, there shall be one Councilman elected for a one year term and one Councilman elected for a two year term. In 2013 and each year there after, one Councilman shall be elected every year for a two year term. The nominating petition for Ward One election in the calendar year of 2012 shall designate whether the nominating petition is for the one year term or the two year term.
- b. In Ward Two in the calendar year of 2013, there shall be one Councilman elected for a one year term and one Councilman elected for a two year term. In 2014 and each year thereafter, one Councilman shall be elected for a two year term. The nominating petition for the Ward Two election in the calendar year of 2013 shall designate whether the nominating petition is for the one year term or the two year term.
- c. In Ward Three in the calendar year of 2012 and every two years thereafter, there shall be one Councilman elected for a two year term. In Ward Three in calendar year 2013 and every two years thereafter, there shall be one Councilman elected for a two year term.

*(Amended Ordinance No. 568, 8-16-2011)*

1.0207 Parliamentary Rules. Robert's Rules of Order, Revised, are hereby adopted as the rules to govern the deliberations of the Council, insofar as applicable.

1.0208 Quorum. A majority of the Council shall constitute a quorum for the transaction of all business, but a less number may adjourn from time to time.

1.0209 Voting. No action of the Council shall be effective unless upon a vote of a majority of the members of the city council. No member present shall be permitted to pass his vote on any matter submitted to a vote of the council at any meeting of the Council.

*(Amended: Ordinance No. 548, 10-20-2009)*

- 1.0210 Mayor to preside; right of Mayor to vote. The Mayor shall preside at all meetings of the Council, but he shall have no vote except in case of a tie.
- 1.0211 Meetings open to the public. The meetings of the Council shall be open to the public, but it shall be unlawful for any person to interfere in any way with the deliberations of the Council at such meetings, and no person not a member of the Council shall address or deliver any remarks to the Council at such meetings, without first asking for and receiving the privilege of so doing.
- 1.0212 Expulsion of members. Whenever two-thirds of the whole number of the Council shall concur, the Council may expel any member of the Council for gross misconduct, disorder or repeated violation of duty.

### **CHAPTER 1.03 - FINANCE REGULATIONS**

- 1.0301 Revenues and Special Funds. All money belonging to the City from taxation, licenses, fines, permits, the operation of waterworks, or from any other source, shall be paid into the city treasury, and the City Council shall designate by ordinance to what fund or funds such money shall be applied. The Finance Officer shall keep full, true and just accounts of all financial affairs of the City and shall keep such accounts and furnish in such form and in such manner from time to time as required by the Department of Revenue of the State of South Dakota. (SDCL 9-14-18)

### **CHAPTER 1.04 - TREE BOARD**

- 1.0401 Establishment. There shall be maintained a City Tree Board for the City of Hartford, South Dakota.
- 1.0402 Members. The Tree Board shall be composed of five (5) members, citizens and residents of the City, who shall be appointed by the Mayor with the approval of the City Council. The Community Forest Marshall shall be an official member of the City Tree Board.
- 1.0403 Compensation. Members of the Tree Board shall serve without compensation, unless otherwise determined by resolution of the City Council from time to time.
- 1.0404 Duties and Responsibilities. The Tree Board, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter of questions relating to trees.
- 1.0405 Operation. The Tree Board shall choose its officers, establish rules and regulations with approval by the City Council, and keep a journal of its proceedings. A majority of the members shall be quorum for the transaction of business.
- 1.0406 Interference. It shall be unlawful for any person to prevent, delay or interfere with the Tree Board or any of its representatives or agents, while engaging in and about the planting, cultivation, mulching, pruning, spraying, or removing of any trees within the public community forest.



1.0407 Access. It shall be unlawful for any person to prevent, delay or interfere with access to private property by the City or its representative in the legal performance of any section of this ordinance.

## **CHAPTER 1.05 – FIRE DEPARTMENT**

1.0501 Establishment. There shall be established for the City a Volunteer Fire Department, which shall consist of officers as stated in their bylaws, and such other members as may be from time to time determined by the Fire Department. (SDCL 9-33-13)

## **CHAPTER 1.06 – PARK AND RECREATION BOARD**

1.0601 Purpose. The purpose of this Ordinance is to establish a Combined Park and Recreation Board pursuant to and as authorized by SDCL Chapter 9-38 of the South Dakota Codified Laws within the City of Hartford, South Dakota.

- A. There is hereby established a Park Board pursuant to SDCL 9-38-8 with the purpose and authority as set forth in this Ordinance.
- B. There is hereby established a Recreation Board pursuant to SDCL 9-38-80 with the purpose and authority as set forth in this Ordinance.
- C. Pursuant to SDCL 9-38-90.1 the Park Board and Recreation Board shall be combined and known as the Hartford Park and Recreation Board. The combined Board shall hereafter in this Ordinance be referred to as the “Board.”

*(Amended: Ordinance No. 706, 5-4-2021)*

1.0602 Limit of Authority. The Board shall act in an advisory role to the City Council for purpose of investigation and recommendation to the Hartford City Council as to quality of life matters including but not limited to: the care, regulation and management of the City’s public parks, sports complex, and recreation trail system.

*(Amended: Ordinance No. 706, 5-4-2021)*

1.0603 Membership. The Board shall consist of seven (7) members – one (1) non-voting member shall be a city council representative, appointed by the Mayor with approval of the city council; one (1) non-voting member shall be a city staff representative, appointed by the mayor with approval of the city council; and there shall be five (5) voting members from the public at large. The members shall be appointed by the Mayor with the approval of the City Council. The members shall not be required to provide a bond in order to perform their official duties.

*(Amended: Ordinance No. 706, 5-4-2021)*

1.0604 Terms. Terms of the Public members shall be as follows: The first year Board will determine one, two, and three year terms. During the first year, one board member from the public will have a one year term, two board members from the public will have a two year term, and two board members from the public will have a three year term. Thereafter, terms shall be for a period of three (3) years. The Mayor, with approval of the City Council will appoint a council member and staff member on an annual basis. The members shall serve on the Board without pay and at the pleasure of the City Council.

*(Amended: Ordinance No. 706, 5-4-2021)*

1.0605 Elected Officers. The Board shall elect a President and Vice President for a one year term at the first meeting of the Board each calendar year. The President shall chair all Board meetings; schedule all Board meetings and special meetings; preside at the meetings; act as spokesperson for the Board; sign documents or actions of the Board; rule on all points of order and procedure; and perform all duties approved by the City Council. The Vice President shall exercise the duties of the President in the absence, disability or disqualification of the chairperson. In the absence of the President and Vice President, an acting Board member shall be elected by the members present.

*(Amended: Ordinance No. 706, 5-4-2021)*

1.0606 Records. The President of the Board shall appoint the Secretary of said Board. It shall be the duty of the secretary to send all notices for the meetings of said Board; compose the agenda for each meeting; keep and preserve the minutes; have custody and keep all documents and papers filed with the said Board; and perform such other duties as may be prescribed by said Board, with the approval of the City Council. All minutes, records and all official actions of the Board shall be filed in the city's business office and shall constitute public record.

*(Amended: Ordinance No. 706, 5-4-2021)*

1.0607 Budget. The Board, on or before the first day of July of each year, shall submit a budget recommendation and estimate for park or trail improvements or recreational programs for the ensuing fiscal year to the office of the City Administrator. Such estimates shall include monies necessary for maintaining, constructing and improving parks, parkways, playgrounds, and recreational trails which are under the control of the City Council.

*(Amended: Ordinance No. 706, 5-4-2021)*

1.0608 Reporting to the City Council. The Council member serving on the Board will advise and consult with the City Council and city officials as to the work and recommendations of said Board.

*(Amended: Ordinance No. 706, 5-4-2021)*

1.0609 Meetings. The Board shall meet once a month if there is business to conduct and may also meet on the call of the President or Mayor. Notice of all meetings shall be placed on the city's website at least 24 hours prior to the meeting and will be open to the public. Meeting date and time will be determined by the Board.

*(Amended: Ordinance No. 706, 5-4-2021)*

1.0610 Quorum. Three (3) voting members will constitute a quorum.

*(Amended: Ordinance No. 706, 5-4-2021)*

1.0611 Absences, Removals, Resignations and Vacancies. To be excused, members of the Board shall notify the President or Secretary when they intend to be absent from a meeting. Failure to make this notification prior to the meeting shall result in an unexcused absence. Three or more unexcused absences within a term shall be grounds for removal. Members of the Board may

be removed by the Mayor, with the approval of the City Council. A member may resign from the Board by sending a letter of resignation to the Mayor or President of the Board. Vacancies shall be filled by the Mayor, with the approval of the City Council. Successors shall serve out the unexpired term of the member being replaced.

*(Amended: Ordinance No. 706, 5-4-2021)*

- 1.0612 Duties. Notwithstanding any other provisions in state law, the Board, in addition to providing the annual budget estimate, shall provide an annual assessment of the public parks, vet park improvements and funding opportunities for parks and recreation trails, and advise the council on identifying quality of life improvements related to the city's park and trail system. The Board shall also advise and assist the City Administrator with any recommendations to the City Council for policy changes. The Board shall not, unless directed to by city council, incur any expenses or invoke any policies. Nothing herein shall give the Board authority to expend monies, enter into contracts, create policies, own facilities, issue bonds, levy assessments or hire employees and all such actions shall only be pursuant to approval by the City Council.

*(Amended: Ordinance No. 706, 5-4-2021)*

- 1.0613 Effective Date and Enactment. This Ordinance shall become effective twenty (20) days after the last date of publication of said ordinance.

## TITLE 2 - BOUNDARIES, WARDS AND VOTING PRECINCTS

[INCORPORATION OF MUNICIPALITIES SDCL 9-3]

[ELECTIONS SDCL 12-1]

[PRECINCTS AND POLLING PLACES SDCL 12-14]

Chapter 2.01 - Boundaries

Chapter 2.02 - Wards and Voting Precincts

### CHAPTER 2.01 - BOUNDARIES

2.0101 Boundaries. The corporate limits of the City shall be declared to be such as have been legally established and amended by law and ordinances of the City as shown on the official map on file in the office of the Finance Office. Such map shall be incorporated in this ordinance by reference and adopted as the official map showing the boundaries and limits of the City. (SDCL 9-3-2)

### CHAPTER 2.02 - WARDS AND VOTING PRECINCTS

2.0102 Wards and Voting Precincts. The City shall be divided into three wards, which shall be combined and consolidated into one election precinct, and shall be designated respectively as Wards One, Two, and Three. The wards shall be described by stating the certain street or avenue designations or other landmarks that divide and border the wards. Any reference to street or avenue below shall mean an imaginary line running down the approximate middle of each street or avenue. The wards of the City of Hartford are as set forth below and the city ward map dated March 13, 2023 thereof on file in the office of the Finance Officer. Any discrepancies shall be resolved by reference to the map rather than the physical descriptions set forth herein.

The First Ward shall include all of that part of the City east of 463 Avenue located between 7th Street and 258th Street. It shall also include all of that part of the City west of 463rd Avenue located between SD Highway 38 and 258th Street. It shall also include all of that part of the City east of Oaks Avenue located between 6th Street and 258th Street. It shall also include all of that part of the City east of Van Demark Avenue located between Railroad Street and 258 Street. It shall also include all of the part of the City east of Feyder Avenue and west of Van Demark Avenue located between 2nd Street and 4th Street. It shall also include all of the part of the City east of 464th Avenue and north of 2nd Street.

The Second Ward shall include all of that part of the City west of Western Avenue located north of Interstate 90. It shall also include all of that part of the city east of Western Avenue located between 7th Street and Mickelson Road. It shall also include all of that part of the City east of Oaks Avenue located between 6th Street and South Street. It shall also include all of that park of the City east of Main Avenue, 2nd Street, and 6th Street. It shall also include all of the part of the City east of Feyder Avenue and west of Van Demark Avenue located between 6th Street and 4th Street.

The Third Ward shall include all of that part of the City east of Western Avenue located between Mickelson Road and Interstate 90. It shall also include all of that part of the City east of Main Avenue and west of Van Demark Avenue located between 2nd Street and Mickelson

Road. It shall also include all of that part of the City south of Railroad Street and south of South Dakota Highway 38. It shall also include all of that part of the City east of 464th Avenue and south of 2nd Street.

*(Amended: Ordinance No. 567, 8-2-2011)*

*(Amended: Ordinance No. 722, 12-21-2021)*

*(Amended: Ordinance No. 740, 4-4-2023)*

**TITLE 3 – HEALTH AND SANITATION**  
[SANITATION AND HEALTH MEASURES SDCL 9-32]

- Chapter 3.01 – Nuisances
- Chapter 3.02 – (Reserved)
- Chapter 3.03 – Collection of Garbage & Recyclables
- Chapter 3.04 – Dangerous Building
- Chapter 3.05 – Noise Regulations
- Chapter 3.06 – Yard Waste Disposal Site

**CHAPTER 3.01 – NUISANCES**

3.0101 Definitions. For the purpose of this Chapter, the following terms are hereby defined.

- A. “Garbage” – The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.
- B. “Solid Waste” – Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial and agricultural operations, and from community activities including, but not limited to wood and other construction materials, appliances, yard waste, tires, scrap iron, chemicals or fuel. [SDCL 34A-6-1.2]
- C. “Wastewater” – The spent water of a community. From the standpoint of source it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.
- D. "Abandoned property" – Any junk car, car bodies or equipment of any type, except in an authorized junk yard, or any accumulations of other unsightly trash or junk which would constitute a health hazard, a rodent harborage, a breeding area for insects or rodents, a dangerous place for children to play in and around or which tends to be unsightly and which does or tends to lower the value of adjacent real property because of its unsightliness.

*(Amended: Ordinance No. 459, 6-1-2004)*

- E. “Abandoned Vehicle” - Any vehicle that is left unattended or stored on any public property, used as a right of way including streets and alleys, for a continuous period of time of more than one hundred sixty-eight (168) hours in the same parking space. A continuous period of time shall be defined as leaving a vehicle in the same parking space or moving it less than twenty (20) feet away there from.

From October 16<sup>th</sup> through April 14<sup>th</sup> of each calendar year, a vehicle may not be stored on any public property used as a right of way, including streets and alleys, for any period of time of more than seventy-two (72) hours.

*(Amended: Ordinance No. 459, 6-1-2004; Ordinance No. 505, 8-15-2006; Ordinance No. 602, 12-17-2013)*

- F. "Inoperable vehicle" - Any vehicle which is not in operating condition due to damage, removal or inoperability of one or more tires and wheels, the engine or other essential parts required for the operation of the vehicle, or which does not have lawfully affixed thereto unexpired license plates, or which constitutes an immediate health, safety, fire or traffic hazard.

*(Amended: Ordinance No. 459, 6-1-2004)*

- G. "Nuisance" - Unlawfully doing an act, or omitting to perform a duty, which act or omission: (1) annoys, injures, or endangers the comfort, repose, health, or safety of others; (2) in any way renders other persons insecure in life, or in the use of property; (3) renders the ground, the water, the air, or food a hazard or any injury to human health; and in addition (4) the specific acts, conditions and things listed in Section 3.0102 are hereby declared to constitute public nuisances, but such acts, conditions and things shall not be deemed to be exclusive. (SDCL 21-10-1)

*(Amended: Ordinance No. 459, 6-1-2004)*

- H. "Private property" - Any real property within the City that is privately owned and which is not public property.

*(Amended: Ordinance No. 459, 6-1-2004)*

- I. "Public property" - Any street, alley or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and also means any other publicly owned property or facility.

*(Amended: Ordinance No. 459, 6-1-2004)*

- J. "Removal agency" - Any public body, private or nonprofit organization authorized, hired or appointed by the City to remove and salvage vehicles.

*(Amended: Ordinance No. 459, 6-1-2004)*

- K. "Unightly trash or junk" - Property which is deteriorated, wrecked or derelict property in unusable condition, having no value other than nominal scrap or junk value, if any, and which is left outside of a permanent, enclosed structure and which shall include, without limitation, motors, lawn mowers, campers, refrigerators and other household appliances, furniture, household goods and furnishings, scrap metals or lumber or other similar articles in such condition.

*(Amended: Ordinance No. 459, 6-1-2004)*

- L. "Vehicle" – Any conveyance, whether or not self-propelled, and which is designed to travel along the ground or in or on the water and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, pull trailers, go-karts, golf carts, boats, jet skis, campers and trailers.

*(Amended: Ordinance No. 459, 6-1-2004)*

- M. “Noxious Weeds”. Any weeds, plants or vegetation declared to be a statewide noxious weed or locally noxious weed in Minnehaha County pursuant to SDCL Chapter 38-22 and all other weeds suffered or allowed to grow during the growing season, shall be deemed noxious, dangerous and unhealthful vegetation and are hereby declared to be nuisances.

*(Amended: Ordinance No. 569, 8-16-2011)*

- N. “Hazardous Materials” – An item or agent (biological, chemical, radiological and/or physical), which has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors – including but not limited to, oil, railroad ties, coated electrical wire, rubber, tires, tarpaper, asphalt shingles, treated wood products, pesticide and herbicide containers, materials containing asbestos, plastics, sheetrock and paint.

*(Amended: Ordinance No. 676, 8-20-2019)*

3.0102 Prohibited. No person shall create, commit, maintain, or permit to be created, committed, or maintained any nuisance as defined herein, within the City. The following specific acts, conditions and things are, each and all of them, hereby declared to constitute nuisances: (SDCL 9-32-1)

*(Amended: Ordinance No. 459, 6-1-2004; Ordinance No. 557, 8-3-2010; Ordinance No. 619, 9-16-2014)*

- A. Depositing, accumulating, or permitting to be accumulated upon any public or private property, any household wastewater, sewage, garbage, refuse, rubbish, offal, excrement, decaying fruit, vegetables, fish, meat, bones; any fowl, putrid, or obnoxious liquid substance; any chemical or hazardous material; or putrescible and nonputrescible animal or vegetable wastes or solid wastes, or any other waste material which constitutes or tends to create a danger to public health, safety, and welfare. (SDCL 9-32-10, SDCL 34A-7-9)
- B. The accumulation of manure, garbage, or anything whatsoever which may be breeding areas for flies, mosquitoes, or rodents. (SDCL 9-32-10)
- C. The growth of weeds or plants declared to be a statewide or local noxious weed in Minnehaha County pursuant to SDCL Chapter 38-22, all weeds declared to be locally noxious by the City Council, and all other weeds and grasses growing upon any real property in the City to a height greater than 8 inches, or which have gone or are about to go to seed, or a dense growth of brush or grasses, shall be deemed noxious, dangerous and unhealthful vegetation and are hereby declared to be a nuisance. Fallen tree limbs, diseased or dead trees, and dead tree limbs shall also be declared dangerous and a nuisance, provided, however, that vegetation that is not a primary or secondary noxious weed and is being grown as hay for livestock consumption, as a native prairie display garden, or as a wildflower display garden, or other nature areas, so long as the same are approved to be used as such by City Council, shall not constitute a nuisance.

Violation of this section in undeveloped areas, defined as a parcel with no building or structure upon it, will be subject to a fine of \$250.00 for the first violation and \$500.00 for each additional violation within the same year. Upon failure to comply, the City is hereby



authorized to abate the nuisance per section 3.0118 or pursue civil action per section 3.0121.

*(Amended: Ordinance No. 459, 6-1-2004)*

*(Amended: Ordinance No. 569, 8-16-2011)*

*(Amended: Ordinance No. 685, 4-21-2020)*

- D. For the owner of a dead animal to permit it to remain undisposed of longer than twenty-four (24) hours after its death. (SDCL 9-29-13)
- E. Any excavation, trench, or open basement in which stagnant water is permitted to collect or which may jeopardize the life, limb, or safety of the general public. (SDCL 9-29-13)
- F. Throwing or letting fall on or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, grass, fuel or wood while engaged in handling or removing any substance. (SDCL 9-32-10)

*(Amended: Ordinance No. 685, 4-21-2020)*

- G. Keeping or maintaining any building or enclosure where livestock, as defined in ordinance 618, are kept.

*(Amended: Ordinance No. 619, 9-16-2014)*

- H. Disposing of garbage, waste, refuse, leaves or hazardous materials by open burning or causing, allowing, or permitting the conducting of a salvage operation by open burning in the City. The following types of open burning shall be permissible for a specific purpose when conducted in conformity with the subsections set forth below:
  - 1. Fires set for the elimination of a fire hazard, which cannot be abated by any other means when authorized by the Fire Chief of the City Volunteer Fire Department.
  - 2. Fires purposely set by the city maintenance personnel for the purposes as authorized by the Fire Chief of the City Volunteer Fire Department.
  - 3. Fires purposely set by the Hartford Area Fire and Rescue Inc personnel and authorized by the Fire Chief for the purpose of training and conducted in accordance with live fire-training standards.
  - 4. Fires for the heating or cooking of food for human consumption in residential areas and City of Hartford parks.
  - 5. Fires for recreational purposes when the fires are confined to a fireplace or fire pit.
  - 6. Fires for ceremonial purpose that are authorized by the City Administrator.

*(Amended: Ordinance No. 448, 11-4-2003)*

*(Amended: Ordinance No. 557, 8-3-2010)*

*(Amended: Ordinance No. 676, 8-20-2019)*

*(Amended: Ordinance No. 685, 4-21-2020)*

- I. Maintaining, or causing or permitting the same, any building or premises which is determined to be dangerous or dilapidated. Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous or dilapidated building, if such conditions or defects thereby annoy, injure or endanger the comfort, repose, health, or safety of others or, if such conditions or defects exist to the extent that the life, health, property, value of property or safety of the public or its occupants are jeopardized.
  1. Whenever any building or structure is (i) vacant and unoccupied for the purpose for which it was erected and; (ii) the building is unfit for occupancy as it fails to meet minimum housing standards and; (iii) the building has remained substantially in such condition for a period in excess of six months.
  2. Whenever any building or structure through lack of maintenance or attention and by virtue of its physical appearance and presence thereby depresses the market value of surrounding properties.
- J. Maintaining or permitting to be maintained on any private or public property any abandoned property or unsightly trash or junk, abandoned vehicle, or inoperable vehicle or parts thereof. It shall be unlawful to keep or place any of such vehicles or vehicle parts:
  1. Upon public streets or property except on an emergency basis.
  2. Upon the private property of any person owning, in charge of, or in control of any real property within the City, whether as an owner, tenant, occupant, lessee or otherwise, for longer than 14 days unless it is within a fully enclosed building or structure. A carport, tarpaulin, tent or other similar temporary structure shall not be deemed to satisfy the requirements of this section.

In no event shall an inoperable vehicle that constitutes an imminent health, safety or fire hazard be kept or located on any real property.

*(Amended: Ordinance No. 459, 6-1-2004)*

- K. The requirements of paragraph J shall not apply to the following:
  1. One inoperable vehicle kept on private property without being shielded from public view if licensed and kept on a private driveway. If this inoperable vehicle is in a state of externally visible disrepair or disassembly, it shall not be kept on the private driveway longer than 14 days.
  2. Filling stations, automobile repair shops or any other motor vehicle related businesses in compliance with applicable City ordinances may place inoperable vehicles being repaired or offered for sale on the premises.
  3. Junkyards operated and maintained in compliance with applicable City ordinances.
  4. Any vehicle specifically designed and used for operation on drag strips or raceways that remains on private property.

5. Any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City or authorized by the City.

*(Amended: Ordinance No. 459, 6-1-2004)*

3.0103 Diseased Vegetation. Any owner, occupant, or person in charge of any property under the jurisdiction of the City shall be removed at his own expense any trees, brush, wood, or debris infected with Dutch Elm disease, Emerald Ash Borer, or other infestations or infectious disease found thereon when so notified by the City to do so. The City Council shall cause to be mailed to such owner, occupant, or person, written notice that they may appear before the said City Council at an appointed time not less than fourteen (14) days from the date of mailing of said written notice to show cause why said trees, brush, wood, or debris should not be declared a public nuisance.

At said meeting the City Council may resolve and declare the same to be a public nuisance and may order its removal by said owner, occupant, or person within twenty-one (21) days from the date of service of said resolution and order on said owner, occupant, or person.

Any diseased vegetation stored in the City shall be debarked or covered with four (4) to six (6) mil clear plastic from April 1<sup>st</sup> to October 1<sup>st</sup>, such plastic to be sealed by placing all edges in a three to four-inch trench covered with soil. In addition, any diseased vegetation which is removed and not stored in accordance with the provisions of this Section shall be property disposed of by burning or burying in a designated disposal site. (SDCL 9-32-12).

*(Amended: Ordinance No. 673, 8-20-2019)*

3.0104 Littering in Public Places. No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the City except in authorized public or private receptacles. The following further identifies acts and conditions that constitute nuisances and are therefore prohibited:

- A. No person shall sweep into or deposit in any gutters, streets, or other public place within the City, the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property or places of business shall keep the sidewalk in front of such premises free of litter.

For purposes of this Ordinance, a public nuisance shall also include snow and ice when deposited or allowed to accumulate in conflict with the provisions of this Section.

- B. No persons, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place or upon private property within the City.

No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from being blown or deposited upon any street, alley, or public place.

- C. No person shall throw or deposit litter on any occupied, open, or vacant private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in

such a manner that litter will be prevented from being deposited upon any streets, sidewalk, or other public place or upon any private property.

- 3.0105 Removal of Abandoned or Inoperable Vehicles - Public Property. Whenever the City or any law enforcement officer for the City finds an abandoned or inoperable vehicle on public property within the City, a written notice shall be placed on the vehicle that it will be removed to a garage or place of safety unless the owner removes the vehicle from public property within 24 hours of the giving of the notice. After the expiration of the 24-hour period, the vehicle may be removed by a removal agency to a garage or place of safety. Nothing in this section precludes the City or any law enforcement officer for the City from immediately removing a vehicle that constitutes an imminent health, safety or fire hazard.

*(Amended: Ordinance No. 459, 6-1-2004)*

- 3.0106 Disposition of Unclaimed Vehicles. The removal agency shall have the rights and obligations conferred upon it by SDCL Chp. 32-36 in regard to titling or disposition of such unclaimed abandoned or inoperable vehicle, except that, if not otherwise provided by state law, it shall have a possessory lien upon any vehicle removed under provisions for this article for the costs or reasonable charges in taking custody of and storing such vehicles.

*(Amended: Ordinance No. 459, 6-1-2004)*

- 3.0107 Duty of Private Property Owners. No person owning, in charge of or in control of any real property within the City, whether as owner, tenant, occupant, lessee or otherwise, shall allow any abandoned or inoperable vehicle of any kind to remain on such property longer than 14 days.

*(Amended: Ordinance No. 459, 6-1-2004)*

- 3.0108 Notice Procedure. A written notice shall be placed on the abandoned or inoperable vehicle by the City or by any law enforcement officer for the City requesting the removal of such motor vehicle in the time specified in this Ordinance. Written notice shall also be placed on the front door of any dwelling located on the private property requesting the removal of such motor vehicle in the time specified in this article. In the event the owner and the occupant or tenant of the real property are not the same person, written notice shall be given to the owner by certified mail requesting the removal of such motor vehicle in the time specified in this Ordinance. In the event the private property is not occupied, written notice shall be given to the owner by certified mail requesting the removal of such motor vehicle in the time specified in this Ordinance. All notices regarding violations of 3.0102. C. shall be given in compliance with Section 3.0117.

*(Amended: Ordinance No. 459, 6-1-2004; Ordinance No. 569, 8-16-2011)*

- 3.0109 Responsibility for Removal. Upon notice having been given, the owner of the abandoned or inoperable vehicle and the owner or occupant of the private property on which the vehicle is located, either or all of them, shall be responsible for its removal.

*(Amended: Ordinance No. 459, 6-1-2004)*

- 3.0110 Content of Notice. The notice in section 3.0108 shall request removal of the abandoned or inoperable vehicle within 14 days after the date of the posting or mailing of such notice, and

the notice shall advise that failure to comply with the notice to remove shall be a violation of this Ordinance, that the City may take steps to abate the same, and that in addition to abatement directly or by civil action, the City may pursue criminal fines and penalties against the owner, occupant, tenant or other person in charge of the real property as provided in this Ordinance.

*(Amended: Ordinance No. 459, 6-1-2004)*

3.0111 Public and Private Nuisance Defined. A public nuisance is one that affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal. Every other nuisance is private. (SDCL 21-10-3).

*(Amended: Ordinance No. 459, 6-1-2004)*

3.0112 Remedies Against Nuisances. The remedies against any nuisance shall be: (1) A civil action; (2) Abatement; and (3) In cases of public nuisance only, the additional remedy of indictment or information as prescribed by this Ordinance or by the South Dakota Codified Laws, and the rules relating thereto. (SDCL 21-10-5).

*(Amended: Ordinance No. 459, 6-1-2004)*

3.0113 Abatement. A public nuisance may be abated without civil action by the City Council or by any officer authorized thereto by law. Any private person may likewise abate a public nuisance which is especially injurious to him or her, or any private nuisance injurious to him or her in a manner by removing, or, if necessary, destroying that which constitutes the nuisance, without committing a breach of the peace or doing unnecessary injury. If a private nuisance results from a mere omission of the wrongdoer, and cannot be abated without entering upon his or her land, reasonable notice shall be given to him before entering to abate it. The City may defray the cost of abating a public nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred. When the nuisance abated is an unsafe or dilapidated building, junk, trash, debris or similar nuisance arising from the condition of the property, the City may commence a civil action against the owner of the real property for its costs of abatement in lieu of taxing the cost by special assessment. (SDCL 21-10-6). Notwithstanding the preceding language of this section, all notices regarding a violation of 3.0102. C. shall be given pursuant to Section 3.0117.

*(Amended: Ordinance No. 459, 6-1-2004; Ordinance No. 569, 8-16-2011)*

3.0114 Public Nuisance Penalty and Remedy. Any person who creates, commits, maintains or fails to abate a public nuisance as required under the provisions of this Ordinance shall be subject to a maximum penalty of thirty (30) days in jail or a two hundred dollar (\$200.00) fine, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In addition, the City may also use the remedies of civil action and abatement as set forth in SDCL 21-10-5 through 21-10-9.

*(Amended: Ordinance No. 459, 6-1-2004)*

3.0115 Severability. If any provision of this Ordinance shall be held invalid, it shall not affect any other provisions of this Ordinance that can be given effect without the invalid provision, and for this purpose, the provisions of this Ordinance are hereby declared to be severable.

*(Amended: Ordinance No. 459, 6-1-2004)*

3.0116 Repeal of Inconsistent Ordinances. This Ordinance shall supersede any other Ordinance, or portion thereof, which is contrary to the provisions of this Ordinance and which has a publication date prior to this Ordinance. In addition, the following provisions of the Revised Municipal Ordinances of the City of Hartford (January 1, 2003) are hereby expressly repealed: 3.105, 3.0106, 3.0107, 3.0108, 3.0109, 3.0110, 3.0111, 3.0112, 3.0113, 3.0114, 3.0115, 3.0116, 3.0117, 3.0118.

*(Amended: Ordinance No. 459, 6-1-2004)*

3.0117 Weeds, Grass and Vegetation Notice. Notice and Order to cut, destroy or remove noxious weeds, weeds, grass and vegetation may be given at the beginning of, or during the growing season, in writing or by public notice to each owner, occupant or person in charge of any such lot, place or area, to cut, destroy or remove any such weeds, grass, growths or other noxious matter found growing, lying, or located on such property or upon the sidewalk abutting same. Such notice shall be served to said owner, agent, or occupant at his last known address by standard USPS mail, or by one publication in the official newspaper, and shall notify said owner, agent or occupant to cut, destroy, or remove any such weeds, grass, growth or other noxious matter within five (5) days after the service of such notice or publication in the official newspaper. Only one notice will be served or published for each growing season.

*(Amended: Ordinance No. 459, 6-1-2004; Ordinance No. 569, 8-16-2011)*

3.0118 Authority of city to destroy weeds or other growths upon failure or refusal of owner or occupant – charge against property. Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with said notice within five (5) days thereof, the City is hereby authorized and empowered to provide for the cutting, destroying, or removal of such weeds, grass, growths or other noxious matter and to defray the cost of the cutting, destroying or removal and the administrative costs by special assessment against the property as provided in this chapter.

*(Amended: Ordinance No. 459, 6-1-2004; Ordinance No. 569, 8-16-2011)*

3.0119 Cutting or removal by city – costs specially assessed against property – duties of City Finance Officer. The City Finance Officer shall cause an account to be kept against each lot for the cutting of weeds or grass upon said lot as herein provided and the same certified to the City Finance Officer upon the completion of the work in cutting of weeds and grass and abating said nuisance and the City Finance Officer if the account is not paid in full within 30 days of billing invoice to the owner, occupant or person in charge of such lot, shall thereupon certify said account showing the amount charged for mowing as established by resolution of the City, the description of the property and the owner thereof to the county auditor who shall thereupon add such assessment to the general assessment against said property to be collected as municipal taxes for general purposes. Said assessment shall be subject to review and equalization as are assessments or taxes for general purposes.

*(Amended: Ordinance No. 569, 8-16-2011)*

3.0120 Destruction or removal by city – costs specially assessed against property – duties of City Finance Officer. The City Finance Officer shall cause an account to be kept against each lot for the destruction or removal of weeds upon said lot as herein provided upon completion of the work in destroying or removing such weeds and abating said nuisance and the City Finance

Officer shall thereupon if the account is not paid in full within 30 days of billing invoice to the owner, occupant or person in charge of such lot, certify said account showing the amount charged for destruction or removal of weeds as established by resolution of the City plus the cost of weed control chemicals used, the description of the property, and the owner thereof to the county auditor who shall thereupon add such assessment to the general assessment against said property to be collected as municipal taxes for general purposes. Said assessment shall be subject to review and equalization as are assessments or taxes for general purposes.

*(Amended: Ordinance No. 569, 8-16-2011)*

3.0121 Civil action to recover costs of removal or destruction in lieu of special assessment. In lieu of spreading the cost of the destruction of such weeds and other deleterious matter against said property, the council, at its discretion, may recover said amount in a civil action against the owner or occupant of such property.

*(Amended: Ordinance No. 569, 8-16-2011)*

3.0122 Unlawful to refuse to remove or destroy weeds or other growths. Any person whose duty it is to destroy or remove such weeds or unhealthy vegetation as set forth in the preceding sections or who fails to destroy the same within the time hereinbefore set forth shall be guilty of violating the provisions of this code.

*(Amended: Ordinance No. 569, 8-16-2011)*

3.0123 The City may establish rules for height of vegetation and the control of weeds in land zoned NRC by a duly enacted resolution.

*(Amended: Ordinance No. 569, 8-16-2011)*

### **CHAPTER 3.02 (RESERVED)**

### **CHAPTER 3.03 – COLLECTION OF GARBAGE & RECYCLABLES**

3.0301 License Required. No commercial garbage hauler shall use the streets for the collection, removal or disposal of any garbage and recyclable materials without first having obtained a license to perform such service from the City Council. The application shall be filed with the Finance Officer along with proof of insurance, proposed rate structure and payment of license fee. The City Council may limit the number of licenses to be issued to one, or another specifically limited number. The license fee shall be two hundred fifty (\$250) dollars per year for each licensee. The license shall run from January 15th through the 14th day of January of the following year.

3.0302 Collection of Garbage and Recyclable Materials and Approval of Rates. Every licensed commercial hauler shall collect the garbage at least once each week. Garbage collectors shall be under no obligation to remove any garbage unless the payments of the removal of such garbage as provided by contract with the customer shall have been made. Recyclables shall be collected at least once a month by a licensed garbage hauler.

3.0303 Rates. All licensed garbage haulers shall file, as a part of their application for a business license, a general statement of their use rate structures and billing systems.

3.0304 Vehicles for collection of garbage and recyclables. Licensed commercial garbage and recyclable haulers shall provide themselves with suitable vehicles which shall be water tight and permanently covered on top so as to prevent the escape of odors and contents and so as to hide the garbage from the public view. Such vehicles shall be thoroughly washed at such times as may be necessary to keep the vehicles in proper sanitary condition. Such vehicle when conveying garbage shall be so loaded and unloaded that the contents shall not fall or spill upon the ground. No article or thing shall be carried on such vehicle so as to drag upon City Street or highway. Vehicles with tandem axles or single dually with pusher shall not exceed 40,000 pounds total gross weight. Vehicles other than tandem axles shall not exceed 18,000 pounds total gross weight.

1. All haulers may be pulled over at random by law enforcement and or public works for weight inspections. The vehicle will be weighed at the nearest certified scale.

*(Amended: Ordinance No. 529, 4-1-2008)*

3.0305 Dumping. Commercial haulers shall transport the garbage and refuse and recyclables to the sites designated by the City and County and will comply with all regulations in force at these sites.

3.0306 Insurance. No license shall be issued to any garbage hauler until proof of liability insurance is furnished to the City in the following amounts:

- \$500,000 per person bodily injury; and
- \$500,000 multiple person bodily injury; and
- \$500,000 property damage.

Said liability insurance shall be in force the entire term of the license.

3.0307 Resident Compliance. All residents and businesses of the City shall comply with recyclable materials separation, storage, and disposal requirements established by Minnehaha County Ordinance 96-03-02, including but not limited to proper bagging of recyclable materials for collection. Residents shall be responsible for obtaining acceptable storage bags at retail outlets. The City shall not be responsible for providing bags or coordinating their sale within the City.

Every City residence is required to have garbage service provided by a licensed garbage hauler. The occupant, owner, or manager of every dwelling house, dwelling structure or apartment shall remove or have removed all garbage from the premises at least once each week and deposited in a permitted solid waste facility.

*(Amended: Ordinance No. 501, 4-18-2006)*

3.0308 Storing Garbage Prior to Collection. All garbage shall be placed in either sealed water-tight bags or inside garbage containers except leaves and grass which are to be bagged, and set to the curb or accessible alley on days of pickup. Whenever the premises in which garbage and rubbish accumulates are adjacent to a street or alley, the garbage and rubbish containers for such premises shall be kept in a location convenient and accessible to such street or alley. If premises are not adjacent to a street or alley, the garbage and rubbish containers shall be kept on the premises in such a location that they will be readily accessible to the nearest street or alley without being unsightly.



The proprietor or operator of each duplex, apartment house, or similar multiple family dwelling shall furnish and maintain for the use of the tenants a sufficient number of garbage containers to hold all garbage and rubbish that accumulates upon such premises in the course of a week, or he shall require the tenants upon said premises to furnish such containers. The place where the garbage and rubbish containers are located shall be kept clean and in a sanitary condition at all times. The proprietor or owner of each duplex, apartment house, or similar multiple family dwelling is required to have garbage service provided by a licensed garbage hauler and shall remove or have removed all garbage from the premises at least once each week and deposited in a permitted solid waste facility.

Every owner or person in charge of any restaurant, hotel, grocery store, wholesale or food processing establishment or any other business or commercial place having garbage or rubbish shall furnish and provide for use in connection therewith a garbage or refuse container. Such container shall have covers for all openings and shall be emptied often enough to prevent the same from giving off any odor or stench. Every owner or person in charge of any restaurant, hotel, grocery store, wholesale or food processing establishment or any other business or commercial place is required to have garbage service provided by a licensed garbage hauler and shall remove or have removed all garbage from the premises at least three times each week and deposited in a permitted solid waste facility.

*(Amended: Ordinance No. 501, 4-18-2006)*

3.0309 City Not Liable. The City shall not be liable for any expense incurred through the failure of a licensee or his agents and employees, to operate and maintain collection services in a proper and efficient manner, and for any actions that may result from or be attributed to such services performed.

*(Amended: Ordinance No. 501, 4-18-2006)*

### **SECTION 3.04 – DANGEROUS BUILDING**

3.0401 Definitions. For the purpose of this code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
3. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.
4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is

materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.

5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
6. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.
7. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
8. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose of which it is being used.
10. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
11. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.
12. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.
14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

15. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer or housing inspector to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal or housing inspector to be a fire hazard.
17. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
18. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

3.0402 Authority.

1. Administration. The Building Inspector shall serve at the pleasure of the City Council and is hereby authorized to enforce the provisions of this chapter.
2. Right of Entry. Whenever necessary to make an inspection or whenever the Building Inspector has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises dangerous as defined in 3.0401, the Building Inspector may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the Building Inspector by this chapter; provided that (1) if such building or premises be occupied, he shall first present proper credentials and demand entry; and (2) if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused or owner is not located, the Building Inspector shall have recourse to every remedy provided by law to secure entry.
3. Declaration as Public Nuisance. All buildings or portions thereof which are determined after inspection by the Building Inspector to be dangerous as defined in this Chapter are hereby declared to be public nuisances and shall be abated by repair, demolition, or removal.

3.0403 Notice and order. The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.
2. A statement that the building official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under this chapter.

3. A statement of the action required to be taken as determined by the building official.
  - a. If the building official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefore and the work physically commenced within such time (not to exceed 30 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances and in accordance with current building code.
  - b. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated within a time certain from the date of the order as determined by the building official to be reasonable.
  - c. If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable (not to exceed 30 days from the date of the order); that all required permits be secured therefore within 30 days from the date of the order; and that the demolition be completed within such time as the building official shall determine is reasonable.
4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the building official (i) will order the building vacated and post it to prevent further occupancy until the work is completed, and (ii) may proceed to cause the work to be done and charge the costs thereof against the property or its owner.
5. Statements advising (i) that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the building official to the board of appeals, provided the appeal is made in writing as provided in this ordinance and filed with the building official within 30 days from the date of service of such notice and order; and (ii) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.
6. Such notice may be served personally by the Police Department or authorized representative of the City by prepaid first class mail, certified mail, or registered mail, upon the owner of the property where the nuisance exists, and such notice is deemed given at the time it is personally served, or mailed, and said period to reply or abate begins to run at such time of giving notice.
7. Proof of Service. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service is made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice and order retained by the Building Inspector. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail.

8. Posting of Notice to Vacate. Every notice to vacate shall, in addition to being served as provided in this section, be posted at or upon each exit of the building, and shall be in substantially the following form:

“DO NOT ENTER  
UNSAFE TO OCCUPY”  
It is a misdemeanor to occupy this  
building, or to remove or deface this notice.  
Building Inspector  
City of Hartford

3.0404 Appeal.

1. Board of Appeals. In order to provide for final interpretation of the provisions of this chapter and to hear appeals provided for hereunder, there is hereby established a Board of Appeals which shall be the City Council of Hartford. The Building Inspector shall be an (ex-officio) member of and shall act as Secretary to said Board. The Board may adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the appellant with a copy to the Building Inspector. Copies of all rules or regulations adopted by the Board shall be delivered to the Building Inspector who shall make them freely accessible to the public.
2. Form of Appeal. Any persons entitled to service under Section 3.0403 may appeal from any notice and order or any action of the Building Inspector under this chapter by filing at the office of the Municipal Finance Officer within 30 days from the date of the service of such order, a written appeal containing:
  - a. A heading in the words: “Before the Board of Appeals in the City of Hartford”.
  - b. A caption reading: “Appeal of \_\_\_\_\_”, giving the names and addresses of all appellants participating in the appeal.
  - c. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
  - d. A brief statement of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
  - e. A brief statement of the relief sought, and reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside.
  - f. The signatures of all parties named as appellants, and their official mailing addresses.
  - g. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.
3. Processing of Appeal. Upon receipt of any appeal filed pursuant to this section, the Building Inspector shall present it at the next regular or special meeting of the Board of Appeals.

4. Scheduling and Noticing Appeal for Hearing. As soon as practicable after receiving the written appeal, the Board of Appeals shall fix a date, time, and place for the hearing of the appeal by the Board. Such date shall be not less than 10 days and not more than 60 days from the date the appeal was filed with the municipal Finance officer. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the Secretary of the Board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal.
5. Effect of Failure to Appeal. Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of his right to an administrative hearing and adjudication of the notice and order, or any portion thereof.
6. Scope of Hearings on Appeal. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.
7. Staying of Order Under Appeal. Except for vacation orders enforcement of any notice and order of the Building Inspector issued under this chapter shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.
8. Form of Notice of Hearing. The notice to appellant shall be substantially in the following form, but may include other information:
 

“You are hereby notified that a hearing will be held before (the Board or name of hearing examiner) at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_, at the hour of \_\_.m., upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by legal counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you.”
9. Inspection of the Premises. The Board or the hearing examiner appointed by the Board may inspect any building or premises involved on the appeal during the course of the hearing provided that (1) notice of such inspection shall be given to the parties before the inspection is made, (2) the parties are given an opportunity to be present during the inspection, and (3) the Board shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the Board.
10. Form of Decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to him by certified mail, postage prepaid, return receipt requested. The effective date of the decision shall be as stated therein.

3.0405 Enforcement.

1. Recordation of Notice and Order. If compliance is not made with the order within the time specified therein, and no appeal has been properly and timely filed, the Building Inspector shall file in the office of the County Auditor a certificate describing the property and certifying (1) that the building is a dangerous building and (2) that the owner has been so notified.

Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the Building Inspector shall file a new certificate with the County Auditor certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

2. Notice to Vacate. Whenever the required repair or demolition is not commenced within the time period specified in notice and order issued under this chapter, the Building Inspector shall post at each entrance of said building a notice to vacate.
3. Abatement of Nuisance. The Building Inspector may, in addition to any other remedy herein provided, order the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished, or demolished and the materials, rubble and debris therefrom removed and the lot cleaned.
4. Extension of Time to Perform Work. Upon receipt of an application from the person required to conform to the order and an agreement by such person that he will comply with the order if allowed additional time, the Building Inspector may, in his discretion, grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation, or demolition, if the Housing Inspector determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property.

The Building Inspector's authority to extend time is limited to the physical repair, rehabilitation, or demolition of the premises and will not in any way affect or extend the time to appeal his notice and order.

#### 3.0406 Violations.

1. No person shall obstruct, impede or interfere with, any officer, employee, contractor or authorized representative of the city, or with any person who owns or holds any estate or interest in any building which has been ordered to be repaired, vacated or demolished under the provisions of this chapter.
2. No person shall enter or occupy any building which has been posted with a notice to vacate. No person shall remove or deface any such notice so posted until the required repairs, demolition, or removal ordered by the Housing Inspector have been completed.
3. Any person violating any provision of this chapter or failing to obey any order of the Building Inspector or Board of Appeals made pursuant to this chapter, after such order has become final, shall be subject to a fine not to exceed \$200.00, if convicted, and each day such violation or failure to obey shall occur may be considered a separate violation of this chapter. The Building Inspector is authorized to initiate prosecutions for the violation of this chapter or for the failure to obey such orders.

#### 3.0407 Recovery of Cost of Repairs or Demolition.

1. Assessment. The City may recover the total cost of the repair or demolition of dangerous buildings or structures through any means available under the laws of the State of South

Dakota, including, but not limited to, any special assessment procedure provided by such laws, as from time to time amended.

2. Surplus. Any surplus realized from the sale of such building, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.

### **CHAPTER 3.05 - NOISE REGULATIONS**

3.0501 General Regulation. No person, firm, corporation or other legal entity shall cause, create or maintain any unreasonably loud noise or disturbance which is injurious to, or interferes with, the public health, safety, welfare, peace, comfort, convenience, repose or other interests of persons in the vicinity or on nearby properties. Any such noise or disturbance is hereby declared a nuisance per se.

*(Amended: Ordinance No. 609, 6-4-2014)*

3.0502 Specific Violations. The following noises and disturbances, when unreasonable in time, manner or volume and injurious to, or interferes with, the public health, safety, welfare, peace, comfort, convenience, repose or other interests of persons in the vicinity or on nearby properties are declared to be a violation of this Chapter. Each of the following acts is declared unlawful and prohibited, but this enumeration shall not be deemed to be exclusive.

1. It shall be unlawful between the hours of 11:00 p.m. to 6:00 a.m. for any person to make, create, maintain or permit any loud, unnecessary noise of such character, intensity, or duration, either steadily or intermittently, at any place which annoys, disturbs, endangers or impairs the comfort, health, convenience, safety, welfare, enjoyment and peace and quiet of other persons in the vicinity.
2. It shall be unlawful at any time of the day or night to keep any animal, dog, or bird which by causing unreasonably frequent or long-continuing noise, or barking, causes a disturbance as defined in Section 3.0501 above.
3. Erecting, excavating, demolishing, altering or repairing any building or premises in any part of the City, and including streets and highways, in such a manner as to emanate unreasonable or excessive noise, or disturbance annoying to other persons, other than between the hours of dawn and sundown of any day.
4. Operating any proving ground, testing area, obstacle course for motor vehicles, motorcycles, boats, automobiles or vehicles of any kind or nature in any area of the City where the noise emanating from it would be disturbing and upsetting to another person in the vicinity.

*(Amended: Ordinance No. 609, 6-4-2014)*

3.0503 Exceptions. None of the above-listed prohibitions shall apply to the following:

1. Any police vehicle, ambulance, fire engine or emergency vehicle while engaged in emergency activities;



2. Excavation or repair of bridges, streets or highways or other property by or on behalf of the State of South Dakota, Minnehaha County, City of Hartford or other entity with jurisdiction of same.
3. Farming.
4. Industrial activities conducted in a properly zoned light or heavy industrial area.
5. Warning devices emitting sound for warning purposes as authorized by law.
6. School sporting events that run into overtime.
7. Any event that receives a special events permit from the city council that allows noise from that event between 11:00 p.m. and 6:00 a.m.
8. Domestic power equipment (including but not limited to generators, power saws, drills, grinders, lawn and garden tools and other domestic power equipment intended for use in residential areas by a homeowner) in emergency situations only.
11. Refuse and delivery vehicles.

*(Amended: Ordinance No. 609, 6-4-2014)*

3.0504 Violation of Noise Regulations. The violation of any provision of this Chapter shall be subject to a \$100.00 fine per offense. In addition to the imposition of penalties, violations of Chapter 3.05 are deemed and declared to be a nuisance, and as such may be subject to summary abatement by means of a restraining order or injunction issued by a court of competent jurisdiction.

*(Amended: Ordinance No. 609, 6-4-2014)*

## **CHAPTER 3.06 - YARD WASTE DISPOSAL SITE**

3.0601 Allowable Items.

Only the below listed items will be allowed to be accepted by the municipal yard waste disposal site:

- A) Grass Clippings
- B) Leaves
- C) Tree Branches and Brush

3.0602 Hours of Operation.

The hours of operation for the municipal yard waste disposal site will be set by resolution of the Hartford City Council.

3.0603 Use of Facility.

Only residents within the Hartford municipal city limits will be allowed to utilize the municipal yard waste disposal site.

No commercial dumping is allowed regardless of the origin of the yard waste.

3.0604 Signage.

The City of Hartford will place signage at the municipal yard disposal site to convey operator's name and phone number, hours of operation, items accepted for disposal, and use of the facility.

3.0605 Violations.

Any violations of this ordinance can result in a \$200.00 fine. The fine will be payable by the legal owner of the vehicle that is involved with the illegal dumping.

*(Amended: Ordinance No. 645, 7-10-2017)*

## TITLE 4 – LICENSES

[TRADE REGULATION AND LICENSES SDCL 9-34]

Chapter 4.01 – General Provisions

Chapter 4.02 – Licensing Provisions for Cannabis Establishments

Chapter 4.03 – Transient Merchants, Peddlers

Chapter 4.04 – Plumbers and Electricians

Chapter 4.05 – Residential Contractors

### CHAPTER 4.01 – GENERAL PROVISIONS

4.0101 License, Unlawful Without. It shall be unlawful for any person, persons, firm or corporation to engage in any activity for which a license is required without first having obtained a license, as hereinafter provided. The City Council may at any time expand the general provisions of this Chapter by requiring any person, persons, firm or corporation engaging in any trade, business or occupation within the City which is not specified by this ordinance to obtain a license, as deemed necessary. (SDCL 9-34-1)

4.0102 Application for License. Any person, persons, firm or corporation wishing to obtain a license as herein provided, shall make written application to the Finance Office, stating the name of the applicant, address, purpose of the activity, the length of time for which said license is wanted, and the particular place at which said license is to be used.

Fees for all licenses shall be fixed by the City Council, where not specified in this ordinance, and all license fees shall be paid in full at the time of application in such manner as approved by said Council.

4.0103 License Expiration. Any licenses granted under the provisions of this Chapter shall be renewable annually and shall expire on the 31st day of December next following the granting thereof, except as otherwise provided, and shall not be granted for any sum less than the annual rate, and there shall be no rebate made on the termination of said calling, vocation, or kind of business for which said license was issued.

4.0104 Revocation. The City Council shall have the authority at any time to suspend or revoke any license granted under the provision of this Chapter whenever said Council shall be satisfied upon written complaint that any such calling, vocation, or kind of business for which said license has been issued, has been made or conducted in an improper or illegal manner, and in case of such revocation, the City Council may refund to the holder of such license such proportionate amount of money paid therefore as said Council shall deem just.

4.0105 Issuance of License. Except as otherwise provided, all licenses shall be issued by the Finance Officer after issuance of the license has been approved by the City Council and the applicant shall have complied with all requirements for issuance of such license. Unless otherwise provided, all licenses shall be signed by the Finance Officer and shall have affixed thereto the official seal of the City.

4.0106 Record of Licenses. The Finance Officer shall keep a record of all licenses issued by the City stating when and to whom issued, for what purpose and for what length of time, the amount of money paid for said license, and the place where such property is to be carried on.

## CHAPTER 4.02 – LICENSING PROVISIONS FOR CANNABIS ESTABLISHMENTS

4.0201 Purpose and Intent. The City Council of the City of Hartford enacts the following licensing ordinances in order to ensure that cannabis establishments within the municipal boundaries of the City operate in a manner which complies with state laws and regulations, protects the health, safety, and welfare of the general public, prevents potential conflicts and issues arising from ownership and employees, recognizes certain safety and security considerations, and minimizes risk of unauthorized use or access of cannabis by the general public.

*(Amended: Ordinance No. 715, 9-7-2021)*

4.0202 Definitions. Unless an alternative definition is explicitly stated in this section, this chapter utilizes the definitions for cannabis-related terms which are defined by SDCL 34-20G-1.

**Cannabis (or Marijuana):** all parts of any plant of the genus cannabis, whether growing or not, in its natural state and unaltered state, except for drying or curing and crushing or crumbling. The term includes altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

**Cannabis Cultivation Facility:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

**Cannabis Dispensary:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

**Cannabis Establishment:** cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

**Cannabis Product Manufacturing Facility:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

**Cannabis Products:** any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures.

**Cannabis Testing Facility:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

**Department:** the South Dakota Department of Health.

*(Amended: Ordinance No. 715, 9-7-2021)*

4.0203 License Required.

- A. No cannabis establishment may be located or operate in the city without the appropriate valid and current cannabis establishment license issued by the city pursuant to this article. A violation of this provision is subject to the general penalty provision in § 4.0216. Each day of the violation constitutes a separate offense.
- B. No cannabis establishment may be located or operate in the city without the appropriate valid and current cannabis establishment registration certificate issued by the Department pursuant to rules promulgated under SDCL 34-20G. A violation of this provision is subject to the general penalty provision in § 4.0216. Each day of the violation constitutes a separate offense.

*(Amended: Ordinance No. 715, 9-7-2021)*

4.0204 License Application.

- A. An application for a cannabis establishment license must be made on a form provide by the city. No other application form will be considered.
- B. The applicant must submit the following:
  - 1. Application fee of \$10,000.00. The City will reimburse \$5,000.00 for applicants who fail to obtain a registration certificate from the South Dakota Department of Health.
  - 2. An application that will include, but is not limited to, the following:
    - a. The legal name of the prospective cannabis establishment;
    - b. The physical address of the prospective cannabis establishment that meets the zoning requirements in Chapter 9.03 Zoning Regulations as well as any location requirements pursuant to SDCL 34-20G and the administrative rules promulgated thereunder.
    - c. The name, address, birth date of each principal officer, owner, and board member of the proposed cannabis establishment.
    - d. A sworn statement that no principal officer, owner, or board member has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction.

- e. Any additional information requested by the city.

*(Amended: Ordinance No. 715, 9-7-2021)*

4.0205 Issuance of License.

- A. The city will issue a license unless:
  - 1. The applicant has made a false statement on the application or submits false records or documentation; or
  - 2. Any owner, principal officer, or board member of the applicant is under the age of twenty-one (21) years; or
  - 3. Any owner, principal officer, or board member of the applicant has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction; or
  - 4. The proposed location does not meet the applicable zoning requirements under Chapter 9.03 Zoning Regulations; or
  - 5. The proposed location does not meet all location requirements under SDCL 34-20G and the administrative rules promulgated thereunder; or
  - 6. The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulation; or
  - 7. Any owner, principal officer, or board member of the applicant has had a cannabis establishment license revoked by the city or a registration certificate revoked by the state; or
  - 8. Any applicant, or an owner, principal officer, or board member thereof, is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to any cannabis establishment; or
  - 9. The applicant will not be operating the business for which the license would be issued; or
  - 10. No principal officers of the applicant are residents of the State of South Dakota.
- B. In the case of an application for a cannabis dispensary license, the city will reject the application if the limit on the number of cannabis dispensaries has been reached.
- C. The license must be posted in a conspicuous place at or near the entrance to the cannabis establishment so that it may be easily read at any time.

*(Amended: Ordinance No. 715, 9-7-2021)*

4.0206 City Neutrality as to Applicants.

- A. Upon request from the Department as to the City’s preference of applicants, the City will neither support nor oppose any registration certificate application under consideration by the Department. Likewise, if inquiry is made by the Department, the City will abstain from endorsing any application as beneficial to the community.

*(Amended: Ordinance No. 715, 9-7-2021)*

4.0207 Number of Cannabis Dispensaries.

- A. No more than three (3) cannabis dispensary/dispensaries shall be allowed to operate in the City at any time.

*(Amended: Ordinance No. 715, 9-7-2021)*

4.0208 Expiration of License and Renewal.

- A. Each license expires one year from the date of issuance and may be renewed only by making application as provided in Section 4.0204. Application for renewal must be submitted at least thirty (30) days before the expiration date. The license holder must continue to meet the license requirements to be eligible for a renewal.
- B. The renewal fee is \$10,000.00. The City will reimburse \$5,000.00 for applicants who fail to obtain a renewal of their registration certificate from the Department.
- C. Failure to renew a license in accordance with this section may result in additional fees. Upon expiration of the license, the city may order closure of the cannabis establishment.
- D. If a license holder has not operated an establishment for which it holds a license in the preceding twelve (12) months, the license will not be renewed.

*(Amended: Ordinance No. 715, 9-7-2021)*

4.0209 Suspension.

- A. A license may be suspended if the license holder or an employee or agent of the license holder:
  - 1. Violates or is otherwise not in compliance with any section of this article.
  - 2. Consumes or smokes or allows any person to consume or smoke cannabis on the premises of the cannabis establishment.
  - 3. Knowingly dispenses or provides cannabis or cannabis products to an individual or business to whom it is unlawful to provide cannabis or cannabis products.
- B. A license may be suspended if the license holder has its Department-issued registration certificate suspended, revoked, or not renewed by the Department or if the registration certificate is expired.

- C. A license may be suspended if the license holder creates or allows to be created a public nuisance at the cannabis establishment.

*(Amended: Ordinance No. 715, 9-7-2021)*

4.0210 Revocation.

- A. A license may be revoked if the license is suspended under Section 4.0209 and the cause for the suspension is not remedied.
- B. A license may be revoked if the license is subject to suspension under Section 4.0209 because of a violation outlined in that section and the license has been previously suspended in the preceding 24 months.
- C. A license is subject to revocation if a license holder or an employee of a license holder:
  - 1. Gave false or misleading information in the material submitted during the application process;
  - 2. Knowingly allowed possession, use, or sale of non-cannabis controlled substances on the premises;
  - 3. Operated the cannabis establishment or the business of the cannabis establishment for which a license is required under this article while the license was suspended;
  - 4. Repeatedly violates the provisions of Section 4.0209;
  - 5. Operated a function of a cannabis establishment for which the license holder was not licensed (e.g., a licensed cannabis cultivation facility conducting cannabis testing functions without a cannabis testing establishment license);
  - 6. A license holder, or an owner, principal officer, or a board member thereof, is delinquent in payment to the city, county, or state for any taxes or fees related to the cannabis establishment;
  - 7. A license holder, or an owner, principal officer, or board member thereof, has been convicted of, or continues to employ an employee who has been convicted of, a disqualifying felony offense as defined by SDCL 34-20G;
  - 8. The license holder has its Department-issued registration certificate suspended, revoked, or not renewed or the registration certificate is expired;
  - 9. The license holder allows a public nuisance to continue after notice from the City.

*(Amended: Ordinance No. 715, 9-7-2021)*

4.0211 Suspension and Revocation Process.



- A. The license holder will receive a notice of intent to suspend or notice of intent to revoke informing the license holder of the violation and the city's intention to suspend or revoke the license. The notice will be hand delivered to the license holder or an employee or an agent of the license holder or sent by certified mail, return receipt requested to the physical address of the cannabis establishment.
- B. If the license holder disputes the suspension or revocation, the license holder has ten (10) days from the postmark date on the notice or the date the notice was hand delivered to request a hearing before a hearing panel, which will consist of the Mayor, City Administrator, and Chair of the Planning Commission.
- C. A suspension will be for thirty (30) days and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension.
- D. A revocation will be for one (1) year and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder appeals the revocation, in which case the revocation takes effect upon the final determination of revocation.
- E. The license holder who has had the license revoked may not be issued any cannabis establishment license for one year from the date the revocation became effective.

*(Amended: Ordinance No. 715, 9-7-2021)*

4.0212 Appeal. An applicant or license holder who has been denied a license or renewal of a license or who has had a license suspended or revoked under this article may appeal to the City Council by submitting a written appeal within ten (10) days of the postmark on the notice of denial, nonrenewal, suspension, or revocation. The written appeal must be submitted to City Hall 125 N. Main, Hartford, South Dakota, 57033. The appeal will be considered by the City Council at a regularly scheduled meeting within one month of the receipt of the appeal.

*(Amended: Ordinance No. 715, 9-7-2021)*

4.0213 Licenses Not Transferrable. No cannabis establishment license holder may transfer the license to any other person or entity either with or without consideration, nor may a license holder operate a cannabis establishment at any place other than the address designated in the application.

*(Amended: Ordinance No. 715, 9-7-2021)*

4.0214 Hours of Operation. No cannabis dispensary may operate between the hours of 12:00 a.m. and 6:00 a.m. any day of the week.

*(Amended: Ordinance No. 715, 9-7-2021)*

4.0215 Liability for Violations. Notwithstanding anything to the contrary, for the purposes of this article, an act by an employee or agent of a cannabis establishment that constitutes grounds for suspension or revocation will be imputed to the cannabis establishment license holder for

purposes of finding a violation of this article, or for purposes of license denial, suspension, or revocation, only if an officer, director or general partner or a person who managed, supervised or controlled the operation of the cannabis establishment, knowingly allowed such act to occur on the premises.

*(Amended: Ordinance No. 715, 9-7-2021)*

4.0213 Penalties. Any person who operates or causes to be operated a cannabis establishment without a valid license or in violation of this article is subject to a suit for injunction as well as prosecution for ordinance violations. Such violations are punishable by a maximum fine of five hundred dollars (\$500.00). Each day a cannabis establishments so operates is a separate offense or violation.

*(Amended: Ordinance No. 715, 9-7-2021)*

### **CHAPTER 4.03 – TRANSIENT MERCHANTS, PEDDLERS**

4.0301 Definitions. For the purpose of this Chapter, the following terms are hereby defined:

- A. "Peddler" – any person, whether a resident of this city or not, traveling from place to place, from house to house, or from street to street for the purpose of selling or soliciting for sale of goods, products or services, other than agricultural products produced or processed in this state; and shall also mean and include any person transacting a temporary business within the city.
- B. "Temporary business" – shall not include bona fide garage or rummage sales which are not conducted at the same location more than four times per year; the duration of each sale shall not exceed four days.

4.0302 Application for License. Any peddler wanting to do business in the City shall complete and file an application with the Finance Officer containing the following:

1. Whether the applicant, upon a sale or order, receives payment or a deposit in advance of final delivery;
2. The period of time the applicant wishes to engage in business within the city;
3. The local, and permanent address of the applicant;
4. The kind of goods, products, or services the applicant wishes to sell;
5. The last three (3) cities or towns the applicant has worked in;
6. Proof that the applicant has received the license required by the State of South Dakota pursuant to SDCL 37-13, as amended;
7. An application fee of \$25.00 per peddler per day is required. All fees set by the City Council.

*(Amended: Ordinance No. 755, 8-20-2024)*

4.0303 Granted License. If the Finance Officer or City Administrator grants the license, it shall be issued to the peddler and valid for a period of thirty (30) days. If the Finance Officer or City Administrator does not grant the peddler a license, the application fee shall be refunded to the applicant.

4.0304 Exceptions. The provisions of this ordinance shall not apply to the following:

1. Solicitations, sales or distributions made by charitable, educational, or religious organizations.
2. Traveling salespersons doing business exclusively with retail merchants, manufacturers, jobbers or public officials.
3. Members of professions licensed by the state, which have continuing education requirements.
4. Persons selling or delivering personal property to regular customers on established routes.

4.0305 Unlawful Conduct. The following conduct shall be deemed unlawful:

1. For any peddler to remain upon premises after having been told by the owner or possessor of the premises to leave.
2. For any peddler to make false or fraudulent statements concerning the quality or nature of his goods, products, or services.
3. To enter upon any premises posted with a sign stating "No Peddlers Allowed" or "No Soliciting".
4. To engage in business of peddling between the hours of 8 p.m. and 9 a.m., or anytime on Sunday, except by specific appointment or invitation.
5. For any peddler to engage in business within the City without first obtaining a license to do so.
6. For any peddler to fail to display his license upon the request of any person.

4.0306 Revocation. Any license issued under the provisions of this article may be revoked for the violation by the licensee of any provision of this ordinance or state law. Upon such revocation, such license shall immediately be surrendered to a city police officer or the Finance Officer.

#### **CHAPTER 4.04 – PLUMBERS AND ELECTRICIANS**

4.0401 Registration Required. No person shall engage in or do any work as a plumbing contractor, plumber or plumber's apprentice in the City unless registered to do so with the South Dakota State Plumbing Board pursuant to SDCL 36-25. A copy of such registration shall be filed with the City Finance Officer.

Nothing in this section shall prohibit any person from doing plumbing work which complies with the provisions of the minimum standards prescribed by the South Dakota State Plumbing Board on property owned and occupied by him or on premises where he may be employed in full time maintenance work, provided such plumbing work is still subject to all other applicable ordinances and regulations. (SDCL 9-34-12)

No person shall engage in or do any work as an electrical contractor, electrician, or electrician's apprentice in the City unless registered to do so with the South Dakota State Board pursuant to SDCL 36-16. A copy of such registration shall be filed with the City Finance Officer. Nothing in this section shall prohibit any person from doing electrical work which complies with the provisions of the minimum standards prescribed by the South Dakota State Board on property owned and occupied by him or on premises where he may be employed in full time maintenance work, provided such electrical work is still subject to all other applicable ordinances and regulations. (SDCL 9-34-12)

## **CHAPTER 4.05 – RESIDENTIAL CONTRACTORS**

- 4.0501 Definitions. For the purpose of this Chapter, the following terms are hereby defined:
- A. "Employee" shall mean a person whose compensation for construction work is reported by the employer on an Internal Revenue Service W-2 Form and is also otherwise considered an employee under applicable law.
  - B. "Personal Supervision" shall mean that the Residential Building Contractor of the designated construction Supervisor oversees and directs the work for which he is licensed and has been issued a permit for and that he is available to his laborers he is able to and does determine that all work performed is in compliance with this chapter
  - C. "Residential Building Contracting" shall mean the enlargement, alteration, repair, improvement, conversion or new construction of any one or two-family dwelling or any accessory building or structure association with a one or two-family dwelling for which a building permit is required.
  - D. "Residential Building Contractor" shall mean a person whose compensation undertakes or offers to undertake Residential Building Contracting.
- 4.0502 License Required. Except as otherwise provided herein, no person shall undertake or offer to undertake residential building contracting until the person obtains residential building contractors license.

The following are exempt from the requirements of this section:

- A. Employees or bona fide subcontractors of a person licensed in accordance with this chapter when they are under the direction and control of that person.
- B. Any person engaged in other construction trades for which licenses are required by the City of Hartford when that person is performing work commensurate with the respective license.
- C. Dwelling owner for work to be done on his property which he occupies as his own home or will comply as his home and when the property owner is acting as his own contractor.

D. A landlord or his agent for work to be done on his own property when the landlord is acting as his own building contractor.

4.0503 License Application. Any person desiring to engage in the business of residential building contracting shall first make an application for a license therefore to the Finance Officer of the City of Hartford on forms furnished by the City.

In addition to the information required in this Ordinance, the Finance Officer may require proof of identification and compliance with other applicable ordinances and laws of the City and the State of South Dakota.

4.0504 Excise tax Number Required. A valid South Dakota contractor's excise tax license number is required on all applications.

4.0505 Bond Required. As a condition of his license, each residential building contractor shall maintain and deliver to the Finance Officer a continuous bond in the penal sum of ten thousand (\$10,000) dollars in a form approved by the City with the contractor as Principal on the bond and the City of Hartford as obligee for its benefit and that of consumers dealing with the contractor.

The bond shall be conditioned upon the faithful and lawful completion of all work entered into by the contractor within the City and for compliance with all provisions of this chapter. The bond shall be in addition to all other license bonds to any political subdivision or government agency. The bond shall be written by a corporate surety authorized to transact business in the State of South Dakota.

4.0506 License Use Restricted. No licensed Residential Building Contractor shall allow his name to be used by any other person directly or indirectly, either to obtain or to perform Residential Building Contracting outside his personal supervision.

4.0507 License Term Renewal. All licenses issued under the provisions of this chapter shall expire on March 1 of every third year beginning on March 1, 1999. The fee for a license is \$100.00. All renewal fees shall be paid prior to the license being renewed. The renewal fee is \$100.00. All fees are set by the City Council.

4.0508 Suspension, Revocation and Censure of License. The City Council after hearing and after report of the Board of Appeals and Examiners, may suspend, revoke or refuse to renew a license or may censure a license if the Council finds:

A. That the order is in the public interest;

B. That based upon a preponderance of the evidence present, the applicant or licensee:

1. Has filed an application for a license which is incomplete in any material respect or contains statements which are false or misleading.
2. Has engaged in any fraudulent, deceptive or dishonest act or practice.
3. Has been convicted within the past year of a violation of this chapter.
4. Has failed to cooperate as required by 4.0510.

Claims upon the bond shall be filed by the City by reason of the principal's failure to perform his obligation under the bond. The aggregate liability of the surety, regardless of the number of claims made against the bond or the number of years the bond remains in force, shall not exceed ten thousand (\$10,000) dollars. Any revision of the bond amount shall not be cumulative.

Suspension or revocation of the license of the principal shall not by itself affect the liability of wither the principal or the surety on the bond except that the liability of the surety shall not extend to acts or omissions of the principal occurring after the effective date of his license suspension or revocation.

4.0509 General Liability Insurance Required. As a condition of his license, each residential building contractor shall deliver to the Finance Officer proof of a general liability insurance policy with single limits of at least three hundred thousand (\$300,000) dollars.

4.0510 Cooperation Required. A licensed person who is the subject of an investigation by the Board shall cooperate fully with the board in its investigation. Cooperation includes but is not limited to:

A. Responding fully and promptly to questions raised by the Board.

B. Providing copies of records in the person's possession relative to the matter under investigation as requested by the Board.

C. Appearing at conferences or hearings scheduled by the Board.

4.0511 Board of Appeals and Examiners. A Board of Appeals and Examiners shall hereby be established and shall consist of the Planning Commission.

4.0512 Appeal to Board, Record of Appeals, Hearing and Stays. Appeals to the Board of Appeals and Examiners may be taken by any person aggrieved by any decision of the Board. Such appeal shall be taken within a reasonable time, as provided by the rules established by the Board, by filing with the Board of Appeal and Examiners a notice of appeal specifying the grounds thereof.

An action stays all proceedings in furtherance of the action appealed from.

The Board of Appeals and Examiners shall fix a reasonable time for the hearing of the appeal, give public notice hereof, as well as due notice to the parties in interest, and decide the same within a reasonable time, upon the hearing, any person may appear in person or by agent or by attorney.

## TITLE 5 – OFFENSES

- Chapter 5.01 – Alcoholic Beverages
- Chapter 5.02 – Offenses Against Public Welfare
- Chapter 5.03 – Animals
- Chapter 5.04 – Fireworks, Firearms, and Explosives
- Chapter 5.05 – Minors
- Chapter 5.06 – Street Dances
- Chapter 5.07 – Public Begging
- Chapter 5.08 – Soliciting Rides
- Chapter 5.09 – Trespassing

### CHAPTER 5.01 – ALCOHOLIC BEVERAGES

- 5.0101 License Required. No person shall sell, offer for sale, keep for sale, exchange, distill, manufacture, produce, bottle, blend, or otherwise concoct, within the City any alcoholic beverage as defined by statute, without having a license therefore as required by South Dakota Law, or as amended. All provisions in this Chapter concerning dealers shall apply to anyone operating under a management contract with the City under a Municipal Liquor License. (SDCL 35-2)
- 5.0102 Application and License Fee. When applicable, application for licenses under the jurisdiction of the City shall be submitted as prescribed by South Dakota law. The annual fee for licenses shall be as established in South Dakota law. (SDCL 35-2-1.2)
- 5.0103 License Restrictions. Applications for licenses for the sale of off sale or on sale liquor shall have the necessary fees attached upon being submitted to the City Council as required by South Dakota law, and the granting and retention of licenses will be as provided by South Dakota law and local regulations, with no licenses to be granted to any applicants determined by the City Council not to be residents of the City, except that the provisions of this Section shall not be applicable to any licensees who have heretofore been approved and doing business at this time. The provisions of this Section shall be applicable, however, at any time in the future when the business of present licensees change ownership. Licenses shall be considered for residents of the City only upon such changes in ownership referred to hereinbefore. (SDCL 35-2-1.1)
- 5.0104 Location of Business. The City Council shall not issue any license to any person where the location of such business would not be considered desirable. (SDCL 35-3-1)
- 5.0105 Hours of Business. It shall be unlawful to sell, offer for sale, give away, serve, consume or allow to be consumed on the premise covered by the license any alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m. At 2:00 a.m. every on-sale dealer shall clear the premises of customers and patrons and shall not sell, serve, or allow to be consumed on the premises any alcoholic beverages. (SDCL 35-4-81.2).

*(Amended: Ordinance No. 661, 12-4-2018)*

5.0106 Repealed.

*(Amended: Ordinance No. 661, 12-4-2018)*

5.0107 Hours of Sale. No on-sale or off-sale licensee may sell, serve or allow to be consumed on the premise covered by the license, any alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m. Sunday through Saturday.

*(Amended: Ordinance No. 556, 7-20-2010)*

*(Amended: Ordinance No. 661, 12-4-2018)*

5.0108 Sanitation Facilities. Every on sale dealer shall maintain upon his licensed premises, toilets properly connected with the City sewer system with separate facilities for men and women. In each such facility there shall be maintained running water and towels for use by the users of such facilities (or approved sanitary drying facilities). Every licensee shall have such facilities equipped and maintained so as to pass state and/or local health requirements at all times. (SDCL 34-18-22)

5.0109 Revocation of License. Whenever any person shall as clerk, servant, agent, or employee of any other person or establishment violate any of the provisions of this Chapter he shall also be deemed as guilty as a principal. Failure to comply with all existing requirements, including the provisions of this Chapter, shall provide cause for revocation of any licenses granted under the provisions of South Dakota law. (SDCL 35-2-10)

5.0110 Open Containers. It shall be unlawful to drink any beer or alcoholic beverage or to possess any glass, can, or other container containing beer or any alcoholic beverage on which the seal has been broken, in any public place, vacant building, automobile, street, alley, sidewalk or place of amusement or business establishment not authorized to sell beer or alcoholic beverages, unless approved by the City Council. (SDCL 35-1-5.3)

5.0111 Beer Allowed. The possession and consumption of beer shall be allowed at the City Park unless otherwise provided by the City Council or in these ordinances. (SDCL 35-1-5.3)

5.0112 Purchase, Possession or Consumption of Alcoholic Beverages by a Minor. It shall be unlawful for any person under the age of twenty-one (21) to purchase, attempt to purchase, possess or consume alcoholic beverages from a licensee, unless it is done in the immediate presence of a parent or guardian or spouse twenty-one (21) years of age or older or by prescription or direction of a duly licensed practitioner or nurse of the healing arts for medicinal purposes.

5.0113 Persons Under Twenty-One (21). No on-sale or off-sale licensee may permit any person less than twenty-one years old to loiter on the license premises or to sell, serve, dispense, or consume alcoholic beverages on the licensed premises. (SDCL 35-4-79).

Exception: Any on-sale or off-sale licensee may permit persons eighteen years old or older to sell or serve alcoholic beverages if less than fifty percent of the gross business transacted by the establishment is from the sale of alcoholic beverages, or the licensee or an employee that is at least twenty-one years of age is on the premises when the alcoholic beverage is sold or



served. For the purposes of this section, the term, to sell or serve alcoholic beverages, does not include tending bar or drawing, pouring, or mixing alcoholic beverages. (SDCL 35-4-79.4).

*(Amended: Ordinance No. 661, 12-4-2018)*

5.0114 Full-Service On-Sale Restaurant Licenses.

A. Definitions of Terms:

Terms used in this ordinance mean:

1. "Bar," any permanently installed counter within the restaurant area from which alcoholic beverages are regularly served to customers by a person who is tending bar or drawing or mixing alcoholic beverages;
2. "Full-service restaurant," any restaurant at which a waiter or waitress delivers food and drink offered from a printed food menu to patrons at tables, booths, or the bar. Any restaurant that only serves fry orders or food such as sandwiches, hamburgers, or salads is not a full-service restaurant;
3. "Restaurant," any area in a building maintained, advertised, and held out to the public as a place where individually priced meals are prepared and served primarily for consumption in such area and where not more than forty percent of the gross revenue of the restaurant is derived from the sale of alcohol or alcoholic beverages. The restaurant shall have a dining room or rooms, a kitchen, and the number and kinds of employees necessary for the preparing, cooking, and serving of meals.

B. License Application Requirements:

Documentation: An applicant for a full-service restaurant on-sale license shall provide sufficient documentation to the municipality with an application form provided by the municipality to prove that the primary source of revenue from the operation of the restaurant will be derived from the sale of prepared food and nonalcoholic beverages and not from the sale of alcoholic beverages. The supporting documentation concerning the primary source of revenue submitted pursuant to this section is confidential.

C. Annual Reports:

The full-service restaurant on-sale licensee shall submit an annual report and supporting documentation to the City on forms provided by the City of the annual sales of the full-service restaurant, which includes an oath verifying the validity of the information provided in the report. The report and the supporting documentation submitted pursuant to this section are confidential. The report shall contain the annual gross sales of the licensee for the following two categories:

- (a) Food and nonalcoholic beverage sales; and
- (b) Alcoholic beverages sales.

D. License Renewals:

When renewing a full-service restaurant on-sale license, the City shall condition the license renewal upon receiving documentation that not more than forty percent of gross sales from the preceding twelve months operation of the full-service restaurant is derived from the sale of alcohol or alcoholic beverages.

E. Only Retail, On-Sale Service Permitted:

A full-service restaurant on-sale licensee may only serve alcoholic beverages for on-premise consumption in the bar and dining room area of the restaurant.

F. Smoking Prohibited:

No licensee that has a full-service restaurant on-sale license may allow smoking on the licensed premises.

G. Full-Service Restaurant License Fees:

1. As required by State law, the license fee charged for a full-service restaurant on-sale license shall be at or above the current fair market value for such license as determined herein. However, any fair market value so established shall be a minimum of one dollar for each person residing within the City as measured by the last preceding decennial federal census.
2. The license fee shall be initially established by Resolution within ninety (90) days of the initial adoption of this ordinance. Subsequent changes in the license fee shall not be made for a period of ten (10) years from the effective date of adoption of this ordinance unless a population growth reported by the Federal decennial census requires an increase in the fee.
3. Fair Market Value for full-service restaurant license shall be established as follows:
  - a. Within 90 days of the effective date of this ordinance and as required by State statute, each licensee within the City who owns an on-sale license issued pursuant to SDCL 35-4-2 (4) or (6) as of January 1, 2008, and who purchased the license or had the license transferred to such licensee at anytime between January 1, 2003, and January 1, 2008, shall report the amount originally paid for the on-sale license to the City of Hartford Finance Department on forms provided by the City. Any form submitted pursuant to this provision shall be signed under oath and shall include the documents establishing the amount originally paid for the on-sale license. If the transaction for the purchase of the on-sale license included real or personal property, the full market value of the real or personal property on the date of the original sale shall be deducted from the total transaction price to determine the amount paid by the licensee for the on-sale license. The burden of establishing the amount paid for the license shall be on the licensee. Any licensee contesting the fair market value of the real or personal property may appeal the valuation adopted by the City to circuit court.
  - b. For purposes of this section, the term, "Current Fair Market Value" means the documented price of the on-sale license most recently sold between January 1, 2003, and January 1, 2008, through an arm's length transaction, less the value of any real or personal property included within the transaction.

H. Registry of Full-Service Restaurant On-sale Licensees:

The City shall maintain a registry of each full-service on-sale restaurant license that is being offered for sale and the City shall furnish a copy of the registry to anyone who requests a new-full service restaurant on-sale license. The existing full-service restaurant on-sale licensee is responsible for registering with the City that the full-service restaurant on-sale license is for sale.

I. Issuance of new Full-Service Restaurant Licenses restricted:

The City may only issue a new license pursuant to this ordinance if no on-sale license is on the registry or a person desiring to purchase an on-sale license listed on the registry provides documentation showing that the person is unable to purchase the on-sale license at the price established in section g of this ordinance and on terms satisfactory to both the potential buyer and seller. The price of any on-sale license registered as “for sale” with the City shall be sold at the current fair market price set by the City pursuant to a Resolution adopted in accordance with section 7(b) of this ordinance.

*(Amended: Ordinance No. 534, 8-5-2008)*

## **CHAPTER 5.02 – OFFENSES AGAINST PUBLIC WELFARE**

5.0201 Disorderly Conduct. A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, he willfully does any of the following acts in a public place: (SDCL 9-29-3, 22-13-1)

- A. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of life, limb or health;
- B. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;
- C. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another, except in exhibitions duly authorized and licensed under law;
- D. Interferes with another’s pursuit of a lawful occupation by acts of violence;
- E. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way or place when ordered to do so by the City Police or other lawful authority known to be such;
- F. Is in a public place under the influence of an intoxicating liquor or drug in such a condition as to be unable to exercise care for his own safety or the safety of others;
- G. Resists or obstructs the performance of duties by the City Police or any other authorized official of the City when known to be such an official;
- H. Incites, attempts to incite, or is involved in attempting to incite a riot;

- I. Addresses abusive language or threats to any member of the City Police Department, any other authorized official of the City who is engaged in the lawful performance of his duties, or any other person when such words have direct tendency to cause acts of violence. Words merely causing displeasure, annoyance, or resentment are not prohibited;
- J. Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy, or physically offensive condition;
- K. Makes or causes to be made any loud, boisterous, and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed, or the traveling public annoyed;
- L. Fails to obey a lawful order to disburse by a police officer, when known to be such an officer, where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is eminently threatened;
- M. Throws a stone, snowball or any other missile upon or at any vehicle, building, tree or other public or private property or upon or at any person in any public or private way or place or enclosed or unenclosed ground.

As used above, the following definitions shall apply:

- A. "Public place" – Any place to which the general public has access in the right resort for business, entertainment, or other lawful purpose, but not necessarily mean a place devoted solely to the use of the public.

It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

- B. "Riot" – A public disturbance involving (i) an act or acts of violence by one or more persons part of an assemblage of three or more persons, which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of another person or to the person or any other individual or (ii) a threat or threats of the commission of an act or acts of violence by one or more persons part of an assemblage of three or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.
- C. "Inciting riots" – Shall mean, but is not limited to, urging or instigating other persons to riot, but shall be deemed to mean the mere oral or written advocacy of ideas or expression of belief, not involving advocacy of any act or acts of violence or assertion of the rightness, or the right to commit, any such act or acts.

This Section shall not be construed to suppress the right to lawful assembly, picketing, public speaking, or lawful means of expressing public opinion not in contravention with other laws.

- 5.0202 False Report of a Crime. No person in the City shall make to, or file with, the Police Department of the City any false, misleading, or unfounded statement or report concerning the commission or alleged commission of any crime occurring within the City. (SDCL 22-11-9)
- 5.0203 Injury or Removal of Public or Private Property. No person shall willfully, maliciously, wantonly, negligently, or otherwise injure, deface, destroy, or remove real property or improvements thereto or movable or personal property belonging to the City or to any person in the City. (SDCL 22-34-1)
- 5.0204 Tampering in General. No person in the City shall tamper with, injure, deface, destroy or remove any sign, notice, marker, fire alarm box, fire plug or hydrant, typographical survey marker or monument, or any other personal property erected or placed by the City. (SDCL 22-34-1)
- 5.0205 Tampering with Service Connections. It shall be unlawful for any person to connect, disconnect, or otherwise tamper with any service connection of any franchised cable television company or Broadband Communications Service Company without the express prior approval from a designated agent of said Cable Television company or Broadband Communications Service Company.
- 5.0206 Indecency. As used in this Section, the following definitions shall apply: (SDCL 22-24-27)

- A. "Obscene" – To the average person applying contemporary community standards, taken as a whole, that the predominant appeal of the matter appeals to the prurient interests and (i) depicts or describes patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated; or (ii) depicts or describes patently offensive representations or descriptions of masturbation, excretory functions, or lewd exhibits of the genitals; and which, taken as a whole, lacks serious literary, artistic, political or scientific value.
- B. "Prurient Interest" – Shameful or morbid interest in nudity, sex or excretion which goes substantially beyond customary limits of candor in description or representation.
- C. "Material" – Any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment or machines.
- D. "Dissemination" – To transfer possession of, with or without consideration.
- E. "Knowingly" – Being aware of the character and content of the material.
- F. "Promote" – To cause, permit, procure, counsel or assist.

It shall be unlawful for any person within the City to:

- A. Knowingly disseminate, distribute or make available to the public any obscene materials;  
or
- B. Knowingly engage or participate in any obscene performance made available to the public;  
or

- C. Knowingly engage in commerce for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars, advertisements and other public sales efforts that promote such commerce primarily on the basis of the prurient appeal; or
- D. Provide service to patrons in such a manner as to expose to public view:
  - 1. His or her genitals, pubic hair, buttocks, perineum, anal region, or pubic hair region;
  - 2. Any device, costume or covering the appearance of which simulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
  - 3. Any portion of the female breast at or below the areola thereof; or
- E. Knowingly promote the commission of any of the above listed unlawful acts.
- F. Appear in any public state in a state of dress intended to deceive others as to his or her sex, or make any indecent exposure of his or her person.

5.0207 Certain Uses Prohibited. No person shall put up, erect, hang, post, or suffer to remain so placed, any sign, poster, notice or other advertising matter, upon any telephone, traffic sign, or electric light pole in the City. (SDCL 9-29-1)

5.0208 Roller skates and Skateboards Prohibited in the Business District. No person shall ride upon, in or by means of roller skates, coasters, go-carts, skateboards or other similar wheeled device upon a sidewalk in any business district. (SDCL 9-32-1)

A. Definition as used in this Section:

"Business District" – An area in which 50% or more of the street footage for a distance of 200 ft. or more is occupied by buildings used for business commercial, educational, governmental or religious purposes and/or is used for parking vehicles either as a parking lot or a parking ramp.

B. Exception. Provisions of this Section do not apply to:

- 1. Physically handicapped persons who have been disabled in such a manner as to make it difficult and burdensome to walk and who use a wheelchair or other wheeled device on the sidewalk.
- 2. A wheeled vehicle used to transport a person under five (5) years of age.

## CHAPTER 5.03 – ANIMALS

5.0301 General.

A. Definitions.

- 1. "At Large"

- a. An animal when off the premises of the owner and not under the control of the owner, possessor, keeper, agent, servant, or member of his immediate family by a leash.
  - b. An animal when on the premises of the owner, possessor, keeper, agent, or servant and not attended by a competent person unless the animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises or from reaching the sidewalk.
2. "Leash" = A cord, thong, or chain, not to exceed six feet in length, by which an animal is controlled by the person accompanying it.
  3. "Owner" = any person harboring or keeping an animal or who is head of the household or owner or manager of the premises where such animal remains.
- B. Running at Large. It shall be unlawful for any person to allow any dog, cat or other animal held as a domestic pet to run at large at any time. The fine for an animal running at large is \$50.00. It shall be \$100.00 for each additional offense for same animal.
- C. Impoundment. A law enforcement officer, city employee or or animal control officer shall impound any animal found running at large within the City. Once the owner of said animal is ascertained, said owner shall be notified of the impoundment within 24 hours. Owner shall be liable and responsible for all impound fees or charges.
- D. Liability. Animal control officers, city employees or officials and law enforcement officers shall not be responsible for any injury or disease of any animal resulting from the enforcement of this chapter.
- E. Failure to claim. Any impounded animal not claimed by the owner within three days after receiving notice shall become the property of the City and shall be placed for adoption in a suitable home or humanely euthanized.
- F. Fees. An owner reclaiming an impounded animal shall pay the following fee:
1. First impoundment = \$50.00
  2. Second impoundment for same animal = \$100.00
  3. Any subsequent impoundment within 12 month period = \$100.00
  4. Owner is responsible for payment for all impound fees/charges.
- G. Conditions for release. The owner of any dog or cat found running at large without a license tag affixed to its collar shall be subject to a fine of \$50. The dog or cat will not be released from impound until the \$50 fine has been paid and a license has been issued under the provisions of 5.03.09.
- H. Violation. Any owner who allowed his/her animal to run at large is in violation of this chapter and subject to prosecution of a Class II misdemeanor. Any violation of this chapter

shall be documented by the animal control officer or police officer involved in said incident by issuing a warning ticket or filing a complaint stating the alleged violation.

- 5.0302 Compulsory Immunization of Animals for Rabies. Every dog, cat, or other animal held as a domestic pet in the City, six (6) months of age or older, shall be immunized against rabies by a licensed veterinarian or other qualified person designated by the City Council. Immunization against rabies shall be given at such intervals to guarantee immunity, and the minimum time period between vaccinations shall be determined by the available vaccine and based upon the recommendations and approval of the State Veterinarian. (SDCL 9-32-1)  
Any owner acquiring a dog, cat or other animal by purchase, gift, birth or otherwise, shall have such animal immunized against rabies within one month following acquisition or when such animal reaches the age of six months.

Any animal impounded shall not be released by the Pound Master to any person until such animal has been immunized against rabies, provided, however, no animal so impounded shall be immunized if the owner can present a certificate of a current immunization having been previously performed.

All veterinarians or other qualified persons designated to immunize animals against rabies shall provide the owner at the time of immunization with a certificate or metallic tag showing the date of the immunization. Whenever metallic tags are so given for immunizations, such metallic tags shall be worn by all animals on a collar, harness, or chain when off the premises of the owner.

- 5.0303 Responsibility of Owner to Place Animal for Observation. When any person owning or harboring a dog, cat or other animal has been notified that said animal has bitten or attacked any person, the owner shall within twenty-four (24) hours place the animal under the care and observation of the Animal Control Officer or a licensed veterinarian for a period not less than ten (10) days.

At the end of the ten (10) day observation period, the animal shall be examined by a licensed veterinarian and if cleared by the veterinarian, may be claimed by the owner upon paying the expenses incident thereto.

Any animal impounded or placed for observation, showing active signs of rabies, suspected of having rabies, or known to have been exposed to rabies, shall be confined under competent observation for such time as may be deemed necessary to determine a diagnosis.

Any person who shall suspect that any animal in the City is infected with rabies, shall report said animal to the Animal Control Officer, the City, or other health authority, describing the animal and giving the name and address of the owner if known.

No person shall knowingly harbor or keep any animal infected with rabies or any animal known to have been bitten by an animal known to have been infected with rabies. Any person within the City receiving information or reports of suspected rabies in wild animals or domestic animals shall report such information to the City or Animal Control Officer. Any rabid animal may be destroyed by the Animal Control Officer upon authorization in writing by the City Council.

Whenever the Animal Control Officer or Sheriff's Department shall have determined that there is a danger of the existence or spread of rabies in the City, such facts shall be made known to



the City Council in writing. The Council, upon receipt of said facts, may by proclamation, in the interest of public safety and general welfare of the citizenry, order all animals muzzled when off the premises of the owner. Forty-eight (48) hours after the publication of said proclamation all animals found off the premises of the owner unmuzzled shall be seized and impounded or may be immediately destroyed if all reasonable efforts to seize said animals fail.

All animals seized and impounded shall be held for observation as hereinbefore provided for fourteen (14) days, and if cleared by a licensed veterinarian, may be claimed by the owner upon paying the expenses incidental thereto. Any animal not claimed may be disposed of as hereinbefore provided. (SDCL 9-29-12)

5.0304 Vicious Animals.

- A. An animal may be declared to be vicious by the Sheriff's Department or Animal Control Officer, under the following guidelines:
  - 1. An animal which, in a vicious or terrorizing manner approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks, or any public grounds or places; or
  - 2. An animal which, on private property, in a vicious or terrifying manner, approaches in an apparent attitude of attack, or bites, or inflicts injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery man, or other employed person, or any person or animal who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.
  - 3. No animal may be declared vicious if the injury or damage is sustained to any person or animal who is committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.
- B. When the animal is declared to be vicious, the City or the Sioux Falls Humane Society shall notify the owner of such declaration in writing. Said notice shall be served either in person or by mailing such notice by certified mail.
- C. Any mammal, reptile or fowl which is not naturally found in a domestic setting, and because of its size or other characteristic would constitute danger to human life or property is automatically deemed vicious.
- D. The owner of an animal that has been deemed vicious shall comply with the following:
  - 1. Register the animal as vicious with the City and present proof of rabies vaccination within five (5) days of receiving the notice and presenting proof of rabies vaccination on or before March 1 of each and every year thereafter.
  - 2. Whenever the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than six (6) feet, and under the control of a person over sixteen (16) years of age.

3. When the animal will be outdoors and unattended, the animal must be locked in an escape-proof kennel approved by the City or the Animal Control Officer. Minimum standards shall include the following:
  - a. Fencing materials shall not have openings with a diameter of more than two (2) inches.
  - b. Any gates within such pen or structure shall be lockable or of such design to prevent the entry of children or the escape of the animal.
  - c. The required pen or structure shall have secure sides and a secure top. If the pen or structure has no permanent bottom secured to the sides, the sides shall be imbedded into the ground or concrete.
  - d. The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.
4. A universal sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.
- E. The vicious animal shall be impounded by animal control at the owner's expense until all provisions of section D are complied with. If the conditions in section D are not complied within 10 days after receiving notice, the animal shall be euthanized in a humane manner and proof of euthanasia filed with the City.
- F. If a vicious animal has been running at large, or bites a person or bites another animal, the Animal Control Officer or any Police Officer shall seize the animal by using such means as are necessary and summon the owner to appear in court to show cause why this animal shall not be destroyed. If the animal cannot be captured, it may be destroyed.

This section shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses.

5.0305 Disturbance of Peace by Animals. The owner of an animal shall not allow such animal to disturb the peace and quiet of the neighborhood through barking or any other manner possible.

- A. The owner or custodian of an animal shall not allow the animal to create a disturbance by making loud noises any time of the night or day.
- B. Any person having custody or control of any female animal in heat shall be required to keep the same confined in a building, secure enclosure, veterinary hospital, or boarding kennel so that it cannot attract or come into contact with another animal on public or private property except for controlled breeding purposes.

Upon complaint such owner will be notified by the Police Department and said owner shall abate such nuisance. If convicted upon failure to abate such nuisance, said owner will be guilty of further violations for each day that such condition is allowed to exist or goes uncorrected. (SDCL 9-29-13)

5.0306 Cruelty to Animals. No person shall willfully or negligently maltreat or abuse or neglect in a cruel or inhumane manner any animal or fowl. It shall be unlawful for any person to willfully or maliciously administer or cause to be administered, poison of any sort whatsoever to any animal, on the property of another, with the intent to injure or destroy such animal, or to willfully or maliciously place any poison or poisoned food where the same is accessible to any such animal. (SDCL 40-1)

A. In cases where an animal or animals have been seized by the Animal Control Officer or Law Enforcement Officer based upon cruelty, neglect, or abandonment, such animal may be adopted to another owner or humanely euthanized thereby extinguishing all property rights of the existing owner following the procedures as hereinafter provided:

1. Upon seizure of the animal or animals, the Animal Control Officer shall serve notice upon the existing owner, if the identity of said existing owner is known, informing said existing owner of the Animal Control Officer's intent to have said animal disposed of.

2. The existing owner shall have five (5) business days to:

a. Declare in writing and deliver to the animal shelter

Keeping said animal or animals -

(i) Notice of said existing owner's intent to maintain ownership of the animal or animals and to object to the adoption or euthanasia thereof, and;

(ii) Notice that said existing owner shall pay when due all impoundment, board and veterinary costs until such time as the animal or animals shall be released to said existing owner or be adopted or euthanized.

b. Pay all impoundment, board and veterinary costs, up to the date of the owner's declaration of intent to maintain his ownership of said animal or animals to the animal control shelter.

3. Upon notification of said existing owner's intent to maintain ownership of the animal or animals and the objection to the adoption or euthanasia thereof said existing owner shall continue said payments to the animal control shelter for impoundment, board and veterinary costs on a weekly basis until such time as the animal or animals shall be released to said existing owner or be adopted or euthanized.

B. If the existing owner of the animal or animals fails to declare the hereinbefore stated intent or fails to make any payments in a timely manner, or if the identity of the existing owner is unknown or notification to the existing owner cannot be made, the Animal Control Officer shall give actual written notice of published notification to the owner by publication once a week for two successive weeks in an official newspaper of the County of intent to transfer ownership of the animal or animals to the animal shelter. The owner shall have ten days following receipt of notification or following the date of final publication to comply with all of the provisions of Section 1 of this ordinance, or ownership of the animal or animals will be transferred to the animal shelter.

*(Amended: Ordinance No. 446, 9-2-2003)*

5.0307 Stray, Abandoned, or Unkept Animals. No person shall harbor or keep any stray animals within the City. Animals known to be strays shall be reported to the Police Department immediately.

The keeping of animals and fowls on any lot in the City shall not be on a commercial basis or on a scale objectionable to the adjacent property owners, without a permit from the City Council.

The provisions of this section shall not be applicable to those existing at the time of the effective date of this ordinance, particularly insofar as permit requirements are concerned. (SDCL 9-29-13, 40-1)

5.0308 Responsibility of Owner. Any person who creates or maintains any condition, or operate any equipment, or keeps any animal, fowl, pet or insect in such a way that such condition, operation or keeping causes or is likely to cause the transmission of diseases from animals or insects to man shall be in violation of this ordinance.

No owner, keeper, caretaker or attendant of any animal shall allow an animal to defecate on public or private property other than his own. If such animal shall defecate upon public or private property, the owner, keeper, caretaker or attendant must immediately and thoroughly clean the fecal matter from such property.

5.0309 Livestock in City. No livestock shall be permitted within city limits unless approved by the City in conjunction with a special events permit.

For the purpose of this section, the term "Livestock" shall mean any animal except the following common household pets: Dogs, cats, mice, rats, hamsters, gerbils, guinea pigs, pot-bellied pigs, rabbits, ferrets, fish, and birds, excluding the orders of Galliformes (fowl) and Anseriformes (water-fowl). (SDCL 9-29-13)

*(Amended: Ordinance No. 618, 9-16-2014)*

5.0310 Dog and Cat License Required. All dogs and cats kept, harbored, or maintained by their owners in the City shall be licensed and registered if over six (6) months of age. Dog and cat licenses shall be issued by the Finance Officer upon payment of an annual license fee of five dollars (\$5.00) for each neutered male or spayed female, and ten dollars (\$10.00) for each unneutered male or unspayed female. The license is good for one year from the date it is issued.

Before any license shall be issued under this Section, the applicant shall furnish a certificate of vaccination issued by a veterinarian licensed to practice within this State evidencing the vaccination of the animal for which the license is desired, and that the animal has been vaccinated against rabies and that such vaccination will be good for the license year.

The owner shall state at the time application is made for such license and upon printed forms provided for such purpose his or her name and address, and the name, breed, color and sex of each dog and cat to be licensed. The provisions of this Section shall not be intended to apply to dogs and cats whose owners are nonresidents temporarily within the City, nor to dogs and cats brought into the City for the purpose of participating in any dog show, nor to "seeing eye" dogs properly trained to assist blind persons when such dogs are actually being used by blind persons for the purpose of aiding them in going from place to place.

Upon payment of the license fees, the Finance Officer shall issue to the owner a license certificate and metallic tag for each dog and cat so licensed which shall have stamped thereon the number for which it was issued corresponding with the number on the certificate. Every owner shall be required to provide each dog and cat with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In lieu of affixing their license to a collar, the owner may have their pet micro chipped with identifying information and present documentation to the City that such an identifying device has been imbedded in the pet. In case a dog and cat tag is lost or destroyed, a duplicate will be issued by the Finance Officer upon presentation of a receipt showing the payment of the license fee for the current year. Dog and cat tags shall not be transferable from one dog to another and no refunds shall be made on any dog and cat license fee because of death of the dog and cat or the owner's leaving the City before expiration of the license period. (SDCL 9-29-12)

*(Amended: Ordinance No. 531, 5-20-2008)*

5.0311 Number of Pets Limited. It is unlawful for any person to have or to keep more than four domestic pets over the age of six months, except birds and fish, on any lot or premises in the City, unless such person residing on or in the lot or premises has a valid kennel license issued by the City. Humane societies, veterinarian offices, and retail pet stores are exempt from the provisions of this section.

#### **CHAPTER 5.04 – FIREWORKS, FIREARMS, AND EXPLOSIVES**

5.0401 Discharging Weapons Prohibited.

A. Definitions.

1. Weapon – An object designed or used to inflict bodily harm or physical damage.
2. Firearm – A firearm shoots a projectile that is discharged by gunpowder.
3. Air Gun – An air gun shoots a projectile that propels by means of compressed air or other gases or spring.
4. Bow and Arrow Combination – A system that uses an arrow, which is a projectile with a straight shaft that has a point on one end and stabilizing vanes on the other end; it is used in combination with a bow, which consists of a curved piece of resilient wood or other material and a taunt cord that is used to propel an arrow.
5. Missile – Any object thrown or projected, or intended to be thrown or projected, including, without limitation thereto, class C (common) fireworks

B. Prohibitions.

No person shall discharge any species of firearm, air gun, bow and arrow combination, missile or other weapon within Hartford city limits.

C. Exceptions.

1. Proper use of weapons in a licensed shooting gallery;

2. Use by law enforcement or animal control officers in the discharge of their official duties;
3. Use by City Personnel;
4. Use by special permit of Hartford City Council;
5. Use of an Air Gun upon private property by the owner of such property if discharged in a safe manner.

*(Amended: Ordinance No. 517, 7-17-2007; Ordinance No. 612, 6-7-2014)*

5.0402 Firework Definitions.

- A. Fireworks. Devices designed to produce audible and/or visible effects by combustion as set forth in SDCL 34-37.
- B. Firework Sales. The retail or wholesale of fireworks as set forth in SDCL 34-37.

*(Amended: Ordinance No. 650, 4-3-2018)*

5.0403 Firework Sales License Required.

- A. No person shall sell fireworks within the City's jurisdiction without first obtaining an approved Fireworks Sales License in accordance with Chapter 4.01 of this ordinance.
- B. Any person licensed under this Ordinance must also hold a license under SDCL 34-37-2.
- C. The holder of an approved Fireworks Sales License may sell fireworks within the City's jurisdiction for wholesale during the term of the fireworks Sales License or at retail to individuals during the period beginning June 27th and extending through July 5th and during the period beginning December 28th and extending through January 1st.

*(Amended: Ordinance No. 752, 7-2-2024)*

- D. All licenses are good for one year from January 2<sup>nd</sup> of the application year through January 1<sup>st</sup> of the following year.

*(Amended: Ordinance No. 506, 8-15-2006)*

*(Amended: Ordinance No. 650, 4-3-2018)*

5.0404 Firework Sales License Application.

- A. Any person who is required by this Chapter to possess a Fireworks Sales License shall first submit an Application to the Zoning Administrator.
- B. A Fireworks Sales License Application shall consist of an application form, a Fireworks Sales License Application Fee, proof of liability insurance coverage for

fireworks sales of at least \$1,000,000 in the applicant's name, a site plan of the proposed sales site, a copy of the applicant's South Dakota Sales Tax license, and a copy of the appropriate state fireworks sales license(s).

- C. A Fireworks Sales License Application Fee shall be \$100.000 and is non-refundable.
- D. Firework sales are not permitted in Residential or Manufactured Housing Residential Zoning Districts.
- E. The Zoning Administrator shall review each Fireworks Sales License Application after the complete Application is received. The Application may be approved or denied based upon the Applicant's proposed sales location, zoning, proposed signage, building code compliance of the sales location, code enforcement compliance history, record of compliance with the City fireworks regulations, record of compliance with state fireworks regulations, and/or other factors considered relevant by the Zoning Administrator.
- F. The action of the Zoning Administrator may be appealed to the City Council if a written appeal is submitted to the Finance Office within ten (10) days including of the action.

*(Amended: Ordinance No. 650, 4-3-2018)*

5.0405 Firework Storage and Sales.

- A. No person shall store or sell fireworks within the City's jurisdiction without first obtaining the written permission of the landowner of the sales location.
- B. The storage and sale of fireworks within the City shall be restricted to structures that are no closer than fifty feet (50') to any other structure used for agricultural, commercial, industrial, or residential use.
- C. All structures used for the storage and/or sale of fireworks shall have adequate means of egress before commencement of and during said storage or sales.
- D. Applicant must comply with SDCL 34-37.

*(Amended: Ordinance No. 650, 4-3-2018)*

5.0406 Use or Discharge of Fireworks. The use or discharge of fireworks as defined in SDCL 34-37 within the jurisdiction of the City is hereby only allowed from July 2<sup>nd</sup> through July 5<sup>th</sup> from 10am to 11pm each day and also on December 31<sup>st</sup> from 10pm until 12am on January 1<sup>st</sup> unless banned by the City Council. The provisions of this Chapter shall not apply to police officers, military forces of the United States, or any person, firm, or corporation duly licensed by the City in accordance with Chapter 4.10 of this ordinance, to discharge fireworks for public entertainment to any public celebration of the City.

*(Amended: Ordinance No. 650, 4-3-2018)*

**CHAPTER 5.05 – MINORS**

[MINORS SDCL Title 26]

5.0501 Curfew Hours and Exceptions. It shall be unlawful for any person age fifteen (15) or under to be on the public streets, alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, vacant lots or otherwise unsupervised public places within the City between the hours of 11p.m. and 6 a.m. on the following day and it shall be unlawful for any person age sixteen (16) or seventeen (17) to be on the public streets, alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, vacant lots or otherwise unsupervised public places within the City between the hours of 12 midnight and 6 a.m. on the following day, unless accompanied by a parent or legal guardian, other adult person having the care and custody of the minor or unless such person shall be upon some necessary errand by written permission of a parent, guardian, or employer and said person so permitted to be outdoors shall have with him or her such written permission and shall upon request of any police officer exhibit the same to said police officer. An exception to the curfew will be made in the case of activities officially sponsored by schools, churches, or the City, when the curfew will extend one-half (½) hour beyond the time said activities end. (SDCL 9-29-13)

*(Amended: Ordinance No. 598, 10-15-2013)*

5.0502 Responsibility of Officers. It shall be the duty of any police officer of the City to arrest and detain any person who violates any of the provisions of this Chapter and to keep such person detained until his or her parents, guardian, or person in control will appear before the police or other authorized personnel to answer to the charge of having violated this Chapter.

5.0503 Responsibility of Parents or Guardians. It shall be unlawful for the parents, guardian or other adult person having the care and custody of a minor under the age of eighteen (18) years to knowingly permit such a minor to be or remain in or upon the public streets, alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, vacant lots or other unsupervised public places within the City between the hours of curfew, except if the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor or when the minor is upon an emergency errand, necessary errand or legitimate business directed or authorized by his or her parent, guardian or other adult person having the care and custody of the minor.

*(Amended: Ordinance No. 598, 10-15-2013)*

## **CHAPTER 5.06 – STREET DANCES**

5.0601 Non-Profit Organizations. Street dances held within the City of Hartford shall be conducted by Non-Profit Organizations only. Each sponsoring organization must obtain a permit and license at least thirty (30) days prior to each event. The sponsoring organization must submit proof of liability insurance to the City before such an event can take place and adhere to all implemented street dance policies as set forth by the City Council.

5.0602 Restriction of Age Attending. It shall be unlawful for any person conducting a street dance in the City of Hartford to permit or allow any person under the age of sixteen (16) years unaccompanied by his or her parent, step parent or legally appointed guardian to enter or remain within the boundary designated for holding the street dance.

## **CHAPTER 5.07 – PUBLIC BEGGING**



5.0701 It is unlawful to detain or attempt to detain any person in a public place or to go door to door at residences or places of business for the purpose of begging for money or other things of value. This section shall not apply to solicitations, sales or distributions made by charitable, educational or religious organizations.

*(Amended: Ordinance No. 536, 9-2-2008)*

## **CHAPTER 5.08 – SOLICITING RIDES**

5.0801 It shall be unlawful for any person to stand in a roadway for the purpose of soliciting a ride from the operator of any private vehicle.

*(Amended: Ordinance No. 536, 9-2-2008)*

## **CHAPTER 5.09 - TRESPASSING**

5.0901 Purpose. The purpose of this chapter is to adopt a legally sound process for excluding from city property any individual whose behavior is dangerous, illegal, or unreasonably disrupting to other users while recognizing the right of individuals to engage in legitimate activities that may occur on city-owned property. This chapter is enacted as an exercise of the city's authority to protect and preserve public property, public health, safety, and welfare.

*(Amended: Ordinance No. 664, 1-15-2019)*

5.0902 Definitions.

- A. Disruptive Behaviors: Behavior that is disrespectful, offensive, and/or threatening to others and unreasonably interferes with others' use and enjoyment of a publicly owned property.
- B. Dangerous Behavior: Creates an imminent and unreasonable risk of injury or harm to either persons or property of another.
- C. Illegal Behavior: Behavior that is prohibited by the laws of the United States, State of South Dakota, Minnehaha County, or City of Hartford.
- D. City of publicly owned Property: Any part of a building, park, trail or open space that is owned or controlled by the city or a public agency.

*(Amended: Ordinance No. 664, 1-15-2019)*

5.0903 Authorization to issue criminal trespass notice. Any law enforcement officer, either directly or under the authorization of the City of Hartford, is authorized to issue a notice of criminal trespass to any individual whose behavior is disruptive, dangerous or illegal as defined in this Chapter, while such individual is on or within a city facility, building or outdoor area, including

municipal parks and trails. Trespass violations may be delivered in person to the individual or by first class mail to the individual at the individual's last known address.

*(Amended: Ordinance No. 664, 1-15-2019)*

5.0904     Duration of trespass exclusion. Once a notice for trespassing has been issued, the individual may not trespass onto public property for a period of six months from the date of issuance.

*(Amended: Ordinance No. 664, 1-15-2019)*

5.0905     Violations. Any person found on or within any city facility, building or outdoor area, including Municipal parks and trails, in violations of a criminal trespass notice may be subject to a \$50.00 municipal fine or arrest and criminal prosecution per SDCL 22-35-5 or SDCL 22-35-6.

*(Amended: Ordinance No. 664, 1-15-2019)*

## TITLE 6 – STREETS, SIDEWALKS AND PUBLIC PLACES

[STREET AND ALLEY IMPROVEMENTS SDCL 9-45]

[SIDEWALK IMPROVEMENTS SDCL 9-46]

Chapter 6.01 – Street Names and Addresses

Chapter 6.02 – Streets, Sidewalks, Curb and Gutter

Chapter 6.03 – Snow and Ice Removal

Chapter 6.04 – Moving Buildings

Chapter 6.05 – Municipal Trees

Chapter 6.06 – Parks and Recreation Areas

Chapter 6.07 - Mailboxes

### CHAPTER 6.01 – STREET NAMES AND ADDRESSES

6.0101 Names of Streets and Avenues. The names of all streets and avenues in the City shall be fixed and adopted in accordance with the official map of the City on file in the Finance Office. All east-west thoroughfares shall be designated as streets and all north-south thoroughfares shall be designated as avenues. Any such act on dedicating, naming, establishing, locating, relocating, opening, widening, paving, improving or vacating any street, alley or other public way in the City shall be so designated on such map. (SDCL 9-45-2)

6.0102 Numbering Streets. On all streets and avenues intersecting First Street and running north and south, the first block to the north or south of First Street shall be numbered 100, north or south as the case may be, and the numbers shall be increased at the rate of 100 for each block or space between two streets, north or south of First Street. The first number to the north or the south of any intersection of said streets and avenues running north and south shall generally be a multiple of 100, and therefrom within each block the buildings or lots shall be numbered consecutively to the north or south as the case may be. To designate the numbers on streets or avenues running north and south of First Street, the words "north" or "south" shall be placed between the number and name of the street or avenues, according as the same may be north or south of said First Street. (SDCL 9-45-2)

Number for east and west streets shall be as provided for north and south streets in the foregoing Section of this Ordinance, as the case may be, and as applied to the east and west locations thereof, according as the same may be east or west of said Main Street.

6.0103 Numbering Plan. A numbering plan for residences and businesses shall be maintained by the City Council. Buildings on the east or north side of any street or avenue shall be given even numbers, and the buildings on the west or south side thereof shall be given odd numbers. A listing of the assigned numbers and a map showing the location of addresses shall be maintained and filed in the Finance Office. The Finance Officer shall be responsible for assigning new numbers and updating the listing of such numbers and the location map. (SDCL 9-45-2)

6.0104 Houses and Business Places must be Numbered. Every person who is or may hereafter become the owner or renter of any house, residence, store, shop or other business building, situated on any lot fronting on any of the streets or avenues of the City of Hartford shall number with 3"

minimum numbers. The numbers shall be so located on the structure such that it is clearly visible from the street.

- 6.0105 Numbering of Lots. One number shall be apportioned to every building or lot along all the thoroughfares of the City whether the same be occupied by buildings or not.

In case more than one building is erected in a single lot feet the same may be numbered by placing thereon the regular number which appeared on the building formerly situated in said space or the number which would otherwise be allotted to the space and on the second building to be erected thereon the regular number plus the fraction, one-half ( $\frac{1}{2}$ ). (SDCL 9-45-2)

## **CHAPTER 6.02 – STREETS, SIDEWALKS, CURB AND GUTTER**

- 6.0201 Streets. A thirty-three (33) foot roadway shall be maintained between curbs whenever practical, with streets platted at sixty-six (66) feet in width having a distance of sixteen and one-half ( $16\frac{1}{2}$ ) feet from property line (inside of sidewalk) to curb, with slope of one-fourth inch per foot toward street, and streets platted at sixty (60) feet shall have thirteen and one-half ( $13\frac{1}{2}$ ) feet from property line (inside of sidewalk) to curb, with slope also of one-fourth inch per foot toward street. The crown of the street or avenue should be the same height as the curb. Any deviations shall be authorized by the City Council. Only street department personnel or other authorized so to do shall be permitted to work on any of the streets, avenues, or alleys in the City. (SDCL 9-45-1) The general assessment policy is on file at city hall.

- 6.0202 Street Excavations. No person shall make or cause to be made any excavation except as hereafter provided, in or under any street, sidewalk, alley or public ground or remove any earth, soil, paving, gravel or materials therefrom without first having obtained approval from the Finance Officer, City Administrator or Street Superintendent. Application for such approval shall state where such excavation is to be made, the extent thereof and the purpose of such excavation.

- 6.0203 Excavation Permits. Applications for excavations other than emergency situations may require a deposit in such sum as deemed necessary by the City Council to ensure the proper replacement and refilling of any such excavation or to cover the costs of any damages which may be caused by such excavation. Any required deposit shall be paid to the City before approval of an application is made and any unused portion of said deposit shall be refunded to the applicant upon recommendation and approval of the City Council.

- 6.0204 Excavation Repairs. Approval for any excavation covered by this Chapter shall be issued only upon the express condition that the applicant shall refill such excavation in accordance with the requirements of the City Council, and shall restore the pavement or surfacing as the case may be, to its former condition. The City Council shall adopt and amend as necessary such requirements, which shall set forth the manner in which various types of excavations shall be backfilled or refilled and the manner in which any street surfacing shall be replaced.

- 6.0205 Excavation Inspections. It shall be the duty of authorized City Personnel to inspect all authorized excavation work at any stage of construction and to ensure compliance with approved requirements. If all backfilling, refilling or surfacing is not completed in accordance with approved requirements, notice thereof in writing shall be given to the applicant who shall put the same in proper order within a maximum of ten (10) days. If the applicant fails after such notice to complete all requirements the City Council may authorize the necessary repairs and such applicant shall pay the costs thereof.

6.0206 Excavation Barriers. Any person receiving approval to make excavations in or upon any street, alley, sidewalk or public ground shall, during the progress and continuance of the work, erect and maintain around the same both day and night suitable guards, fences, flares and signals so as to prevent injury to persons, animals, or vehicles on account of such excavations. No open trench shall be left open for any more time than considered absolutely necessary or reasonable.

6.0207 Sidewalks. A sidewalk shall be constructed commencing at a point that is twelve (12) inches outside of the property line or at a point determined by the city engineer or public works superintendent. If a property owner disagrees with the location of the sidewalk, the location will be determined by the Hartford City Council.

Sidewalk construction shall be no less than four (4) inches in thickness, of Portland Cement Construction, and not less than five (5) feet wide in residential areas, with slope toward street no greater than one-fourth (1/4) inch per foot. All sidewalks shall be constructed to meet current ADA standards.

When considered necessary and advisable for the peace, welfare, and safety of the people, the City Council may direct that a new sidewalk be constructed and assessed to any abutting property owner. (SDCL 9-46-1, 9-45-14).

When existing sidewalk is removed for any reason it shall be replaced, according to the provisions of this section.

*(Amended: Ordinance No. 682, 12-3-2019)*

6.0208 Driveway Approaches. No driveway approaches shall protrude or extend into the streets beyond the curb line, unless otherwise so authorized by the City Council. Concrete driveway approaches shall be of four (4) inch Portland Cement Construction, with the slope gradual to accommodate modern vehicles. On gravel thoroughfares driveway approaches constructed shall permit flow of surface water without drainage interference and shall permit proper blading and maintaining of streets. (SDCL 9-45-1)

6.0209 Curb and Gutter. The City Council shall reserve the right to direct that curb and gutter be constructed and the cost assessed against any abutting property owner. (SDCL 9-45-5) The general assessment policy is on file at the city finance office.

6.0210 Permits. When constructed separately from an overall construction project, property owners or their agents shall submit applications for permits for approval by the City Council or authorized officials for sidewalks, driveway approaches, curbs, or curb and gutter. When these improvements are constructed simultaneously or as one project, only one application is necessary to include all improvements, and where any or all are part of new construction projects, only one permit for the overall construction shall be issued. All improvements, installations, and engineering recommendations shall be in conformance with specifications or recommendations approved by the City Council.

6.0211 Barrier-Free Construction. Whenever any person, firm or corporation makes new installations of sidewalks, curbs or gutters, in both business and residential areas, it shall be required that they install ramps at crosswalks, so as to make the transition from street to sidewalk easily negotiable for handicapped persons in wheelchairs and for blind persons. All such ramps shall be constructed or installed in accordance with design specifications according to the most

current American National Standards Specifications published by the American National Standards Institute. (SDCL 9-46-1.1,1.2)

### **CHAPTER 6.03 – SNOW AND ICE REMOVAL**

6.0301 Duty to Remove. It shall be the duty of the owner, tenant, or person in possession of any property abutting on any sidewalks to keep the entire width of the sidewalk free from snow and ice and to cause any accumulated snow and ice to be removed from any such abutting sidewalk within twenty-four (24) hours after the termination of any snowfall, or snow or ice accumulation. (SDCL 9-30-5).

*(Amended: Ordinance No. 674, 8-20-2019)*

6.0302 Disposal of Snow. It shall be the duty of the property owner, tenant, or person in possession of any public or private driveway, parking lot or parking area to dispose of accumulated snow and ice upon such property in such manner that any snow and ice when removed shall not be deposited upon any sidewalk, within or upon any public street or alley, or in a manner that will obstruct or interfere with the passage or vision of vehicle or pedestrian traffic.

It shall be the duty of the property owner, tenant, or person in possession of any property abutting on any sidewalk to dispose of accumulated snow and ice upon such sidewalk in such a manner that any snow and ice when removed shall not be deposited within or upon any public street or alley, after such public street or alley has been cleared of snow and ice by the grading of such snow or ice away from the curb or the picking up and carrying away of such snow or sanding or salting of ice by the City. (SDCL 9-30-5)

6.0303 Removal Costs Assessed. In the event any owner, tenant, or person in possession of any property shall fail to comply with any provisions of this chapter, any police officer of the City may issue a citation for such violation and the City Council may authorize such removal with the costs to be assessed against the abutting property owner. (SDCL 9-30-5)

### **CHAPTER 6.04 – MOVING BUILDINGS**

6.0401 Permit Required. No person shall move any building or part of building into, along or across any public street, alley, or grounds in the City without having obtained a moving permit. (SDCL 9-34-1, 9-30-2)

6.0402 Applications. Written application for a moving permit shall be filed with the Finance Officer, and shall include the name of the applicant, the name of the owner of the building, a description of the lot on which such building is standing and the lot to which it is to be moved, if located in the City, the route along which it is proposed to move such building, and the length of time which may be consumed in such moving. Any application so filed shall be considered by the Zoning Administrator and/or Planning Commission and/or City Council for approval, and any other conditions to be complied with by the applicant, shall be stated. The city Zoning Administrator reserves the right to request any information deemed necessary for the review of said moving permit. The city Zoning Administrator reserves the right to set stipulations and requirements with a moving permit. All moving permits shall conform with all ordinances of the city.

6.0403 Surety Bond. No permit shall be granted until the applicant shall file with the Finance Officer a bond running to the City in the penal sum to be established by the City Council, with sufficient surety, and conditioned that the applicant will promptly repair and make good, to the satisfaction of the Council, any and all damage to any pavement, sidewalk, cross walk, hydrant, street, alley, or other property, done or caused by himself or his employees, in moving such building or part thereof, or in connection with the moving thereof.

The applicant shall indemnify and save harmless the City against any and all liability for damages, costs and expenses, arising or which may arise or be incurred in favor of any person by reason of any negligence or misconduct or act on his part or the part of his agents or employees, in connection with the moving of said building or part thereof, or the use of any public ground for such purpose.

6.0404 Standing Buildings. No building or part of a building being moved, shall be allowed to stand still in any public street or any public ground for more than twenty-four (24) consecutive hours.

6.0405 Permission of Property Owners. No moving permit granted by the City shall authorize the holder thereof to break, injure, or move any telephone or electric light or power wire or pole, or to cut, trim or otherwise interfere with any trees or to damage or in any manner interfere with any property without the written permission of the owner or owners thereof.

## **CHAPTER 6.05 – MUNICIPAL TREES**

6.0501 Authority and Jurisdiction. The City Council shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of trees on streets and other publicly owned property to insure the public safety and to preserve the aesthetics of such public sites. The City Council shall have the authority to determine the type and kind of trees to be planted upon municipal streets or parts of municipal streets or in parks; and may assist in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the corporate limits or within the area over which the City has jurisdiction, whether the same be on private or public property, and to make recommendations from time to time as to desirable statutes concerning the tree program and activities for the City. (SDCL 9-38-2)

6.0502 Duties of Property Owners. It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be shrubs or trees, to prune such shrubs or trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection, except where such services are provided for by utility firms. The minimum clearance of any overhanging portion thereof shall be ten (10) feet whenever practicable, and twelve (12) feet over all streets except truck thoroughfares where the clearance shall be from fourteen (14) to sixteen (16) feet, unless otherwise determined by the City Council.

6.0503 Abuse of Trees. Unless otherwise specifically authorized by the City Council, no person shall intentionally damage, cut, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid, or solid substance which is harmful to such tree to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree located on public grounds along the street or enclosing public grounds. (SDCL 9-38-2)

- 6.0504 Permission to Deposit Materials. No person shall deposit, place, store, or maintain upon any public place of the municipality, any stone, brick, sand, concrete or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree growing therein, except by permission of the City Council.
- 6.0505 Removal of Hazards. Where any tree branches or hedges protrude or overhang on any thoroughfare within the City so as to be determined as in violation with this Chapter or affecting motor vehicle traffic and good maintenance practices, notification shall be given by the City Council to the property owner to remove such obstructions or undesirable branches or hedges within a prescribed time period. If not completed within such time, the City Council may take immediate action to have such items removed with all costs assessed to the property owner. (SDCL 9-38-2)

## **CHAPTER 6.06 – PARKS AND RECREATION AREAS**

- 6.0601 Swimming When Municipal Pool Closed Prohibited. Fine for Violation of Section. Swimming in the Hartford Municipal Swimming Pool shall be prohibited during those hours when the pool is officially closed. Persons found in violation of this section shall be punishable in accordance with Chapter 12.01. (SDCL 9-30-2)
- 6.0602 Employee Exemption from Certain Rules. The sections of this article governing activities and the general rules are not applicable to employees of the Board or City while within a park on required or official duties and in the course of such employment.
- 6.0603 Protection to Trees and Shrubbery. No person shall pick or cut any wild or cultivated flowers, or cut, break, dig or in any way deface any tree, shrub or plant within the limits of any park.
- 6.0604 Protection to Prohibited Areas. No person shall go on foot or otherwise upon the grass or turf of any park or parkway where any prohibitory sign is posed.
- 6.0605 Playing Golf. No person shall golf within any park within the City, except in areas designated by the City Council as a golf course or driving range.
- 6.0606 Injuring Park Property. No person shall cut, break, scratch, mark, mar or in any way injure or deface any building, fence, wall lamp, flagpole, construction improvement, facility or any other feature or property upon or within any park.
- 6.0607 Vehicle Operating and Parking. Except as authorized by the Board, no person shall operate or park any vehicle in any park, except on clearly marked and designated roadways or parking areas therein.
- 6.0608 Littering Prohibited.
- A. No person shall throw, deposit, place or leave in any park or parkway, or water therein, any paper, rubbish, waste, cans, bottles or refuse of any kind, whether or not such is offensive to the senses or is injurious to health, except in the receptacles provided for waste.
  - B. No person shall deposit, place or leave any waste materials in any waste receptacle in any park which has not been generated within the park.



6.0609 Restrictions on Abutting Landowners. The owner, occupant or person in charge of any land abutting upon any park shall not allow any earth, rubbish or refuse of any kind, whether or not such is offensive to the senses or injurious to health, to fall or to wash upon or into any part of any park.

6.0610 Pets Prohibited. No person shall allow any pet to enter any city park playground area, ball diamond or soccer field.

For this section “city park playground area” shall be defined as the area of the park for which the children’s play equipment is located and encompassed by a border or sandy area. “Ball diamonds” and “soccer fields” are defined as the actual playing fields and not the spectator area.

*(Amended: Ordinance No. 690, 8-4-2020)*

6.0611 Firearms, Guns and Fireworks Prohibited. No person shall fire or discharge any gun or any other type of firearm or discharge or set off any type of rocket, firecracker or other fireworks or anything containing any substance of an explosive character within any public park except upon authority granted by the City Administrator or the City Council.

6.0612 Animals Protected. No person shall rob, injure or destroy any bird nests within the limits of any park, nor aim or discharge any airgun, slingshot or other weapon, or throw any stones or other missiles at any bird or bird nest or any wild creature within any park nor in any manner capture or attempt to capture or kill any bird or wild creature in any park.

6.0613 Trapping Prohibited. No person shall at any time trap, set, lay, prepare or have in possession any trap, snare, artificial light, net or any other device whatever for the purpose of catching, taking or killing any bird or wild creature in any park with the exception of those devices which are necessarily used for fishing in streams and lakes within the park system.

6.0614 Parking and Moving Vehicles. City employees shall have the authority to direct the parking and moving of vehicles in the parks.

6.0615 Selling Prohibited Except by Authority of Board. No person shall sell or offer to sell any article or anything of any type in any park, but this prohibition shall not apply to sales of refreshments and other articles authorized by the City of under its direction at pavilions or stands conducted and authorized by the City.

6.0616 Fires in Parks. No person shall start any fire in any park except in those places provided therefore by the City. Every person who starts or uses a fire shall completely extinguish the fire before leaving the park.

6.0617 Hours Parks Open to Public. All City Parks shall be open to the public every day from 6:00am to 11pm. It shall be unlawful for anyone to go into any area of any park after closing hours and before opening hours the next day, with the exception of campers. Any part of the park may be closed to the public by city council action.

The swimming pool will be open during posted hours or at the discretion of the pool manager.

Violation of this ordinance will result in a \$100.00 fine per offense.

*(Amended: Ordinance No. 592, 9-3-2013)*

- 6.0618 Vehicles after Hours. It shall be unlawful for anyone to park or leave parked a vehicle within any park for more than three (3) days.
- 6.0619 Utility Lines and Wires. No telegraph or electric light wires or other wires or posts or supports thereof shall be erected or placed in, upon, through or over any park without the consent of the City Council, and the City Council shall have the power to designate the places for and manner of erecting, placing and maintaining such wires or posts in or upon any park or boulevard and may cause the place and manner of maintaining such wires or posts to be altered at such times and in such manner as it shall deem best for the interests of the City and may require such wires in any park, parkway or boulevard to be put and kept underground.
- 6.0620 Alcoholic Beverages. It shall be unlawful for any person to drink or consume any alcoholic beverages within the parks of the City, except that such restrictions shall not apply to malt beverages, as defined by SDCL 35-1-1, or where alcoholic beverages are licensed to be served.
- 6.0621 Bicycling. Bicycle riders in the parks shall abide by the ordinances governing the operation and equipment of bicycles except bicycling need not be limited to paved areas. Bicyclists are required to operate their bicycles in a prudent manner and with due regard for the safety of others and the preservation of park property.
- 6.0622 Authority to Prohibit Certain Conduct; Notice. The parks of the City exist and shall be operated and maintained for the enjoyment, benefit and recreation of those persons using the parks. No person shall take part in any activity, conduct or game which shall interfere with another person's use of the park. The City Council shall have the authority to prohibit conduct in those areas of the parks when and where the Board deems conduct dangerous or unduly interfering with another's use of the parks, such as but not limited to picnicking areas. The notice prohibiting activity within a specific area shall be conspicuously displayed setting forth which activity, conduct or games are restricted.
- 6.0623 Glass Containers. No glass beverage containers are permitted in any park.
- 6.0624 Bicycle/Pedestrian Trails.
- “Bicycle/Pedestrian Trails” - A bicycle/pedestrian trail shall mean all bicycle/pedestrian trails owned, maintained or designated by the City of Hartford. The use of a designated bicycle/pedestrian trail shall be limited to the following: Pedestrian, including persons walking, jogging, running, roller skating and in-line skating; Human-propelled baby carriages and strollers; Electric personal assistive mobility devices and powered and non-powered wheelchairs operated by a person with a disability as defined by the American With Disabilities Act; human-propelled bicycles, scooters, skateboards and mopeds; electric scooters with plastic wheels; and toy vehicles with plastic wheels that do not exceed a maximum speed of 7mph. No person shall ride or allow any horse, donkey or mule on any bicycle/pedestrian trail.
- “No Motorized Vehicles Allowed” – No motorized vehicles shall be allowed on any bicycle/pedestrian trails and the operation of any motorized vehicle, including but not limited to, automobiles, motorcycles, mini-bikes, 4-wheelers, 3-wheelers, utility vehicles, golf carts, go-carts, snowmobiles and the like are prohibited. Only emergency vehicles and motorized vehicles owned and operated by the City of Hartford and/or its contractors or subcontractors will be allowed to provide service or maintenance.

“Penalties” – Any violation of this ordinance shall be deemed to be an offense and each violation shall be punishable by a fine of two hundred dollars (\$200.00).

*(Amended: Ordinance No. 573, 10-18-2011)*

6.0625 Open Spaces and Parks Reserve Fund.

1. In addition to any fees, charges or expenses authorized by the City Council of Hartford, South Dakota, there is hereby imposed an additional surcharge of ½ of 1 % of the valuation of the building permit.
2. Monies collected pursuant to Section 1 of this ordinance shall be deposited into the Open Spaces and Special Parks Reserve Fund and said monies deposited in this fund may only be expended to establish, maintain, or expand public parks within the City of Hartford.
1. This ordinance shall apply to all building permits with a valuation of \$2,000.00 or higher applied for from and after the effective date of this ordinance as required by South Dakota Law.

*(Amended: Ordinance No. 471, 8-17-2004)*

**CHAPTER 6.07 - MAILBOXES**

6.0701 Definitions.

For use in this Chapter, the following terms are defined:

1. “Curbside Mailbox” means a mailbox consisting of a lightweight sheet metal or plastic box meeting the specifications of the United States Postal Service (USPS), which is erected at the edge of a roadway or curbside of a street and is mounted on a breakaway support post, and is intended or used for the collection of mail and is to be served by a mail carrier from a vehicle.
2. “Breakaway Support” means a supporting post which shall be no larger than a 4” x 4” wood post or a metal post with a strength no greater than a 2” diameter schedule 40 steel pipe and which is buried no more than 24” deep. Such a support post shall not be set in concrete unless specifically designed as a breakaway support system.
3. “Custom-Build Mailbox” or “Non-Standard” means a mailbox erected at the edge of a roadway or curbside of a street constructed using materials that do not meet the definition of a “Curbside Mailbox” and “Breakaway Support”.
4. “Cluster-style mailbox” means a style whereby mailboxes, meeting the specifications of the United States Postal Service (USPS), are assembled and grouped together on a single area of land so that they are regarded as one unit. Cluster-style mailboxes must be approved by both the City and the USPS.
5. “Clear-Zone” means an unobstructed flat area adjacent to the traveled portion of a roadway that is used for the recovery of errant vehicles.

6.0702 Visibility and Obstruction.

All Mailboxes must be erected:

1. Away from the intersection of any street in order to prevent obstruction of free and clear vision; and
2. Away from any location where, by reason of the position, shape or color, it may interfere with or obstruct the view of or be confused with any authorized traffic control device.

6.0703 Curbside Mailbox Requirements.

All newly constructed or replaced curbside mailboxes shall comply with the following installation requirements:

1. The bottom of the mailbox shall be 42” from the top of the curb. On streets without curbs, the bottom of the mailbox shall be 48” from the street surface, as defined by USPS installation requirements.
2. Lateral placement of the mailbox shall be 6” to 8” from the face of the curb, as defined by USPS installation requirements.
3. The mailbox support post shall be of a “breakaway support” design.
4. The post-to-box attachment shall be of sufficient strength to prevent the box from separating from the post if a vehicle strikes the post.
5. Property owner shall be responsible for the maintenance of the curbside mailbox.

6.0704 Custom-Built or Non-Standard Mailbox Requirements.

All newly constructed or replaced custom-built or non-standard mailboxes shall comply with the following installation requirements:

1. The structure supporting the mailbox shall be at least 8” from the back of curb. No part of the custom-built or non-standard mailbox, except for the mailbox, shall be closer than 8” to the back of the curb. The mailbox shall be installed within the structure at a height of 48” from the street surface and the lateral placement shall not exceed 8” from the back of the curb.
2. The mailbox structure shall not exceed the dimensions of 3 feet in width, 3 feet in depth, and 5 feet in height. It shall not be permanently attached to the footing or the concrete pad it is placed upon.
3. Property owner shall be responsible for the maintenance of the custom-built or non-standard mailbox. The City of Hartford will not be responsible for damage done to any custom-built or non-standard mailboxes per City of Hartford Policy 2011-1.

6.0705 Cluster-Style Mailbox Requirements.

All newly constructed or replaced cluster-style mailboxes shall comply with the following installation requirements:

1. Cluster-style mailboxes serving housing developments situated on any public street or roadway shall be located between the sidewalk and curb, outside of the three-foot (3') clear zone.
2. Cluster-style mailboxes shall not be installed anywhere within a cul-de-sac or a circular offset cul-de-sac bulb.
3. Cluster-style boxes shall be located on property lines on the "No Parking" side of the street
4. Cluster-style mailboxes shall have a 4' concrete access from the public street and the public sidewalk. The location of the cluster-style mailbox is to be approved by the City of Hartford and the USPS.
5. The cost of installation, including but not limited to box units and concrete pad, shall be borne by the developer and subsequent maintenance shall be carried out by the USPS or assessed to the properties served by the cluster-style mailboxes.
6. No driveway or street access shall be constructed within 5 feet of a cluster-style mailbox.

6.0706 General Requirements for New Mailboxes. All cost for materials and labor for the erection of any mailbox will be paid by the developer or resident. All mailbox types and placement must be approved by the USPS and the City of Hartford.

6.0707 Removal of Mailboxes. The City of Hartford may, at its discretion, remove or notify to remove any mailbox that is not in compliance with the requirements stated in this ordinance. Before doing so, the City will provide prior notice to the affected resident(s).

6.0708 Replacement. The City of Hartford will not be responsible or liable for any damaged mailboxes of any type constructed within the right-of-way except as defined in Hartford City Policy 2011-1.

*(Amended: Ordinance No. 586, 4-2-2013)*

## TITLE 7 – TRAFFIC REGULATIONS

[TRAFFIC REGULATION SDCL 9-31]

Chapter 7.01 – General Provisions

Chapter 7.02 – Operation of Vehicles

Chapter 7.03 – Speed Restrictions

Chapter 7.04 – Parking, Stopping

Chapter 7.05 – Trucks

Chapter 7.06 – Vehicle Equipment

Chapter 7.07 – Snowmobiles

Chapter 7.08 – Miscellaneous Provisions

Chapter 7.09 – Golf Cart Permit

### CHAPTER 7.01 – GENERAL PROVISIONS

7.0101 Definitions. When in this Title the following terms are used they shall have the meanings respectively ascribed to them in this Section.

- A. "Authorized Emergency Vehicle" – Vehicles of any fire department, police vehicles, and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the City Council.
- B. "Law Enforcement Officer" – Any police officer or other law enforcement personnel approved by the City Council to enforce the provisions of the ordinances of the City.
- C. "Motor Vehicle" – Every vehicle, as herein defined, which is self-propelled.
- D. "Operator" – Any person who is in actual physical control of a vehicle.
- E. "Parking" – The standing of a vehicle whether attended or unattended, upon a roadway or street otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to traffic regulations or traffic signs or signals.
- F. "Vehicle" – Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

7.0102 Duty to Enforce. It shall be the duty of law enforcement officers to enforce these traffic regulations and all of the state vehicle laws applicable to street traffic in the City, to make arrests for traffic violations, to investigate accidents and to cooperate with other officials in the administration of these traffic laws. (SDCL 9-29-19)

7.0103 Directing Traffic. Law enforcement officers shall direct traffic in conformance with traffic laws and ordinances, provided that in the event of a fire or other emergency or to expedite traffic or safeguard pedestrians, Fire Department Personnel may direct traffic, as conditions may require. (SDCL 9-29-19)

- 7.0104 Obedience to Enforcement. No person shall refuse or fail to comply with any lawful order, signal or direction of any law enforcement officer, or refuse to submit to any lawful inspection or fail to comply with the provisions or requirements of any warning ticket issued under this Title. (SDCL 9-29-19)
- 7.0105 Exemptions to Authorized Emergency Vehicles. The provisions of this Title regulating the movement, parking and standing of vehicles shall not apply to authorized emergency vehicles while the operator of such vehicle is operating the same in an emergency in the necessary performance of public duties. This exemption shall not, however, exempt the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.
- 7.0106 Application to Workers and Equipment. The provisions of this Title shall not apply to persons, motor vehicles and other equipment while actually engaged in work upon the surface of a street, but shall apply to such persons and vehicles when traveling to or from such work; provided however, such persons and vehicles shall not indiscriminately block traffic, but shall allow reasonable room on the traveled portion of the street for other vehicles to pass.
- 7.0107 Authority to Install Traffic Control Devices. The City Council shall place and maintain traffic control signs, signals and devices when and as required under this Title to make effective provisions of said Title, and may place and maintain such additional traffic control devices as may be necessary to regulate traffic. (SDCL 32-14-5)
- 7.0108 Obedience to Traffic Control Devices. The operator of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed or held in accordance with the provisions of this Title unless otherwise directed by a law enforcement officer subject to the exceptions granted the driver of an authorized emergency vehicle in this Chapter.
- 7.0109 Parking, Storage, or Use of Vehicles, Travel Trailers and Motorhomes.

Vehicles shall not be used for living, sleeping or housekeeping purposes when parked or stored on a residential district lot, any commercial lot, any street, or any location not approved by the City of Hartford or its Zoning Administrator.

Travel Trailers or Motorhomes may be used for living, sleeping or housekeeping purposes when parked or stored on any public property, including streets and alleys, within the City of Hartford for a maximum period of 168 hours from April 15<sup>th</sup> until October 15<sup>th</sup> of each calendar year.

Travel Trailers or Motorhomes may not be parked or stored on any public property, including streets and alleys, not approved by the City of Hartford or its Zoning Administrator for any period of time from October 16<sup>th</sup> through April 14<sup>th</sup> of each calendar year.

Travel Trailers or Motorhomes that are capable of supplying electrical, water and sewer may be used for living, sleeping or housekeeping purposes when parked or stored on any residential or commercial lot with prior approval of the property owner for a period of 14 days.

Definitions pertaining to this ordinance.

- a. “Vehicles” shall be defined as cars, trucks, vans and semi cabs.

- b. “Travel Trailer” shall be defined as a vehicular portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational and vacation uses and permanently identified as “a travel trailer” by the manufacturer of the trailer.
- c. “Motorhome” (including converted housecar/bus) shall be defined as a vehicle designed to provide temporary living quarters for recreational, camping or travel use, built on or permanently attached to a self-propelled motor vehicle- chassis, cab or van that is an integral part of the completed vehicle.

*(Amended: Ordinance No. 551, 4-6-2010)*

## **CHAPTER 7.02 – OPERATION OF VEHICLES**

- 7.0201 Driver’s License Required. It shall be unlawful for any person to drive or operate upon any of the streets or highways within the City any motor vehicle without first having secured and having in his possession a valid license to do so. (SDCL 32-12-22)
- 7.0202 License Plates. No person shall operate or drive a motor vehicle within the City without having conspicuously displayed thereon number license plates as required by state law, securely fastened and which shall be kept free from mud, dirt or other obstruction so that the numbered license plates shall be clearly legible by other persons upon the highway.
- 7.0203 Drive on Right Side of Street. Upon all streets the operator of a vehicle shall drive the same upon the right half of the street and shall drive a slow-moving vehicle as closely as possible to the right-hand edge or curb of a street unless it is impractical to travel on such side of the street, and except when overtaking and passing another vehicle subject to the limitations applicable to overtaking and passing set forth in this Title. (SDCL 32-26-1)
- 7.0204 Vehicles Shall Not Be Driven on Sidewalk. The operator of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway. (SDCL 32-26-21.1)
- 7.0205 Operation of Vehicles on Approach of Authorized Emergency Vehicle. Upon the approach of any authorized emergency vehicle or vehicles giving audible signal by bell, siren or exhaust whistle, the operator of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb of the street, clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle or vehicles shall have passed, unless otherwise directed by a police officer.
- It shall be unlawful for the driver of any vehicle, other than one on official business, to follow (closer than 500 feet) any fire apparatus, or to park any vehicle within the block where such fire apparatus has stopped to answer a fire alarm. It shall be further unlawful for the driver of any vehicle to drive over any unprotected hose of the Fire Department without the consent of authorized personnel. (SDCL 32-31-7)
- 7.0206 Backing Around Corners or into Intersection Prohibited. It shall be unlawful for the operator of any vehicle to back such vehicle around a corner at an intersection or into an intersection of public streets. (SDCL 32-30-20)
- 7.0207 Reckless Driving. No person shall drive any vehicle upon a street, avenue, or alley carelessly and heedlessly in disregard of the rights or safety of others, or without due caution, and at a



- speed or in a manner so as to endanger or be likely to endanger any person or property. (SDCL 32-24-1)
- 7.0208 Careless Driving. No person shall drive any vehicle carelessly and without due caution, at a speed or in a manner so as to endanger any person or property, not amounting to reckless driving as defined in the previous section. (SDCL 32-24-8)
- 7.0209 Exhibition Driving. No person shall drive any vehicle within the limits of the City in such a manner that creates or causes unnecessary engine noise, tire squeal, skid or slide upon acceleration or stopping; or that simulates a temporary race, or that causes the vehicle to unnecessarily turn abruptly or away. (SDCL 32-24-9)
- 7.0210 Right-of-Way at Intersection. The right-of-way rule as between vehicles at intersections is hereby declared as follows: (SDCL 32-26-13)
- A. The operator of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has fully entered the intersection.
  - B. When two vehicles approach an intersection at approximately the same time, the operator of the vehicle at the left shall yield the right-of-way to the vehicle on the right.
  - C. The operator of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he or she may otherwise have hereunder.
- 7.0211 U-Turn at Intersection. At any intersection where warned by a traffic control sign displaying the words "No U- Turn", it shall be unlawful for the operator of a vehicle to turn such vehicle at the intersection so as to proceed in the opposite direction. (SDCL 32-26-25)
- 7.0212 Right-of-Way, Left Turn. The operator of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said operator, having so yielded and having given a signal when and as required, may make such left turn and the operators of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn. (SDCL 32-26-18)
- 7.0213 Turning Around in Midblock Prohibited. The operator of a vehicle shall not turn such vehicle so as to park in the opposite direction or so as to proceed in the opposite direction except at an intersection. (SDCL 32-26-25)
- 7.0214 Required Condition of Vehicles. Any vehicle having a loud or offensive muffler shall be considered illegal. Any vehicle not equipped with adequate brakes shall be prohibited from operating in the City. Any motor vehicle operated within the City shall be equipped with operable lights and a horn as required by state law. License plates shall be clearly displayed on each end of vehicle, and shall be kept clean and legible. (SDCL 32-15)
- 7.0215 Action Required at Stop Sign. Except when directed to proceed by a police officer or traffic control signal, every operator of a vehicle approaching a stop intersection indicated by a stop sign shall come to a full stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting

roadway before entering the intersection. After having stopped, the operator shall yield the right-of-way to any vehicle which has entered or is approaching the intersection from another highway and shall not proceed into the intersection until certain that such intersecting roadway is free from oncoming traffic which may affect safe passage. (SDCL 32-29-2.1)

- 7.0216 Action Required at Yield Sign. The operator of a vehicle approaching a sign authorized by the City Council bearing the word "Yield" or Yield Right-of-Way" shall in obedience to such sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which such operator is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Said operator having so yielded may proceed and the operators of all other vehicles approaching the intersection shall yield to the vehicle so proceeding. (SDCL 32-29-3)
- 7.0217 Stop Required Before Operator Entering From Alley, Building or Private Road. The operator of a vehicle emerging from an alley, building, private road or driveway within a business or residence district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where said operator has a view of approaching traffic thereon. (SDCL 32-29-2.2)
- 7.0218 Pedestrian's Right-of-Way. The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at the end of a block, except at intersections where the movement of traffic is being regulated by police officers or traffic control signals. Whenever any vehicle has stopped at a marked crosswalk or at any intersection to permit a pedestrian to cross a roadway, it shall be unlawful for the operator of any other vehicle approaching from the rear to overtake and pass such stopped vehicle. (SDCL 32-27-1)
- 7.0219 Safety belt use for front seat passengers.
- A. General Provisions. Except as provided herein, every operator and front seat passenger of a passenger vehicle operated on a public highway in the City of Hartford shall wear a properly adjusted and fastened safety seat belt system, required to be installed in the passenger vehicle when manufactured pursuant to Federal Motor Vehicle Safety Standard Number 208 (49 C.F.R. 571.208) in effect January 1, 1989, at all times when the vehicle is in forward motion. The driver of the passenger vehicle shall secure or cause to be secured a properly adjusted and fastened safety seat belt system on any passenger in the front seat who is at least five years of age but younger than eighteen years of age. Any violation of this section is not a moving traffic offense under the provisions of § 32-12-49.1.
  - B. Definition – "Passenger vehicle." For the purposes of this section, a passenger vehicle is any self-propelled vehicle intended primarily for use and operation on the public highways including passenger cars, station wagons, vans, taxicabs, emergency vehicles, motor homes, trucks, and pickups. The term does not include motorcycles, motor scooters, motor bicycles, motorized bicycles, passenger buses, and school buses. The term also does not include farm tractors and implements of husbandry designed primarily or exclusively for use in agricultural operations.
  - C. Exceptions to required use of safety belts. The provisions of Section 7.0219 do not apply to:

1. Any occupant of a passenger vehicle manufactured before September 1, 1973;
  2. Any occupant of a passenger vehicle who possesses a written statement from a doctor licensed under South Dakota Compiled Laws Chapter 36-4 or 36-5 that the individual is unable for medical reasons to wear a safety belt system;
  3. Any occupant of a vehicle not equipped with a safety seat belt system because federal law does not require that vehicle to be so equipped; or
  4. Any rural carrier of the United States postal service while serving his rural postal route or any person delivering newspapers or periodicals on an assigned home delivery route.
- D. Failure to comply – Evidence. Failure to comply with the provisions of this section does not constitute contributory negligence, comparative negligence or assumption of the risk. Failure to comply with the provisions of this chapter may not be introduced as evidence in any criminal litigation other than a prosecution under this chapter or in any civil litigation on the issue of injuries or on the issue of mitigation of damages.
- E. Use of system required. Any operator of any passenger vehicle transporting a child under five years of age on the streets and highways of the City of Hartford shall properly secure the child in a child passenger restraint system according to its manufacturer’s instructions. The child passenger restraint system shall meet the South Dakota Department of Transportation motor vehicle safety standard 213 as in effect January 1, 1981. The requirements of this section are met if the child is under five years of age and is at least forty pounds in weight by securing the child in a seat belt.
- F. Operator to assure that passengers between ages of five and eighteen wear seat belts. Any operator of a passenger vehicle operated on a public street or highway in the City of Hartford transporting a passenger who is at least five and under eighteen years of age shall assure that the passenger is wearing a properly adjusted and fastened safety belt system, required to be installed in the passenger vehicle if manufactured pursuant to Federal Motor Vehicle Safety Standard Number 208 (49 C.F. R. 571.208) in effect January 1, 1989, at all times when the vehicle is in motion.
- G. Certain operators required to wear seat belts. Any operator of any passenger vehicle operated on a public street or highway in the City of Hartford, who is at least fourteen years of age and under eighteen years of age, shall wear a properly adjusted and fastened safety seat belt system, required to be installed in the passenger vehicle if manufactured pursuant to Federal Motor Vehicle Safety Standard Number 208 (49 C.F.R. 571.208) in effect January 1, 1989, at all times when the vehicle is in motion.
- H. Passengers between ages fourteen and eighteen required to wear seat belts. Any passenger of any passenger vehicle operated on a public street or highway in the City of Hartford, who is at last fourteen years of age and under eighteen years of age, shall wear a properly adjusted and fastened safety seat belt system, required to be installed in the passenger vehicle if manufactured pursuant to Federal Motor Vehicle Safety Standard Number 208 (49 C.F.R. 571.208) in effect January 1, 1989, at all times when the vehicle is in motion.
- I. Exemptions. The provisions of this ordinance do not apply in passenger cars manufactured before 1966 that have not been equipped with seat belts.

- J. Violation not considered negligence or assumption of risk – Evidence inadmissible. Failure to comply with the provisions of this ordinance is not considered a contributory negligence, comparative negligence or assumption of the risk and is not admissible as evidence in the trial of any civil action.

*(Amended: Ordinance No. 477, 12-21-2004)*

### **CHAPTER 7.03 – SPEED RESTRICTIONS**

7.0301 General Restrictions. It shall be unlawful for any person to drive a vehicle on a street or highway at a speed greater than is reasonable and prudent under the conditions then existing or at a speed in excess of those fixed by this Chapter. (SDCL 32-25-16)

7.0302 Speed Zones – Establishment.

- A. The City Council is authorized and empowered to determine and establish upon any public street in the City or any part thereof, limited speed zones which speed limits shall constitute the maximum speed at which any person may drive or operate any vehicle upon such zones, street or highway or portion thereof so zoned, and on which highway the maximum speed permissible in the zone has been conspicuously posted by signs authorized by the Council.
- B. The beginning of such limited speed zones shall be indicated by signs showing the speed limits.

7.0303 Maximum Limits Generally. Except as may otherwise be provided by the City Council, it shall be unlawful for any person to operate or drive any vehicle at a rate of speed greater than the following:

- A. Twenty (20) miles per hour within any residential district unless otherwise stated below or posted.
- B. Fifteen (15) miles per hour on Main Street from South Street to the north side of Century Square and Twenty (20) miles per hour within any other business district.
- C. Fifteen (15) miles per hour on Vandemark Avenue from Second Street to David Roe Drive.
- D. Fifteen (15) miles per hour on David Roe Drive.
- E. Thirty (30) miles per hour on Vandemark Avenue 350 feet north from Par Tree Drive.
- F. Thirty (30) miles per hour on Mickelson Road.
- G. Forty (40) miles per hour on Western Avenue north of Mickelson Road.
- H. Forty-Five (45) miles per hour on Western Avenue south of Mickelson Road.
- I. The appropriate legal maximums established by state law on all other county or state road or highway within the City shall be effective.

*(Amended: Ordinance No. 507, 8-15-2006)*

*(Amended: Ordinance No. 617, 8-19-2014)*

*(Amended: Ordinance No. 672, 6-18-2019)*

7.0304 School Zones. It shall be unlawful for any person to operate or drive any vehicle at a speed greater than fifteen (15) miles per hour when passing a school during the recess or while children are going to or leaving school during opening or closing hours for such school.

#### **CHAPTER 7.04 – PARKING, STOPPING**

7.0401 Obstruction of Traffic. No vehicle shall be operated or allowed to remain upon any street under the jurisdiction of the City in such a manner as to form a traffic obstruction. Whenever any police officer finds a vehicle which constitutes a traffic obstruction, such officer shall be authorized to remove such vehicle by towing, if necessary, at the owner's expense, with no liability to the City. (SDCL 32-30-1,2,3)

7.0402 Prohibited Parking After Snowfall. In the event of the forecast or actual accumulation of new snowfall or blowing snow of two (2) or more inches of snow, it shall be unlawful for the owner of a vehicle, trailer, camper, boat, or other equipment to remain parked on any public street or alley or right-of-way until they have been plowed.

*(Amended: Ordinance No. 603, 3-18-2014)*

*(Amended: Ordinance No. 675, 8-20-2019)*

7.0403 Ticketing and Towing Vehicles. Any authorized law enforcement official shall be authorized to ticket and tow away, or have removed and towed away and stored by any commercial towing service, any car, trailer, camper, boat, vehicle, or any other equipment illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant, or obstructs or may obstruct the movement of any emergency or snow removal vehicle, or in any way is in violation with the provisions of this Chapter. The owner of any car, trailer, camper, boat, vehicle parked in violation of this chapter or of a traffic or snow removal ordinance which is removed from a street or public parking facility by law enforcement and placed in storage, shall pay the charge for towing and storage of the vehicle so removed in addition to any fines and penalties which may be imposed for the violation.

*(Amended: Ordinance No. 743, 6-20-2023)*

7.0404 Abandoned Vehicles. The abandonment of a motor vehicles or other vehicle or any part thereof on any street in the City shall be subject to action and penalties as provided for in this Title and under Chapter 3.0103. The abandonment of a motor vehicle or other vehicle or any part thereof on private or public property, other than a street, in view of the general public, anywhere in the City shall be prohibited except as specifically allowed under Chapter 3.0103. A motor vehicle or other vehicle or any part thereof so abandoned on private property may be authorized for removal by or upon the order of the City Council after a waiting period of seven (7) days after notice is given to the property owner(s). (SDCL 32-30-12.1)

7.0405 Towing Costs. When a vehicle is removed from either public or private property as authorized by order of the City Council, the owner of the vehicle shall be responsible for all towing costs in addition to the fees provided in Section 7.0403 hereof. In addition, the City shall not be liable for any damages to property or persons incurred as a result of such towing or storage.

- 7.0406 Parking Prohibited in Certain Places. At any time it shall be unlawful to permit any vehicle to stop, stand, or park in any of the following places, except to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or traffic control device: (SDCL 32-30-6,6.1,6.2)
- A. Within an intersection or within twenty (20) feet from the end of the corner radius of an intersection.
  - B. In a crosswalk.
  - C. Within fifteen (15) feet of a fire hydrant.
  - D. At any place where the vehicle would block the use of a driveway or alleyway.
  - E. Within twenty (20) feet of the driveway entrance of a fire station and on the side of the street opposite the entrance to any such station within one hundred (100) feet of such entrance.
  - F. On any sidewalk.
  - G. At any place where the vehicle would block the use of a sidewalk.
  - H. In any portion of a street so designated as a fire lane.
  - I. In any portion of a street so designated as a traffic lane.
  - L. At any place where official signs prohibit parking.
  - M. Alongside any curb painted yellow by the municipality.

*(Amended: Ordinance No. 616, 8-19-2014)*

- 7.0407 General Parking Provisions. No vehicle shall be parked with the left side of such vehicle next to the curb, except on one-way streets, or opposite to the flow of traffic. It shall be unlawful to park any vehicle upon any street for the purpose of displaying it for sale, or to park any vehicle upon any business street from which vehicle merchandise is peddled, unless authorized by the City Council. It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property, or on any public property without the consent of the appropriate governmental agency. (SDCL 32-30-6,6.1,6.2)
- 7.0408 No Parking Areas. The City Council shall cause signs to be posted in all areas where parking is limited or prohibited, indicating such limitations or prohibitions, except that yellow curb painting may be used to indicate "No Parking" in certain street areas. (SDCL 9-31-1)
- 7.0409 Handicapped Parking Areas. Parking in those areas so designated as handicapped parking areas by signs and pavement striping shall be restricted to those vehicles identified, by window sticker and/or license plate, as being operated by handicapped drivers. Any person without such identification on his or her vehicle who parks in a handicapped parking area shall be guilty of a misdemeanor. (SDCL 32-30-11.1, 11.2, 11.3, 11.4, 11.6)

7.0410 Double Parking. It shall be unlawful for a vehicle to be double parked. For the purposes of this ordinance, the term "double parked" shall mean that situation where one vehicle is parked so as to occupy two designated parking places. (SDCL 32-30-6.1)

7.0411 On-Street Parking of commercial vehicles, trucks, trailers or materials prohibited.

a. Definitions.

1. Commercial vehicle means any vehicle which is adapted, designed, equipped or used to perform a specific commercial function and which does not meet the definition of personal passenger vehicle as defined herein.
2. Personal passenger vehicle means any car, pickup truck or van which is designed for and facilitates personal and passenger travel and has not been externally altered with features not customary to personal usage.

b. Prohibitions. Parking and storage of commercial vehicles or materials upon city streets is prohibited as follows:

1. It shall be unlawful for any person or business to park, store, leave or permit the parking, storing or leaving of any commercial vehicle or unlicensed construction vehicle, equipment or materials not stored or transported on a licensed trailer upon any city street or residential property unless it conforms to the city's zoning regulations for off-street parking.

c. Exceptions. The provisions of this section shall not apply to the following:

1. Emergency vehicles.
2. Personal passenger vehicles.
3. Vehicles that are disabled, provided that they are not left on public rights-of-way longer than 24 hours.
4. Light delivery trucks delivering goods from place to place.
5. Garbage trucks in the site-to-site collection of refuse.
6. Vehicles in the process of loading or unloading.
7. Vehicles, immobile equipment, or roll-off dumpsters or materials parked in connection with a construction site for longer than 24 hours which have obtained written approval from the City Administrator and are in compliance with rules and regulations given by the City Administrator.
8. Vehicles parked in connection with a construction site, provided
9. Vehicles or equipment which are properly signed and parked temporarily in connection with the performance of a construction or maintenance service to property on or under the city right-of-way.

10. Vehicles in connection with, and in aid of, the performance of a service to or on a property in the block in which such vehicle is parked.

11. A commercial vehicle not exceeding a combined maximum length of 50' (truck and trailers) and not exceeding 18,000 pounds licensed weight (truck, trailers and equipment) parked in a private driveway or on a public street, except the parking of solid waste vehicles, dump trucks, cement-mixer trucks, wreckers or similar such vehicles or equipment.

*(Amended: Ordinance No. 449, 11-18-2003; Ordinance No. 580, 9-18-2012; Ordinance No. 611, 6-17-2014; Ordinance No. 622, 8-18-2015)*

## **CHAPTER 7.05 – TRUCKS**

7.0501 Definitions. The following word "truck" shall mean and include truck, trailer and semi-trailer, tractor and farm wagon.

7.0502 Truck Routes. The City Council, by resolution, may designate streets and highways within the City as truck routes. Said truck routes shall be posted accordingly.

7.0503 Operation of Trucks. A truck may not operate on any city street or highway other than a designated truck route unless otherwise permitted by this article.

7.0504 Detours. Trucks may operate on any officially established detour of a truck route or street unless such detours are posted prohibiting such operation by trucks.

7.0505 Load Limits.

A. Trucks may operate on any street or highway as long as the gross vehicle weight does not exceed eighteen thousand (18,000) pounds, and/or six thousand (6,000) pounds per axle, and six hundred (600) pounds per tire inch width.

B. Trucks whose gross weight is more than eighteen thousand (18,000) pounds and up to a total gross weight of eighty thousand (80,000) pounds and/or six thousand (6,000) pounds per axle, may operate only on designated truck routes.

7.0506 Police Authority. Any law enforcement officer has the authority to require any person driving or in control of any truck to proceed to any public or private scale for the purpose of weighing and determining whether such truck is in violation of this article or any other Code provision. Such authorities may issue a citation to any motor vehicle that exceeds the limits imposed by this article. Such authorities may detain such vehicles until the weight of such vehicles meets the limits imposed by this article.

7.0507 Exceptions to use of truck routes. There shall be the following exceptions to the use of truck routes:

A. Temporary Permits. The Public Works Superintendent has the authority, for cause or upon request, to issue temporary permits for trucks to operate over routes not established as truck routes by the City Council, or to otherwise deviate from the provisions of this article. Such action by the Public Works Superintendent shall be subject to review, modification or cancellation by the City Council.



- B. Deviation Allowed. A truck arriving at the end of any designated truck route may be driven over the most direct course to the nearest truck route which extends in the same general direction. A truck may drive on other streets when it is necessary to get to a designation for the purpose of loading or unloading commodities, or for the purpose of towing a disabled or damaged motor vehicle to or from public or private property, and then only by such deviation from the nearest truck route as is reasonably necessary.
- C. Exceptions. The provisions of the ordinance shall not apply to the operation of emergency vehicles of law enforcement, fire department or health department, nor to any public utility vehicles engaged in the performance of emergency duties, nor to any vehicle owned by or performing work for the United States, State of South Dakota, City of Hartford or political subdivision.

7.0508 Street Repair or Construction. Any contractor or material men, while engaged in the repair, maintenance or construction of city streets, utilities or any other authorized City activity is permitted as long as these vehicles only use the city streets within the immediate work area and use the shortest route from the truck route to the work area.

## **CHAPTER 7.06 – VEHICLE EQUIPMENT**

7.0601 Warning Tickets. Any authorized law enforcement officer(s) upon reasonable belief that a vehicle is being operated in violation of any provision of this Title or applicable state law or is in such unsafe condition as to endanger any person, may require the driver of the vehicle to stop and submit to inspection of the vehicle and its equipment, license plates and registration cards and is hereby authorized to issue a warning ticket to any driver whose vehicle is in such violation. Such warning ticket shall clearly designate the provisions, which are being violated and shall provide for notification to law enforcement officials when such violation is corrected by the time specified on the warning ticket.

7.0602 Lights Required. A motor vehicle in motion during the period from half an hour after sunset to half an hour before sunrise shall display at least two (2) lighted lamps on the front and one on the rear of such motor vehicle, such lamps to conform to the state law; provided that a motorcycle or a motor bicycle shall be required to display but one (1) lighted lamp in front and one (1) in the rear.

7.0603 Headlights Dimmed. No person shall use headlights upon any vehicle on any street unless the same are dimmed in such a way as to prevent the light being dazzling or blinding to persons using the streets.

7.0604 Warning Devices. Every motor vehicle operated or driven in the City shall be provided with a suitable or adequate horn or other device for signaling which shall be in good working order at all times such vehicle is operated on the streets of the municipality.

7.0605 Emergency Vehicle Warning Device. Every law enforcement and Fire Department vehicle and every ambulance used for emergency calls shall be equipped with lights and siren. It shall be unlawful for any other vehicle to be equipped with such equipment.

7.0606 Red and Blue Lights. Except as to law enforcement or Fire Department vehicles or tow trucks or wreckers operating under such circumstances as may be provided by law, any person who drives or moves any vehicle in the City with any red or blue light thereon visible from directly in front or to the sides thereof shall be guilty of a misdemeanor.

- 7.0607 Brakes. Every motor vehicle shall be provided with foot pedal brakes in good working order and sufficient to control such motor vehicle at all times when same is in use.
- 7.0608 Mufflers. No person shall drive a motor vehicle on any street within the City unless such vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. It shall be unlawful for any person to use a muffler cutout on any motor vehicle within the City.
- 7.0609 Projecting Loads. No person shall drive any vehicle upon any street with any load or part of a load projecting more than four (4) feet beyond the rear end or front ends or more than two (2) feet beyond the sides of the body, or carrying part of such vehicles unless there be attached to the extreme ends and sides of such projecting load some warning sign or signal plainly discernible to other drivers and clearly indicating the projecting parts of such load.
- 7.0610 Weight and Size of Vehicle and Loads. No person shall drive or operate any motor vehicle upon any street the gross weight of which including the load or the size of which do not comply with the requirements of the state law governing such vehicle.
- 7.0611 Windshields Must be Unobstructed. It shall be unlawful for any person to drive any motor vehicle upon any street with the front windshield obstructed or with any signs, posters or other non-transparent material upon the front windshield side wings, sides or rear windows of such motor vehicle other than a certificate or other paper required to be so displaced by law or other temporary driving instruction placed thereon by the manufacture.
- 7.0612 Protection of Load. No motor vehicle shall be driven or moved on any street unless such vehicle is so constructed or loaded as to prevent any of its load from dripping, sifting, leaking or otherwise escaping therefrom except that sand may be dropped for the purpose of securing tractions or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway. No person shall operate on any street any vehicle with any load unless said load and any covering is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.
- 7.0613 Loud Noises Prohibited. No person shall operate a vehicle in such a manner as to create loud unnecessary or unusual noise likely to disturb or interfere with the peace and quiet of any other person.
- 7.0614 Prohibit Use of Dynamic Braking Devices. Unmuffled dynamic engine braking is prohibited except for the aversion of imminent danger. Dynamic engine braking means the use of a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes. Each violation of this ordinance shall be punishable by a fine of two hundred dollars (\$200.00).

*(Amended: Ordinance No. 562, 12-7-2010)*

*(Amended: Ordinance No. 660, 12-4-2018)*

## **CHAPTER 7.07 – SNOWMOBILES**

- 7.0701 Definitions. The following words and phrases, when used in this Chapter, shall have the meanings respectively ascribed to them:

- A. Operate shall mean to control the operation of a snowmobile.
  - B. Owner shall mean any person, other than a lienholder, having the property in or title to a snowmobile and entitled to the use or possession thereof.
  - C. Private property shall mean and include any and all real property, or land within the City, which has not been opened or dedicated for public use or as a public thoroughfare.
  - D. Snowmobile shall mean any engine-driven vehicle of a type, which utilizes sled type runners, wheels or skis with an endless belt tread or similar means of contact with the surface which it is operated.
- 7.0702 Operators License Required. No driver shall operate a snowmobile on a public street in the City without having in his or her possession a valid driver's license.
- 7.0703 Traffic Laws Applicable. The operator of a snowmobile is required to obey the same traffic laws of the state and ordinances of the City, including street and road signs, as the operators of all other motorized vehicles are required to obey.
- 7.0704 Hours of Operation. No person shall operate a snowmobile on private property of their own or another or upon public highways, streets and alleys within the City between the hours of 11:00 p.m. and 7:00 a.m. the following day.
- 7.0705 Permission of Property Owner Required for Operation. No person shall operate a snowmobile on private property of another without the express permission to do so by the owner of occupant of such property.
- 7.0706 Operation on Public Ground and Streets Prohibited. No person shall operate a snowmobile on any public school grounds, public sidewalks, park property, park, roads, playgrounds and recreational areas within the City. Snowmobiles may be operated over snow-covered highways, streets and alleys within the City limits but only for emergency use as defined in 7.0711 or when the operator must travel upon such for purposes of leaving the City and/or when returning to his residence from outside the City. The operator when using any public street, highway or alley in accordance with the above restrictions, shall use the most expeditious and direct route.
- 7.0707 Crossing Streets at Right Angles. Persons operating snowmobiles are permitted to cross streets at right angles but only may do so after stopping and fielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach.
- 7.0708 Speed. No person shall operate a snowmobile at a speed greater than is reasonable or proper, under all existing circumstances.
- 7.0709 Careless, Reckless or Negligent Operation Prohibited. No person shall operate a snowmobile in a careless, reckless or negligent manner so as to be likely to endanger the person or property of another or to cause injury or damage thereto.
- 7.0710 Loud Noises Prohibited. No person shall operate a snowmobile in such manner as to create any loud unnecessary or unusual noise likely to disturb or interfere with the peace and quiet of any other person.

- 7.0711 Emergency Use.
- A. The City Council may declare that road or weather conditions are such as to constitute emergency travel conditions authorizing use of a snowmobile.
  - B. A snowmobile may also be used when such vehicle is necessary as an emergency vehicle to protect the health, safety and welfare of any individual.
  - C. The operator of a snowmobile under the emergency conditions shall be subject to all existing traffic ordinances of the City and traffic laws of the State.
- 7.0712 Equipment Required. All snowmobiles operated in the City shall have the following equipment:
- A. Mufflers which are properly attached and which reduce the noise of operations of the vehicle to the minimum noise necessary for operating the vehicles and no person shall use a muffler cutout, bypass or similar device on such vehicle.
  - B. Adequate brakes in good working condition.
  - C. A safety or "deadman" throttle in operating condition such being a device which when pressure is removed from the accelerator the throttle causes the motor to disengage from the driving tract.
  - D. At least one headlight and one tail light in good working condition.
  - E. A brightly colored vehicle identification flag hung or suspended at least six (6) feet high and is firmly attached to the snowmobile.
- 7.0713 Unattended Vehicles. No owner or operator of a snowmobile shall leave or allow the snowmobile to be or remain unattended on public property or streets while the motor is running, or where the keys for starting the vehicle are left in the ignition.
- 7.0714 Sidewalk Operation Prohibited. No person shall operate a snowmobile upon any public sidewalk in the City.
- 7.0715 Operation Under the Influence. The operator of a snowmobile shall be deemed the driver or operator of a motor vehicle and be subject to South Dakota law relating to driving while under the Influence of intoxicating liquor, drugs or otherwise therein provided and such operator shall be punishable for any violation of such laws.
- 7.0716 Towing. No person operating a snowmobile shall tow any person or object behind such snowmobile except when such person or object is situated upon a conveyance, which is attached to such snowmobile by means of a rigid hitch or tow bar.
- 7.0717 Exception. Notwithstanding the provisions of any other Section, any governmental official in charge of public school ground, park property, playgrounds, public golf courses or parking lots shall have authority to supervise and regulate events or programs conducted thereon or to designate areas under his charge and supervision as recreation areas that he shall deem available for use of snowmobiles and the hours of such use.

## CHAPTER 7.08 – MISCELLANEOUS PROVISIONS

- 7.0801 Clinging to Moving Vehicles. No person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any toy vehicles shall cling to or attach himself or such vehicle to any other moving vehicle upon any street.
- 7.0802 Riding on Outside of Vehicles. No person shall ride on any vehicle upon any portion thereof not designated or intended for the use of passengers. This provision shall not apply to persons riding within truck bodies in space intended for merchandise.
- 7.0803 Tampering with Vehicles. Any person who shall tamper with the motor vehicle of another, with intent to injure the same or cause inconvenience to the owner thereof, or who shall take and operate the motor vehicle of another without the consent of the owner or person lawfully in charge thereof, under such circumstances as not to constitute larceny, shall be guilty of a misdemeanor.
- 7.0804 Immediate Notice of Accident. The operator of a vehicle involved in an accident resulting in injury to or death of any person, or resulting in any property damage, shall immediately by the quickest means of communication give notice of such accident to a law enforcement officer. (SDCL 32-34-7)
- 7.0805 When Driver Unable to Report. An accident report shall not be required from any person who is physically incapable of making such report during the period of such incapacity. Whenever the operator of a vehicle is physically incapable of making such report or is physically incapable of giving an immediate notice of an accident and there is another occupant in the vehicle at the time of the accident capable of doing so, such occupant in the vehicle at the time of accident shall cause to be given the notice not given by the operator. (SDCL 32-34-8,9)
- 7.0806 Duty to Give Information, Render Aid. The operator of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address and the license number of the vehicle he is driving, and shall upon request and if available, exhibit his operator's or chauffeur's license to the person struck or the driver or occupant of or person attending any vehicle collided with, and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person. (SDCL 32-34-3)
- 7.0807 Personal Injury. The operator of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 7.0806. (SDCL 32-34-7)
- 7.0808 Property Damage. The operator of any vehicle involved in an accident, resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of Section 7.0706. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be guilty of a misdemeanor. (SDCL 32-34-6)

7.0809 Unattended Vehicle, Property. The operator of any vehicle which collides with any vehicle or other property which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall attach securely in a conspicuous place in or on the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof. Such driver shall without unnecessary delay notify a law enforcement officer of such accident. (SDCL 32-34-4)

7.0810 Duty Upon Striking Fixtures. The operator of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a street shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's license and shall make report of such accident when and as required in Section 7.0708 or statute. (SDCL 32-34-4)

7.0811 Duty Upon Striking Animal. The operator of any vehicle which collides with any dog or domestic animal causing injury thereto shall stop and attempt to ascertain the owner of such animal and shall notify a law enforcement officer of such accident.

7.0812 Manner of Arrest. Except in cases of driving while intoxicated or under the influence of intoxicating liquor, or any stupefying or exhilarating drug and except in the more serious and aggravated cases of speeding or careless and reckless driving and except when reasonably necessary to secure appearance, a person charged with a violation of this Title by a law enforcement officer need not be arrested in the regular manner, but may first be given an opportunity after notice to appear voluntarily to answer for such traffic violation.

7.0813 Notice to Appear. A person charged with a violation of this Title by notice shall be given notice to appear before the court of competent jurisdiction at the time or within the time stated in such notice, and that in event of failure to do so a warrant will be issued for his arrest.

The notice shall state the name, description and address of the offender, if known, the nature and date of the offense and a description of the vehicle involved in the violation by trade name and license number. The notice shall be signed by the law enforcement officer executing it.

If the person charged with the offense is available, he shall be given an opportunity to sign an agreement to appear to answer the charge at the time and place specified in the notice which form of agreement shall be a part of the notice, and if he shall refuse to sign such agreement then he shall be placed under arrest for the offense in the manner otherwise provided by law.

7.0814 Appearance and Deposit for Fine. A person who has received a notice of traffic violation shall at or within the time specified in such notice, appear before the court of competent jurisdiction to answer to the charge set forth therein according to the procedures of that court.

In cases of non-moving violations and cases of failure to stop at a stop street, sign or signal which are not serious and aggravated cases, the person charged shall appear at the office of the Clerk of Courts and upon making the deposit for fine as authorized by the court and a statement authorizing the Clerk of Courts to enter his plea of guilty to the offense he shall not be required to appear in court.

- 7.0815 Attest on Failure to Appear. Upon the failure of a person to appear in response to a notice of traffic violation he shall be subject to arrest in the manner otherwise provided by law.
- 7.0816 Repair of Vehicle with Reportable Damage Prohibited Unless Required Notice Affixed. The person in charge of any garage or repair shop shall not commence repair on any motor vehicle which shows evidence of having been involved in a reportable accident or struck by any bullet unless the vehicle bears the notice provided for in SDCL 32-34-23.
- 7.0817 Off-road Vehicles; Operation on Highway Prohibited. No person may operate on a public street or highway any off-road vehicle except for crossing from one (1) side of the road to the other. A person may operate an off-road vehicle in a highway ditch if the vehicle is operated as close as possible to the outer edge of the highway right-of-way. However, no person may operate an off-road vehicle except a snowmobile in a highway ditch that is designated as part of the state snowmobile trails system pursuant to SDCL 41-19.

## **CHAPTER 7.09 – GOLF CART PERMIT - APPLICATION**

### 7.0901 Definitions.

- A. “Golf Cart” – A four-wheeled vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on a golf course.
- B. “Driver” – One who is actually engaged in the driving of a golf cart.
- C. “Permit” – No person shall operate or use a golf cart on highways under the jurisdiction of the municipality without having obtained a permit from the municipality and having supplied to the City proof of financial responsibility pursuant to SDCL § 35-35-2 and SDCL § 32-35-64.
- D. “Application” – Every person desiring to obtain a permit to operate a golf cart on highways under the jurisdiction of the municipality shall make an application in writing to the City Finance Office detailing a description of the golf cart proposed to be operated on highways under the jurisdiction of the municipality including the make, model and serial number of the golf cart for which the permit is sought.
- E. “Issuance” – The Finance Office shall grant a yearly permit if satisfied that the applicant has complied with all of the terms and provisions of this chapter and if the evidence submitted in support of the application meets the conditions required for the granting of such permit. A permit decal issued by the City shall be permanently affixed to the rear fender or bumper on each golf cart.
- F. “Transfer” – A permit decal for a golf cart may not be transferred from one golf cart to another. A permit issued for a golf cart that is no longer in use must be surrendered or destroyed. A transfer of the permit from the owner to a new owner may occur only upon review and approval of the City Finance Office.
- G. “Permit Year” – For the purpose of this section a permit year begins February 1 and ends January 31 of the following year.

### 7.0902 Insurance.

Before any golf cart permit is granted permitting the use of golf carts on a highway under the jurisdiction of the municipality, proof of financial responsibility for the future as provided in SDCL § 32-35-2 and complying with SDCL § 32-35-64 must be filed with the City Finance Office in the form of a certificate or policy of insurance issued by a responsible insurer providing liability insurance complying with SDCL § 32-35-2 and SDCL § 32-35-64 for the golf cart to be operated by the applicant or the applicant's designee on highways under the jurisdiction of the municipality.

The policy or certificate shall not be modified or canceled without 30 days actual notice to the City Finance Office.

The policy or certificate of liability insurance required by this section shall be approved by the City Finance Office prior to issuance of the license.

7.0903 Drivers.

No person shall drive a golf cart on a highway under the jurisdiction of this municipality without first obtaining from the State of South Dakota a valid driver's license or learner's permit in compliance with SDCL 32-12-1 through 32-12-116. No person shall be issued a permit to drive a golf cart on a highway under the jurisdiction of this municipality without first obtaining a valid driver's license or learner's permit in compliance with SDCL 32-12-1 through 32-12-116.

Proof of financial responsibility in the future must be located with the driver on the golf cart. Every golf cart owner must comply with SDCL § 32-35-113 which provides:

“Every driver or owner of a motor vehicle shall at all times maintain in force one of the forms of financial responsibility on the motor vehicle by one of the following methods:

- i. Having in force on the motor vehicle an owner's policy of liability insurance as provided in § 32-35-70;
- ii. Having in force a bond as provided in § 32-35-83;
- iii. Having a certificate of deposit of money or securities as provided in § 32-35-87, but in the amount of fifty thousand dollars; or
- iv. Having a certificate of self-insurance, as provided in §§ 32-35-90 and 32-35-91, supplemented by an agreement by the self-insurer that, with respect to accidents occurring while the certificate is in force, he will pay the same amounts that an insurer would have been obligated to pay under an owner's motor vehicle liability policy if it had issued such a policy to said self-insurer

Failure to maintain financial responsibility is a Class 2 misdemeanor.”

and comply with SDCL § 32-35-114 which provides:



“Every person who drives a motor vehicle, required to be registered in this state, if requested by a law enforcement officer as a secondary action when the driver of the vehicle is detained for a suspected violation of Title 32 or some other offense, shall provide evidence of financial responsibility.”

7.0904 Hours or Operation.

Permitted golf carts may operate on highways under the jurisdiction of the City of Hartford from dawn until dusk. Operation of a golf cart from dusk until dawn is not allowed on any highways under the jurisdiction of the city unless the golf cart is equipped with operating head lights and tail lights.

7.0905 Revocation.

Any permit issued under this section may be revoked by the City Finance Office for the violation by licensee of any applicable provisions of this code, state law or city ordinance or for other good cause.

7.0906 Fee.

The fee for a golf cart permit is \$20.00 per year.

7.0907 Operation.

- A. No person may operate a golf cart on a state or county highway except for crossing from one side of the highway to the other. A golf cart may cross the highway at a right angle but only after stopping and yielding right of way to all approaching traffic and crossing as closely as possible to an intersection or approach. The operation of a golf cart on a state or county highway in a manner not permitted by state law is a Class 2 misdemeanor.
- B. A person who has obtained a permit from the City of Hartford may operate a golf cart on highways under the jurisdiction of the City of Hartford except State Highway 38, County Highway 151 and County Highway 149. A permit is not necessary to operate a golf cart that is crossing 9<sup>th</sup> Street or Par Tee Drive.
- C. The number of persons riding in a golf cart is limited to the maximum person capacity identified on the manufacture’s installed placard. If there is no manufacture’s placard or if the golf cart has been modified, the maximum number of persons riding in a golf cart is limited to one person per bucket seat and no more than 3 persons per bench seat.
- D. All persons in a golf cart must remain seated – no standing is allowed while the cart is in motion.
- E. No persons in a golf cart may be carried or sit upon a lap of another person while the vehicle is in motion.

*(Amended: Ordinance No. 689, 8-6-2020)*

7.0908 Penalty.

A violation of this ordinance is punishable by a fine in the amount of \$200.00.

*(Amended: Ordinance No. 560, 8-17-2010; Ordinance No. 630, 8-2-2016)*

## TITLE 8 – WATER AND SEWER

[WATER SUPPLY SYSTEMS SDCL 9-47]

[SEWER SUPPLY SYSTEMS SDCL 9-48]

Chapter 8.01 – General Provisions

Chapter 8.02 – Water Provisions

Chapter 8.03 – Sewer Provisions

Chapter 8.04 – Sewer and Water Rates

### CHAPTER 8.01 – GENERAL PROVISIONS

- 8.0101 Utility Service-Application Required. Any person desiring any utility service furnished by the City, including water or sewer service, shall make application for the same to the City Finance Office. Such application shall contain the applicant's name, address and the uses for which such service is desired. A separate application shall be made for each premise to be served. The applicant shall abide by the rules and regulations established by the city relative to utility service in effect at the time of his application and as they may be revised from time to time in addition to conditions and agreements as the Council shall deem advisable. The applicant shall be required to remit a customer deposit for said service. All fees set by City Council.
- 8.0102 Same-Not Available to Debtors. The City may decline or fail to cease to furnish utility service to any person who may be in debt to the City for any reason, except ad valorem taxes and special assessments.
- 8.0103 Termination of Service. The City shall have the right to disconnect or refuse to connect any municipal utility service for the following reasons: (SDCL 9-47-1)
- A. Failure to meet the applicable provisions of law.
  - B. Violation of the rules and regulations pertaining to utility service.
  - C. Nonpayment of bills.
  - D. Willful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances or otherwise.
  - E. Tampering with any meter, seal, or other equipment controlling or regulating the supply of utility service.
  - F. Theft or diversion and/or use of service without payment therefore.
  - G. Vacancy of premises.

The City shall give the municipal utility service customer at least ten (10) days notice of the termination of municipal utility service. At any time before the date of termination, a customer may dispute the correctness of all or a part of the amount shown on the utility bill or the determination that a violation of this Section has occurred giving rise to termination hereunder.

A customer shall not be entitled to dispute the correctness of all or a part of the amount shown on the municipal utility bill if all or a part of the amount shown were the subject of a previous dispute under this Section.

8.0104 Customer Disputes. The procedure for customer disputes shall be as follows:

- A. Before the date of termination, the customer shall notify the City Finance Officer orally or in writing that he disputes all or a part of the amount shown on the municipal utility bill or the determination that a violation of this Section has occurred giving rights to a termination stating as completely as possible the basis for the dispute.
- B. If the Finance Officer determines that the present dispute is untimely or invalid pursuant to Section 8.0103 above, he shall notify the customer and proceed as if the customer had notified the municipal utility of the dispute.
- C. If the Finance Officer determines that the present dispute is not untimely or invalid pursuant to Section 8.0103 within three (3) days after the receipt of the customer's notice, the Finance Officer shall arrange an informal meeting between the customer and the Finance Officer.
- D. Based upon the municipal utility's records, the customer's allegations and all other relevant materials available to the official, the Finance Officer shall resolve the dispute, attempting to do so in a manner satisfactory to both the municipal utility and the customer.
- E. Within five (5) days after the meeting, the Finance Officer shall mail to the customer a copy of his decision resolving the dispute.
- F. If the decision is unsatisfactory to the customer, within five (5) days of receipt of the decision, the customer may request, in writing, a formal hearing before the Water and Sewer Committee of the City Council.
- G. The formal hearing shall be held within ten (10) days of the receipt of the request.
- H. At the hearing, the municipal utility and the customer shall be entitled to present all evidence that is, in the committee's view, relevant and material to the dispute, be represented by counsel, and examine and cross-examine witnesses. A tape recorded record of the hearing shall be maintained.
- I. Based upon the record established at the hearing, the committee shall, within five (5) days of the completion of the hearing, issue its written decision formally resolving the dispute, which decision shall be final and binding upon the municipal utility and the customer.

Utilization of this dispute procedure shall not relieve a customer of his obligation to timely and completely pay all other undisputed municipal utility charges and the undisputed portions of any amounts subject to the present dispute. Failure to so pay shall subject the customer to termination.

8.0105 Termination After Customer Disputes. Until the date of the Finance Officer's or the Council's decision, whichever is later, the municipal utility shall not terminate the utility service of the customer and shall not issue a notice of termination solely for nonpayment of the disputed amounts. When it is determined that the customer must pay some or all of the disputed amounts,

the utility shall promptly mail to or personally serve upon the customer a notice of termination containing the following:

- A. Amount to be paid or violation under this Section;
- B. Date of notice of termination;
- C. Date of termination which shall be at least five (5) days after notice;
- D. Notice that unless the municipal utility receives complete payment of the amount shown, if any, prior to the date of termination, municipal utility service shall be terminated.

8.0106 Termination Procedures. Except as provided in Section 8.0105 with respect to disputes, all terminations of municipal utility services for violations of Section 8.0103 shall follow these procedures:

- A. If by the payment date shown on the municipal utility bill, complete payment has not been received by the municipal utility, or another violation of Section 8.0103 has occurred, the municipal utility shall mail to, or personally serve upon, the customer a notice of termination at least three (3) days after the payment containing (i) the amount to be paid or a statement of violation of Section 8.0103; (ii) the date of the notice of termination; (iii) the date of termination which shall be at least fifteen (15) days from the notice of termination; (iv) notice that unless the municipal utility receives complete payment of the amount shown, if any, service shall be terminated, or notice that service shall be terminated for another violation of Section 8.0103.
- B. (i) If prior to the date of termination when the termination is for nonpayment; (A) the municipal utility has not received complete payment of the amount shown on the notice of termination; or (B) the customer has not notified the municipal utility that disputes the correctness of all or part of the amount shown on the notice of termination, or (ii) if, prior to the date of termination for other violation of Section 8.0103, the customer has not notified the municipal utility that disputes the violation, then the municipal utility shall terminate municipal utility service provided to the customer on the date of termination.

8.0107 Provisions for Termination of Service. The municipal utility shall terminate service hereunder only during the hours of 9:00 a.m. to 3:00 p.m. Monday through Thursday, except no termination shall be permitted on a legal holiday.

Municipal utility service shall be continued for a single thirty (30) day period upon receipt of a physician's certificate or notice from a public health or social service official that disconnection of municipal utility service will aggravate an existing medical emergency of the customer or another permanent resident of the customer's premises.

The City Finance Officer may agree to the partial payment of at least 1/3 of the balance of the municipal utility bill and the customer's entering into a written agreement to pay the balance within thirty (30) days. Failure to make payments as agreed shall also be grounds for termination of service under the provisions of this Chapter.

8.0108 Service Taps – Extensions. Tapping of any water or sewer main for the purpose of making connection shall be done only by authorized personnel of the City. Distribution or collection mains shall be provided at the discretion of the City Council, in streets, avenues, or alleys

abutting the property to be served. Water and sewer facilities for hookups shall be provided, unless otherwise specified by the Council, to the curb line from the distribution or collection main. Extension of distribution or collection mains shall be only as specified by the Council in its discretion.

Any property owner may petition for a new hookup or connection to any city water and sewer line. The City Council, in its discretion, may allow such connection or hookup provided that the petitioning property owner pays the cost for said hookup or connection from the point it joins the City distribution or collection main for the total frontage to the petitioning property owners' lot line. This shall hereinafter be referred to as the extension line. The City Council may require said extension line to the farthest end of the petitioning property owners' lot line.

Any additional property owners desiring hookups from the extension lines thus paid for by the petitioning property owners shall reimburse the petitioning property owner for their pro rata share of the actual costs as provided herein. The pro rata share of the actual costs shall be determined by multiplying the actual costs by a fraction, the numerator of which is the total front footage of the additional property owner desiring a hookup from the extension line and the denominator of which is the total front footage provided by the extension line which was paid for by the petitioning property owner. Said charge to be paid by the additional property owners desiring hookups shall be payable only for the benefit of the petitioning property owner, and shall not run with the land. The actual costs referred to herein shall be documented by the petitioning property owner by paid receipts filed in the office of the City Finance Officer.

- 8.0109 Hookup Fees. An initial hookup fee shall be paid to the City by all applicants for water service from the connection of their private service to a public water main. The City shall not be responsible for any expense in connection therewith. All hookup fees are set by the City Council and said fees are collectable with issued building permits.

The applicant shall also pay all costs, including piping, fixtures, digging, and appurtenances necessary to produce the connections, as well as the costs of a qualified plumber making the installation. Payments to the City for water and sewer hookups shall be paid at the issuance of building permit or prior to turning on such service. Persons shall give notice of desire to tap any main at least twenty-four (24) hours before the tap is to be made except in an emergency. All new connections for water and sewer service shall be inspected and approved by authorized personnel of the City.

- 8.0110 Extension of Lines. The City may serve water or sewer customers outside the municipal corporate limits solely at the discretion of the Council. The City may not provide water or sewer services outside the municipal boundaries without the persons seeking service entering into a pre-annexation agreement, which the City is not obligated to do. Said water and sewer lines, if approved by the City with a pre-annexation agreement, shall be constructed and maintained by the customer, with all parties connecting onto such lines being regulated and charged connection and other fees as set forth and regulated by the City. The restrictions and limitations set forth in this section shall not apply to other municipalities with whom the City enters into an agreement for wastewater treatment operations either by the City or through a separate entity of which the City is a member.

*(Amended: Ordinance No. 741, 6-1-2023)*

- 8.0111 Private Lines. Private water or sewer mains shall not be installed in the City unless authorized by the City Council. For the purposes of this section, the phrase "private water and sewer mains" shall be construed to include any rural water pipelines, pipes or waterlines.
- 8.0112 Responsibility of Property Owners. Persons served by City water and sewer shall keep all piping, fixtures, stop valves, heaters, and other apparatus for the use of water or sewer (including meters) in good repair and protected from freezing. The property owner shall be responsible for and pay the charges for replacement of any corroded or damaged piping, fixtures, stop valves, heaters, or other apparatus for the use of water or sewer, and for any charges for the repair or replacement of water meters, occasioned by the negligence of the property owner or user, or the freezing, overheating, or other external damage to any water meters. The property owner and/or water user shall place and maintain a brass stop inside the basement of any building where water is to be used at the lowest point practicable on the service pipe entering the building and as close as practicable to the wall through which the pipe enters, and easily accessible so that the water may be turned on or off by the user or occupant.
- 8.0112.a. Owner Responsible for pipes and fixtures. The Water Department will not be responsible for pipes and fixtures. Each owner must at his own expense, keep his service from the point of connection with the City mains to his premises or building, in good working order and he will also be responsible for any damage which said meter may sustain through freezing or hot water backing up through the same and must bear the cost of repairing said meter. The water department will bear the cost of repairing a meter where the same is required due to the wear and tear of ordinary service. No reduction will be made from regular rates because of leaking pipes or fixtures.
- 8.0113 Excavation Permits. For the purposes of water and sewer connections and/or extensions, no person shall make or cause to be made any excavation in or under any street, parking area, sidewalk, alley, or public ground, or remove any earth, soil, paving, gravel, or material therefrom without having first obtained a permit therefore as hereinafter provided.
- Applications for such permit shall be made to the Finance Office, and accompanied by a deposit in such sum as deemed necessary by said committee to insure the replacement and refilling of any such excavation or to cover any damages which may be caused to any street or for replacement of bituminous surfacing.
- Any unused portion of said permit shall be refunded to the applicant upon recommendation and approval of the City Council.
- 8.0114 Excavation Requirements. All excavations required for the installation of water and sewer facilities shall be open trench work or ditch, unless otherwise approved by the City Council. No backfill shall be placed until the work has been inspected, and backfilling on City streets, avenues, or alleys shall be according to approved specifications. Authorized personnel of the City shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the department when the work is ready for final inspection and before underground portions are covered.
- 8.0115 Guarding Excavations. Any person receiving a permit to make excavations in or upon any street, alley, sidewalk or public ground shall, during the progress and continuance of the work, erect and maintain around the same both day and night suitable guards, fences, flares, and signals so as to prevent injury to persons, animals, or vehicles on account of such excavations.

No open trench shall be left open for any more time than considered absolutely necessary or reasonable.

- 8.0116 Liability of City. The City shall not be liable for any damage to the property of any customer of any water and sewer service furnished by the City due to backflow of the sewerage system, failure of water supply, interruption of service or any cause outside the direct control of the City.
- 8.0117 Right of Entry. Any person authorized by the City shall have free access at any time to all premises supplied with any water and sewer service by the City for the purpose of examination in order to protect the utility services from abusive use.
- 8.0118 Damage, Trespass of Equipment. It shall be unlawful for any person, not having authority to do so, to open any water hydrant or fire hydrant or tamper with any water and sewer service furnished by the City to consumers, or to in any other way molest, damage or trespass upon any equipment or premises belonging to the City connected with any such service.
- 8.0119 Razing Permit. No person shall raze or remove any building or structure which is connected to a water or sewer main or disconnect any building or structure from such main without first having obtained a permit therefore from a Public Official.
- 8.0120 Unlawful Use. No person, other than employees of the City, shall be authorized to connect, turn on, turn off or disconnect any water and sewer service offered by the City, or remove, replace or repair any equipment connected to any such service.
- 8.0121 Violations. The City may, in its discretion, notify any person violating any provision of this Title with written notice stating the nature of the violation and providing a reasonable time for the correction thereof, but such notice shall not be necessary for the prosecution of any violators hereof.

Any person, whether receiving such notice or not, violating any provision of this Title shall be liable to the City for any expense, loss, or damage, occasioned the City by reason of such violation. All provisions of this Title shall be subject to applicable state and federal law.

## **CHAPTER 8.02 – WATER PROVISIONS**

[WATER SUPPLY SYSTEMS SDCL 9-47]

- 8.0201 Water Meters. All water services being supplied from the distribution systems of the City shall be provided with a meter of a kind, size and type meeting the approval of the City Council. All meters must be procured from the City or approved by the City and installed under the supervision of parties designated by the City Council. The costs of the meter and installation are to be borne by the owner of the property upon which meter is to be installed.
- 8.0202 Sealing of Water Meters. Upon the installation of meters, the meters shall be sealed both at the register box and couplings with a form of seal designated by the City Council. The seals shall not be broken except upon authority of the City Council or upon authority of its duly authorized agent. The residents of the property upon which meter is installed will be held responsible for the intactness of the seals and a fine will be imposed upon the resident of any property where the seal or seals may be found to be broken.



- 8.0203 Inspection of Meters. Any person authorized by the City Council to read water meters or make inspections shall be allowed free access at all reasonable hours to any building or premises where water is used. If such persons are not allowed such access, the City, in its discretion, may estimate the water use, shut off the water, make additional charges, or take other action not inconsistent with the law.
- 8.0204 Hookup Fees. An initial hookup fee shall be paid to the City by all applicants for water service from the connection of their private service to a public water main. The City shall not be responsible for any expense in connection therewith. All hookup fees are set by the City Council and said fees are payable at the time a building permit is issued.
- 8.0205 Estimate of Water Charges. If a meter fails to register for any cause, the amount charged for water during such period shall be estimated by the Finance Office, such estimate to be based on the average amount registered during a like period.
- 8.0206 Water Lines How Laid. All service lines shall be at least six (6) feet below the established grade of the street, avenue, or alley in which they shall be laid, and in all places at least six (6) feet below the surface of the ground. All plumbing fixtures, piping, or apparatus shall be installed with such material as to withstand safely the perils surrounding their conditions of operation and use.

Where service pipes are found disconnected at the corporation stop at any main, they may be reconnected only by the City or on its order. No water main or service may be laid in the same trench with gas mains or other foreign conduits. Special permission may be granted, however, when deemed advisable by the City Council, for laying of water lines in trenches with sewer lines, and then only with the placement of water lines well above sewer lines to prevent subsequent possible contamination of water mains.

- 8.0207 Meter Reading. The City of Hartford has an automatic meter reading system. All water and sewer bills will be based upon the monthly reading from the automatic meter reading system. All water and/or sewer customers, without automatic water reading meters owned by the city, shall be responsible for reading that customer's water meter and reporting the reading thereof to the municipal Finance Officer no later than the 25<sup>th</sup> day of each month. If the customer's water meter does not have a city-owned automatic meter, the city may require written confirmation of the meter reading from the customer's water supplier to verify actual water usage during any given period of time.

Failure to read and report water meter reading in accordance with 8.0207 shall result in the imposition of a service charge of twenty (20.00) dollars for the failure to report the meter reading as required. Said charges shall be added to the customer's account for collection in the same manner as other charges imposed in connection of the water system.

*(Amended: Ordinance No. 555, 7-6-2010)*

- 8.0208 Payment of Water Rates. The owner of any property where water service is supplied by the City of Hartford will be held responsible for the payment of all water bills. Water meters shall be read monthly by the owner or tenant of said property and the amounts due and payable shall be mailed to the water department at such time. Any bill for water or sewer services which is not paid prior to the 15th day of the month following the expiration of the preceding month shall be delinquent. A penalty of twenty (\$20.00) dollars shall be added to any bill not paid prior to the 15th day of the month due.

8.0209 Reconnection After Disconnection. In the event that any water service is disconnected for nonpayment of a bill, a disconnection fee of 25 dollars (\$25) shall be charged to the property owner. Every property owner shall have the right to have the same reconnected only upon the payment of the amount due plus an additional reconnection fee of 25 dollars (\$25).

8.0210 Voluntary Discontinuance of Service. Persons wishing to discontinue the use of any water service shall give written notice thereof at the City Hall. Failure to do so shall render them liable for the payment of all bills until such notice has been given.

Persons wishing to temporarily discontinue the use of any water service shall give written notice thereof at the City Hall.

A disconnection fee of ten (\$10) dollars shall be charged to the property owner. At the time the property owner wishes to continue service, a ten (\$10) dollar fee shall be paid.

8.0211 Interruption of Service. The users of any water service furnished by the City are hereby notified that the supply of such utility may be temporarily shut off at any time. Notice shall be given, if feasible, of the contemplated shutoff, but accidents may render this impossible; hence the City hereby warns those dependent upon the utility service for any purpose of this hazard. Immediately upon finding the supply shutoff it becomes the duty of the occupant of the premises to take prompt precautions to prevent damages.

8.0212 Restricting Use. The City hereby reserves the right to, at any time, restrict or prevent the use of any water service furnished by the City during periods of emergency or circumstances demanding such restriction or prevention of use.

Water shall be used only for beneficial purposes and shall never be wasted. The right is reserved to suspend the use of sprinklers and hoses for watering lawns, yards, and gardens whenever, in the opinion of the City Council, a public emergency exists.

8.0213 Joint Water Users Liable. In case two or more users are supplied with water from the same service pipe, if any of the parties fail to pay the water charge when due, or to comply with any rule of the City, the City reserves the right to cut off the water from the whole service until such charge is paid, or the rules strictly complied with, and it is expressly stipulated that no claim for damage or otherwise may be made against said City by any user whose water charge has been paid, or who has complied with the rules of said City, because of such turn-off, it being expressly stipulated that the necessity for such turn-off shall be deemed to be the joint act of all served through such service.

8.0214 Use Assumed. All premises connected to any utility service of the City shall be assumed to be using such service and the owner or occupant shall be charged therefore as long as such premises shall remain connected to the utility service of the City.

8.0215 Dual Check Backflow Preventor. A dual check backflow preventor approved by the City Council shall be installed on the outlet side of the water meter on all new homes or buildings or anytime plumbing is changed within five feet (5') of the outlet side of said meter.

It shall be the owner's responsibility to maintain the dual check backflow preventor.

8.0216 Definition. "Water User" shall be defined as all residential and non-residential users including all households, apartment dwellers, housing units, industrial and commercial establishments. This term is not to include residents of a nursing home.

### CHAPTER 8.03 – SEWER PROVISIONS

[SEWER SUPPLY SYSTEMS SDCL 9-48]

8.0301 Definitions.

- A. "Biochemical Oxygen Demand (BOD)" – The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade, expressed in milligrams per liter.
- B. "Building Drain" – That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
- C. "Building Sewer" – The extension from the building drain to the public sewer or other place of disposal, also called house connection.
- D. "Combined Sewer" – A sewer intended to receive wastewater and storm or surface water.
- E. "Easement" – An acquired legal right for the specific use of land owned by others.
- F. "Floatable Oil" – Fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.
- G. "Garbage" – The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.
- H. "Industrial Wastes" – The wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.
- I. "Natural Outlet" – Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or ground water.
- J. "pH" – The logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 10<sup>-7</sup>.
- K. "Properly Shredded Garbage" – The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch (1.27 centimeters) in any dimension.
- L. "Public Sewer" – A common sewer controlled by a governmental agency or public utility.

- M. "Sanitary Sewer" – A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.
- N. "Sewage" – The spent water of a community. The preferred term is "wastewater."
- O. "Sewer" – A pipe or conduit that carries wastewater or drainage water.
- P. "Slug" – Any discharge of water or wastewater, which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.
- Q. "Storm Drain" (sometimes called "Storm Sewer") – A drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.
- R. "Superintendent" – The superintendent of all wastewater facilities of the City or his authorized deputy, agent or representative.
- S. "Suspended Solids" – Total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is memorable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.
- T. "Unpolluted Water" – Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
- U. "User" – All residential and non-residential users including all households, apartment dwellers, housing units, industrial and commercial establishments. This term is not to include residents of a nursing home.
- V. "Wastewater" – The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.
- W. "Wastewater Facilities" – The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.
- X. "Wastewater treatment works" shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."
- Y. "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

8.0302 Use of Public Sewers Required.

- A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under its jurisdiction, any human or animal excrement, garbage, or other objectionable waste.
- B. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- C. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within 60 days after date of official notice to do so, provided that said public sewer is within 200 feet of the property line.

8.0303 Private Wastewater Disposal.

- A. Where a public sanitary or combined sewer is not available under the provisions of 8.0302 I, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.
- B. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit issued by the City Council. The permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the City and the Department of Water and Natural Resources, State of South Dakota. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City. No connection from any private sewage disposal system shall be made with any public sanitary sewer under jurisdiction of the City.
- C. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in 8.0302 I, a direct connection shall be made to the public sewer within sixty (60) days in compliance with this ordinance, and any private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.
- D. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the health officer.

8.0304 Sanitary Sewers, Building Sewers and Connections.

- A. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Finance Officer.
- B. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Sewer Superintendent. A permit and inspection

fee for a residential or commercial building sewer permit and for an industrial building sewer permit shall be paid to the City at the time the application is filed. All fees are set by the City Council.

- C. All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The owner of the property is responsible for all plumbing and fixtures from the point of the connection to the sewer main to the structure or his premises. An initial hookup fee shall be paid to the City by all applicants for new service from the connection of their private service to a public sewer main. The City shall not be responsible for any expense in connection therewith. All hookup fees are set by the City Council and are collectable at the time of the issuance of a building permit.
- D. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.
- E. Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the Sewer Superintendent, to meet all requirements of this ordinance.
- F. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- G. No person(s) shall make connection of roof down spouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the Sewer Superintendent for purposes of disposal of polluted surface drainage. The exception is that upon special application to, and permit from, the Superintendent or Finance Office, sub-surface drainage from sump pumps may be discharged into the sanitary sewers during the winter between the months of November and March. No such permit shall, however, be issued unless adequate capacity exists therefor in the sewer system, and unless an actual or potential condition of excess surface accumulation exists, in the opinion of the Superintendent.
- H. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Sewer Superintendent before installation.
- I. The applicant for the building sewer permit shall notify the Sewer Superintendent when the building sewer is ready for inspection and connection to the public sewer. The

connection and testing shall be made under the supervision of the Sewer Superintendent or his representative.

- J. All excavations for building sewer installation shall be adequately guarded with barricades and lights to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of work shall be restored in a manner satisfactory to the City.

8.0305 Use of the Public Sewers.

- A. Storm water other than that exempted herein and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Sewer Superintendent and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the Sewer Superintendent, to a storm sewer, combined sewer, or natural outlet. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.

It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Title.

- B. No person shall discharge or cause to be discharged any of the following water or wastes into any public sewers:
  - 1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
  - 2. Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
  - 3. Any waters or wastes having a pH lower than (5.5), or having any corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works.
  - 4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
  - 5. The use of the sewer system of the City, for the disposal of crude oil, refined oil or any and all other petroleum products, shall be prohibited. Grease, oil, and sand interceptors shall be provided when, in the opinion of the City Council, they are necessary for the

proper handling of wastes. Where installed, such interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times. Any user discovered to have discharged any toxic pollutants into public sewer facilities, in addition to other penalties as provided by ordinance and law, shall be responsible for all costs associated with treating or otherwise disposing of such pollutants.

- C. The disposal by any and all persons of garbage, cans, washers, filters and other foreign debris into the sanitary sewer system of the City shall also be prohibited.
- D. The following described substances, materials, waters, or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger health, public property, or constitute a nuisance. The Sewer Superintendent may set limitations lower than those established in the regulations below if in his opinion more severe limitations are necessary to meet the above objectives.

In determining acceptability, the Superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Superintendent are as follows:

- 1. Wastewater having a temperature higher than 150o Fahrenheit (65o Celsius).
- 2. Wastewater containing more than twenty-five (25) milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin.
- 3. Wastewater from industrial plants containing floatable oils, fat, or grease.
- 4. Any garbage that has not been properly shredded (see 8.0301 (K)). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- 5. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances such that as received in the composite wastewater at the wastewater treatment works, it exceeds the limits established by the Superintendent for such materials.
- 6. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Sewer Superintendent.
- 7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Sewer Superintendent in compliance with applicable state or federal regulations.
- 8. Quantities of flow, concentrations, or both which constitute a "slug" as defined herein.



9. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
  10. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
- E. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in 8.0305 D, and which in the judgement of the Sewer Superintendent, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Sewer Superintendent may:
1. Reject the wastes,
  2. Require pretreatment to an acceptable condition for discharge to the public sewers,
  3. Require control over the quantities and rates of discharge, and/or
  4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of 8.0305 (J) of this article.

When considering the above alternative the Sewer Superintendent shall give consideration to the economic impact of each alternative on the discharger. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent.

- F. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained in satisfactory and effective operation by the owner at his expense.
- G. When required by the Sewer Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances to facilitate observation, sampling, and measurement of the wastes. Such structure shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Superintendent.

The structure shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

- H. The Sewer Superintendent may require a user of sewer services to provide information needed to determine compliance with this ordinance. This information may include:
1. Wastewater discharge peak rate and volume over a specified time period.

2. Chemical analyses of wastewaters.
  3. Raw materials, processes, and products affecting wastewater volume and quality.
  4. Quantity and disposition of specific materials important to sewer use control.
  5. A plot plan showing sewer and pretreatment facility locations on the user's property.
  6. Details of wastewater pretreatment facilities.
  7. Details of systems to prevent and control spills of materials into the municipal sewer.
- I. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the Sewer Superintendent.
  - J. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment.

8.0306 Prohibited Acts. No person(s) shall willfully or negligently damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities.

8.0307 Powers and Authority of Inspectors.

- A. The Sewer Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this ordinance.
- B. The Sewer Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.
- C. While performing necessary work on private properties referred to in 8.0307 (A) above, the Sewer Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in 8.0305 (G).

D. The Sewer Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. Entry and all subsequent work shall be in accordance with the terms of the easement pertaining to the private property involved.

8.0308 Proper Design and Construction of New Sewers and Connections. The size, slope, alignment, materials of construction of all sanitary sewers and sewer connections, and methods to be used in excavating, placing of pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the Uniform Building Code or other applicable rules and regulations of the City and the State of South Dakota. In the absence of code provision or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

All sanitary sewer shall be cast iron soil pipe, ASTM specification (A74-42) or equal, vitrified clay sewer pipe, ASTM specification (C13-441) or equal; PVC: or other suitable material approved by the City Council. Additional requirements may be provided when any part of a building sewer is located near a water service pipe, or where the sewer is exposed to damage by tree roots or unstable ground.

The size and slope of sanitary sewer shall be subject to the approval of the City Council, but in no event shall the diameter be less than four inches. The slope of such pipe shall be not less than one eighth inch per foot.

Whenever possible, the sewer shall be brought to the building at an elevation below the basement floor. No sewer shall be laid parallel to or within three (3) feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The sewer shall be laid at uniform grade and in straight alignment in so far as possible. Changes in direction shall be made only with properly curved pipe and fittings.

The connection of the sanitary sewer into the public sewer shall be made at the "y" branch, if such branch is available at a suitable location. Where the public sewer is greater than twelve inches in diameter, and no properly located "y" branch is available, a neat hole may be cut into the public sewer to receive the sewer connection, with entry in the downstream direction at an angle of about forty-five (45) degrees. A forty-five (45) degree ell may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. Smooth, neat joint shall be made, and the connection made secure and watertight. The connection into the public sewer shall be made under the supervision of the Water and Sewer Superintendent.

8.0309 Disconnection. When a disconnection from the sanitary sewer is made, the sewer service shall be closed to the satisfaction of the Water and Sewer Superintendent. Closure shall be at the curb line on residential property and at the property line on commercial property.

8.0310 Penalties.

A. Any person found to be violating any provision of this ordinance except 8.0306 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

- B. Any person who shall continue any violation beyond the time limit shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding \$200.00 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
- C. Any person violating any provision(s) of this ordinance shall be liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

8.0311 Validity.

- A. All ordinances or parts of ordinances in conflict herewith are hereby repealed.
- B. The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

**CHAPTER 8.04 – SEWER AND WATER RATES**

8.0401 Wastewater Facilities Replacement Fund. A reserve fund called the Wastewater Facilities Replacement Fund is hereby established within the wastewater utility fund to provide sufficient funds for obtaining and installing equipment, accessories and appurtenances, during the useful life of the wastewater treatment facilities, necessary to maintain the capacity and performance for which such facilities are constructed.

8.0402 Surcharges.

- A. Determining a Surcharge System for Users with Excess BOD and TSS. The City will assess a surcharge rate for all non-residential users discharging wastes with BOD and TSS strengths greater than the average residential user. Such users will be assessed a surcharge sufficient to cover the cost of treating their above normal strength wastes. Normal strength wastes are considered to be 250 ppm BOD and 275 ppm TSS. The surcharge rate structure for such above-normal strength waste dischargers shall be set by resolution of the City Council.
- B. Surcharge for Meter Read Fee. A surcharge will be placed to each meter account bill that is equal to the amount charged to the city as a meter reading fee.

*(Amended: Ordinance No. 717, 10-5-2021)*

8.0403 Rate Schedule, Deposits and Classification of Users.

- A. Water Meter Rates. The following meter rates are hereby established for water customer (residential and commercial) connected with the municipal water system of the City:
  - 1. The City shall have a minimum base rate of \$15.00.
  - 2. For each 1,000 gallons, there shall be a charge of \$4.85 per 1,000 gallons or fraction thereof.

3. A two percent (2%) increase of the minimum base rate and the additional charge per 1,000 gallons is effective each year on the first day of the billing cycle of the January billing period.

The foregoing rates apply to water passing through a meter monthly; provided, however, there shall be a minimum charge of \$15.00 per month for all water (residential & commercial) accounts. All mobile home parks, apartment houses, condominiums, and other places of multiple dwelling other than a nursing home, assisted living facility or residential living facility licensed by the South Dakota Department of Health, hotel or motel the water rates shall be a total of the minimum charge of \$15.00 per month multiplied by the number of mobile homes, apartments, or dwellings on such meter, or the total volume usage charge, whichever is greater. A nursing home, assisted living facility, or residential living facility licensed by the South Dakota Department of Health and any motel or hotel shall be considered a single user and will pay the total of the minimum charge of \$15.00 or the total volume usage charge, whichever is greater.

*(Amended: Ordinance No. 466, 4-20-2004; Ordinance No. 532, 7-1-2008; Ordinance No. 608, 5-20-2014)*

- B. Wastewater Meter Rates. The City-hereby establishes wastewater rates for Residential and Commercial Users as follows:

Residential Users shall be billed monthly based on actual usage except for as provided herein. A summer sewer rate will be in effect for the billing periods of April, May, June, July, August, September, October, and November. The summer sewer rate will be based on the average water usage during the December, January, February, and March billing period or the actual water usage whichever is lower. The term "residential users" shall also include Public School District, residential living facility licensed by the South Dakota, or churches, apartments, condominiums, mobile home parks, or other places of multiple dwelling. Meter Rates:

The following wastewater rates are hereby established for wastewater customers (residential & commercial) connected to the municipal wastewater system of the City:

1. The City shall have a minimum base rate of \$14.35.
2. For each 1,000 gallons, there shall be a charge of \$6.36 per 1,000 gallons or fraction thereof.
3. A two percent (2%) increase of the minimum base rate and the additional charge per 1,000 gallons is effective each year on the first day of the billing cycle of the January billing period.
4. In addition to the other charges, the City hereby establishes a surcharge of \$26.00 payable by each customer of its system who receives or benefits from the services of the project financed by the CW-08 loan with the borrower bond. The collection of the surcharge shall start with the January 2023 billing statement. The surcharge shall remain in effect until such time as the borrower bond is paid in full, it shall be collected at the same time as other charges of the system and establish a surcharge account to segregate the income from other system income for bookkeeping purposes to be pledged to the South Dakota Conservancy District. The surcharge shall be reviewed

from year to year and modified in order to provide the required 110 percent debt coverage.

The foregoing wastewater rates apply to water passing through a meter monthly; provided, however, there shall be a minimum charge of \$14.35 per month for all accounts (residential and commercial) surcharges set forth in 4 above. All mobile homes, apartment houses, condominiums, and other places of multiple dwelling other than a nursing home, assisted living facility or residential living facility licensed by the South Dakota Department of Health, hotel or motel the waste water rates shall be a total of the minimum charge of \$14.35 per month plus surcharges set forth in 4 above multiplied by the number of mobile homes, apartments, or dwellings on such meter, or the total volume usage charge, whichever is greater. A nursing home, assisted living facility or residential living facility licensed by the South Dakota Department of Health and any motel or hotel shall be considered a single user and will pay the total of the minimum charge of \$14.35 plus surcharges set forth in 4 or the total volume usage charge, whichever is greater

*(Amended: Ordinance No. 533, 7-1-2008)*

*(Amended: Ordinance No. 565, 5-17-2011)*

*(Amended: Ordinance No. 608, 5-20-2014)*

*(Amended: Ordinance No. 737, 12-20-2022)*

8.0404 New Construction. The City Finance Officer is authorized to charge a reduced water and sewer rate on an appropriate basis for water and sewer service to a newly constructed building which has not reached 40% of occupancy of the living units in a structure. The charge at a reduced rate as authorized herein shall not extend beyond 60 days from the hookup of the structure to city sewer or city water services.

- A. Establishment of Rates. The utility rates are as stated in 8.0410. All rates shall be established by Resolution of the City Council and kept on file in the office of the City Finance Officer. Rates may be modified at any time during the year and shall be effective on the first day of the billing cycle following the effective date of the resolution. The utility meter rates shall be structured to provide sufficient funds to cover the following costs:
1. Cost of current operation and maintenance.
  2. Amounts necessary for working capital.
  3. Amounts necessary to make payments of principal and interest on all obligations.
  4. Amounts necessary for a reasonable reserve for depreciation, and which shall be used solely to pay for capital improvements necessary to off-set current depreciation.
  5. Amounts necessary to fund a reserve account.
  6. Amounts necessary to fund a surplus account.
- B. Deposits. All revenue collected from the utility shall be deposited into such utility account pursuant to and in conformance with the Municipal Accounting Standards published by the Department of Legislative Audit. The customer deposit fee is set by resolution by the City Council.

C. Classification of Users. Classifications of users for billing purposes, deposits, rates and any other purpose shall be established by Resolution of the City Council.

8.0405 Validity. All ordinances or parts of ordinances in conflict herewith are hereby repealed. The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance, which can be given effect without such invalid part or parts.

**TITLE 9 – PLANNING AND ZONING**  
MUNICIPAL PLANNING AND ZONING SDCL 11-4  
[COMPREHENSIVE CITY PLANNING SDCL 11-6]

- Chapter 9.01 – General
- Chapter 9.02 – Planning Commission
- Chapter 9.03 – Zoning Regulations
- Chapter 9.04 – Subdivision Regulations
- Chapter 9.05 – International Building Code
- Chapter 9.06 – Plumbing, Mechanical, Electrical, and Fuel/Gas
- Chapter 9.07 – Flood Damage Prevention
- Chapter 9.08 – Uniform Code for Abatement of Dangerous Buildings
- Chapter 9.09 – Fire Code
- Chapter 9.10 – Urban and Rural Service Districts
- Chapter 9.11 – International Property Maintenance Code
- Chapter 9.12 – International Residential Building Code
- Chapter 9.13 – International Existing Building Code
- Chapter 9.14 – International Swimming Pool and Spa Code

**CHAPTER 9.01 – GENERAL**

- 9.0101 Ordinances Saved from Repeal. Nothing in this chapter shall be construed to repeal or otherwise affect in any manner:
- A. Any zoning ordinance of the City or amendment thereto.
  - B. Any subdivision ordinance of the City or amendment thereto.
  - C. Any ordinance dedicating, accepting or vacating any plat or subdivision in the City or any part thereof.

**CHAPTER 9.02 – PLANNING COMMISSION**

- 9.0201 Created. There is hereby created a municipal planning commission, which shall be referred to as the Planning Commission.
- 9.0202 Composition. The Planning Commission shall consist of seven (7) members appointed by the Mayor and approved by City Council.

*(Amended: Ordinance No. 434, 4-1-2003)*



9.0203 Powers and Duties. The Planning Commission may exercise the powers granted in SDCL 11-4 and 11-6, and acts amendatory thereof, not only within the corporate limits of the City, but also within an area of up to three miles of the corporate limits as provided by law.

9.0204 Removal for cause. The Mayor, with the confirmation of the city council, shall after a public hearing have authority to remove any member of the Planning and Zoning Commission For cause, which cause shall be stated in writing and made a part of the record of such hearing.

9.0205 Comprehensive Plan. It shall be the duty of the Planning Commission to prepare a comprehensive plan for the development of the City, including to make or cause to be made careful and comprehensive studies of present conditions and future growth of the City, including any land outside the City, which bears relation to the comprehensive plan. The comprehensive plan shall be made with the general purpose of guiding and accomplishing a coordinated and harmonious development of the City and its environment.

No amendment to such adopted comprehensive plan shall be made without such proposed change first being submitted to the Planning Commission for its recommendation.

9.0206 Zoning Regulations and Subdivision Regulations. It shall be the duty of the Planning Commission to recommend the boundaries of zoning districts and appropriate regulations to be enforced therein, in accordance with the comprehensive plan. All applications and proposals for changes in or amendments to the zoning regulations shall first be submitted to the Planning Commission for its recommendations before approval by the City Council.

9.0207 Subdivision Plats and Regulations. All plans, plats, or re-plats of subdivisions or resubdivisions of land within the jurisdiction of this ordinance shall first be submitted to the Planning Commission for its recommendation before approval by the City Council.

It shall be the duty of the Planning Commission to recommend regulations governing the subdivision of land within its jurisdiction. No amendments or changes thereto shall be made without recommendation by the Planning Commission. All plans, plats or re-plats of subdivisions of land within the jurisdiction of this ordinance, or amendments to the regulations, shall first be submitted to the Planning Commission for its recommendation before approval by the City Council.

The City Council may provide for the Planning Commission to act as a Board of Adjustment to make special exceptions or grant variances to the terms of the zoning regulations.

9.0208 Compensation. The Planning and Zoning Commission shall receive an annual salary in the amount of four hundred dollars (\$400.00) payable annually, plus fifty dollars (\$50.00) per attended regular scheduled meeting of the Planning and Zoning Board and fifty dollars (\$50.00) per attended meeting as the Board of Adjustment. This compensation rate will become effective May 1, 2017 and thereafter.

*(Amended: Ordinance No. 644, 5-16-2017)*

### **CHAPTER 9.03 – ZONING REGULATIONS (See Appendix IV)**

### **CHAPTER 9.04 - SUBDIVISION REGULATIONS (See Appendix V)**

### **CHAPTER 9.05 – INTERNATIONAL BUILDING CODE**

9.0501 Adoption International Building Code 2021.

The International Building Code, 2021 edition, including Appendix C, Appendix I and Appendix O as published by the International Code Council Inc., and amendments and additions thereto as provided in this ordinance are hereby adopted by the City of Hartford as provided by South Dakota Codified Laws Chapter 7-8-20(17) for regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures within city limits of the City of Hartford and providing for issuance of permits and collection of fees therefore.

In the event of any conflict between the provisions of the code adopted by this subchapter and applicable provisions of this Code of Ordinances, state law or city ordinance, rule or regulation, the provisions of this Code of Ordinances, state law or city ordinance, rule or regulation shall prevail and be controlling.

The minimum building standards in the 2021 editions of the International Building Code and amendments thereto shall be applied to any building permit issued after March 31, 2022. The adoption of the International Building Code, 2021 edition will become effective March 31, 2022.

A printed copy of such code and additions and amendments thereto is on file with the City of Hartford.

*(Amended: Ordinance No. 668, 6-4-2019)*

*(Amended: Ordinance No. 725, 3-1-2022)*

9.0502 Amendments, additions and deletions to the 2021 International Residential Building Code. The following sections and subsections of building code adopted in this subchapter shall be amended, added, or deleted as follows. All other sections or subsections of the 2021 International Residential Building Code shall remain the same.

**101.1 Scope.** The provisions of this code shall apply to the construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

**Exceptions:**

1. Detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code.
2. Existing buildings undergoing repair, alterations, or additions and change of occupancy shall be permitted to comply with the International Existing Building Code as an alternate to Chapter 34, Existing Structures.

**101.4.1 Gas.** The provisions of the International Fuel Gas Code or the plumbing code shall apply to the installation of gas piping from the point of delivery, gas appliances and related accessories as covered in this code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories.

**101.4.2 Mechanical.** The term International Mechanical Code shall mean the International Mechanical Code as adopted by the City of Hartford and shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

**101.4.3 Plumbing.** The Plumbing Code shall be mean the 2018 Uniform Plumbing Code as adopted by the City of Hartford shall apply to the installation, alteration, repair, and replacement of plumbing systems, including equipment, appliances, fixtures, fittings, and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. The Plumbing Code shall be administered by the State of South Dakota.

**101.4.4 Property maintenance.** The term International Property Maintenance Code shall mean the International Property Maintenance Code as adopted by the City of Hartford and shall apply to existing structures and premises; equipment and facilities; light, ventilation, space heating, sanitation, life and fire safety hazards; responsibilities of owners, operators and occupants; and occupancy of existing premises and structures. The International Property Maintenance Code shall be administered by the City of Hartford.

**101.4.5 Fire prevention.** The term International Fire Code shall mean the International Fire Code as adopted by the State of South Dakota and shall apply to matters affecting or relating to structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from occupancy or operation. The International Fire Code shall be administered by the State of South Dakota.

**101.4.6 Energy.** The term International Energy Conservation Code shall mean the International Energy Conservation Code as adopted by the State of South Dakota and shall apply to all matters governing the design and construction of buildings for energy efficiency. The International Energy Conservation Code shall be administered by the State of South Dakota.

**101.4.7 Electrical.** The National Electrical Code shall be mean the 2020 Electrical Code as adopted by the State of South Dakota and shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances thereto. The Electrical Code shall be administered by the State of South Dakota.

**103.1 Enforcement agency.** The City of Hartford shall be the enforcement agency 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.** This section is not adopted by the City of Hartford.

**104.8 Liability.** The building official, member of the board of adjustment, 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 an act or by reason of an act or omission in the discharge of official duties. Any suit brought against the building official, officer or employee because of such act or omission performed by the building official, officer or employee in the lawful discharge of duties and enforcement of any provision of such

codes or other pertinent laws or ordinances implemented through the enforcement of this code or enforced by the code enforcement agency shall be afforded all the protection provided by the City's liability insurance, immunities and any immunities and defenses provided by other applicable state and federal laws and shall be defended by legal representative of the jurisdiction 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.

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 city, 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.

**105.1 Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code unless a separate permit for each building or structure has first been obtained from the building official or designate. Minor work may be exempted from obtaining a permit by the building official or designate.

**[A] 105.2 Work exempt from permit.** Exemptions from *permit* requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. *Permits* shall not be required for the following:

**Building:**

1. Oil derricks.
2. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom grade elevation of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.
3. Water tanks supported directly on grade if the capacity is not greater than 5,000 gallons (18,927 L) and the ratio of height to diameter or width is not greater than 2:1.
4. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
5. Temporary motion picture, television and theater stage sets and scenery.
6. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
7. Window awnings in Group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches (1372 mm) from the *exterior wall* and do not require additional support.
8. Nonfixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.
9. Children's playhouses which are less than 96 square feet, one story tall with side walls 8' feet or under.
10. Swings and other playground equipment accessory to detached one-and two-family dwellings.
11. Prefabricated swimming pools that are less than 24" inches (610 mm) deep.

**107.1 General.** Submittal documents consisting of one complete set of hard copy plans and an electronic submittal in PDF format along with other construction documents, such as a statement of special inspections, geotechnical report, and other data shall be submitted with each permit application. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

**Exception:** The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

**107.3.1 Approval of construction documents.** Before the issuance of a permit, the building official shall review and approve construction plans.

**108.1 General.** The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 365 days. The building official is authorized to grant extensions for demonstrated cause.

**109.2 Permit Fees.** A fee for each permit shall be paid as required, in accordance with the schedule as established by the City of Hartford.

**109.3 Building permit valuations.** The determination of value or valuation under any of the provisions of this code shall be made by the City of Hartford's Building Department. The value to be used in computing the building permit and building plan review fees shall be the total value of all construction work for which the permit is issued. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official.

**109.4. Work Commencing before permit issuance.** Any person who commences any work on a building or structure before obtaining the necessary permits shall be subject to the doubling of the standard permit fee. Legal and/or civil proceedings may also be commenced.

**109.7 Delinquent Accounts.** The building official may refuse to issue permits or conduct inspections for any person or business whose account is delinquent.

**110.3.1 Footing inspection.** Footing inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place.

**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 Adjustments, 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 is adequately satisfied by other means. The Board is additionally charged with the review of all proposed changes to the Building Code and to submit recommendations to the responsible official and the city council. The board shall have authority relative to the interpretation of the administrative provisions of this code, but the board shall not be empowered to waive requirements of this code. The appeal process will align with the City of Hartford's zoning ordinance section 17-03. The City of Hartford's Board of Adjustments will be the representative body to hear all appeals.

**111.2 Membership of board.** The Board of Adjustments shall consist of a minimum of seven members who are qualified by experience and training to pass on matters pertaining to building codes and who are not employees of the jurisdiction.

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

**111.2.5 Compensation of Members.** Compensation of members shall be at a rate of \$50.00 for each scheduled meeting regardless of the number of agenda items. Members shall be compensated at this rate each time the Board of Adjustments is assembled for a scheduled meeting.

**Section 111.2 Certificate issued.** After the building official inspects the building and finds no violations of the provisions of this code or other laws that are enforced by the City, 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 legal address
4. The date of issuance.

5. The name of the building official.
6. Construction Type.
7. Occupancy Classification Group.
8. Sprinkler Requirements
9. Edition of the Code
10. Maximum Occupancy
11. Stipulations

**112.1 General.** In order to hear and decide appeals of orders, decisions or determinations made by the building official or employee relative to the application and interpretation of this code, there shall be and is hereby created a Board of Appeals consisting of the members of the City of Hartford Board of Adjustment.

**113.1 General.** In order to hear and decide appeals of orders, decisions or determinations made by the building official or employee relative to the application and interpretation of this code, there shall be and is hereby created a Board of Appeals consisting of the members of the City of Hartford Planning and Zoning Board.

**113.2 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 thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority relative to the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

**114.3 Prosecution of violation.** If the notice of violation is not complied with promptly, the building official is authorized to request the legal counsel of the jurisdiction to deem the violation as a strict liability offense and institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

**115.2 Issuance.** The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. If no person can be located, the stop work order may be posted on the property. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

**201.1 Scope.** Unless otherwise expressly stated, the following words and terms shall, for the purposes of this code, have the meanings shown in this chapter. In addition, the following words and terms are being added and/or modified to the defined terms already of this code.

**FIRE AREA.** The aggregate floor area enclosed and bounded by fire walls, fire barriers, exterior walls or horizontal assemblies of a building.

**STRICT LIABILITY OFFENSE.** An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited or failed to do an act which the defendant was legally required to do.

**305.2.2 Twelve or fewer children.** A facility having twelve or fewer children receiving such day care shall be classified as part of the primary occupancy.

**305.2.3 Twelve or fewer children in a dwelling unit.** A facility such as the above within a dwelling unit and having twelve or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the *International Residential Code*.

**308.5.4 Twelve or fewer persons receiving care in a dwelling unit.** A facility such as the above within a dwelling unit and having twelve or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the *International Residential Code*.



**310.4.2 Lodging Houses.** Owner-occupied lodging houses with five or fewer guest rooms and 10 or fewer total occupants shall be permitted to be constructed in accordance with the *International Residential Code*.

**423.4 Group E occupancies.** All Group E occupancies with an occupant load of 50 or more shall have a storm shelter constructed to withstand a wind of 200 mph.

**Exceptions:**

1. Group E daycare facilities.
2. Group E occupancies accessory to places of religious worship.
3. Buildings meeting the requirements for shelter design in ICC 500.

## **501.2 SPECIFICATIONS FOR NUMBERS**

### **502.1 Address identification.**

The street number displayed by each person on a multi-family or commercial building pursuant to the provisions of this article shall not be less than three (3) inches in height, and clearly visible from the street per City of Hartford local ordinance: #6.0104. Multi- building campus/complex developments addressed on private or public streets shall be provided with signage at the entrance to the campus/complex indicative of the address ranges within.

**603.1.2 Piping.** The use of combustible piping materials shall be permitted where installed in accordance with the limitations of the International Mechanical Code and the Plumbing Code.

**706.6.2 Buildings with sloped roofs.** Where a *fire wall* serves as an interior wall for a building, and the roof on one side or both sides of the fire wall slopes toward the fire wall at a slope greater than 2 units vertical in 12 units horizontal (2:12), the *fire wall* shall extend to a height equal to the height of the roof located 4 feet (1219 mm) from the *fire wall* plus 30 inches (762 mm). In no case shall the extension of the fire wall be less than 30 inches (762 mm).

**Exceptions:** The *fire wall* may terminate at the underside of the roof sheathing, deck or slab of the lower roof, provided:

1. The roof assemblies within 10 feet (3048 mm) of the wall has not less than a 1- hour *fire resistance rating* and the entire length and span of supporting elements for the rated roof assembly has a *fire-resistance rating* of not less than 1 hour.
2. Openings in the roof on each side of the fire wall shall not be located within 10 feet (3048 mm) of the *fire wall*.

**714.5.1.1.2 Through-penetration fire-stop system.** Through penetrations of the fire-resistive membrane shall be protected by an approved through-penetration fire-stop system installed and tested in accordance with ASTM E 814 or UL 1479, with a minimum positive pressure differential of 0.01 inch of water (2.49 Pa). The system shall have an F rating/T rating of not less than one hour but not less than the required rating of the floor penetrated.

**Exceptions:**

1. Floor penetrations contained and located within the cavity of a wall above the floor or below the floor do not require a T rating.

2. Floor penetrations by floor drains, tub drains or shower drains contained and located within the concealed space of a horizontal assembly do not require a T rating.

**716.2.6.1 Door closing.** Fire doors shall be latching and self- or automatic-closing in accordance with this section.

**Exceptions:**

1. Fire doors located in common walls separating sleeping units in Group R-1 shall be permitted without automatic- or self-closing devices.
2. The elevator car doors and the associated hoistway enclosure doors at the floor level designated for recall in accordance with Section 3003.2 shall be permitted to remain open during Phase I emergency recall operation.
3. Interior doors located in exit enclosures, smoke proof enclosures, and exit passageways in Group R and I-1 occupancies shall be automatic closing fire door assemblies in accordance with NFPA 80 and controlled in accordance with NFPA 72.

**717.5.2 Fire barriers.** Ducts and air transfer openings of fire barriers shall be protected with listed fire dampers installed in accordance with their listing. Ducts and air transfer openings shall not penetrate enclosures for interior exit stairways and ramps and exit passageways, except as permitted by Sections 1023.5 and 1024.6, respectively.

**Exceptions:** Fire dampers are not required at penetrations of fire barriers where any of the following apply:

1. Penetrations are tested in accordance with ASTM E119 or UL 263 as part of the fire resistance-rated assembly.
2. Ducts are used as part of an approved smoke control system in accordance with Section 909 and where the use of a fire damper would interfere with the operation of a smoke control system.
3. Such walls are penetrated by fully ducted HVAC systems, have a required fire resistance rating of 1 hour or less, are in areas of other than Group H, and are in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2. For the purposes of this exception, a fully ducted HVAC system shall be a duct system for conveying supply, return, or exhaust air as part of the structure's HVAC system. Such a duct system shall be constructed of sheet steel not less than No. 26 gage thickness and shall be continuous from the air-handling appliance or equipment to the air outlet and inlet terminals. Nonmetal flexible air ducts shall be permitted in the following locations:
  - 3.1 At the duct connection to the air handling unit or equipment located within the mechanical room in accordance with Section 603.9 of the *International Mechanical Code*.
  - 3.2 From an overhead metal duct to a ceiling diffuser within the same room in accordance with Section 603.6.2 of the *International Mechanical Code*.

**903.2.6 Group I.** An automatic sprinkler system shall be provided throughout buildings with a Group I fire area.

**Exceptions:**

1. An automatic sprinkler system installed in accordance with Section 903.3.1.1 is required in Group I-1 Condition 1 or 2 facilities.

2. An automatic sprinkler system is not required where day care facilities are at the level of exit discharge and where every room where care is provided has at least one exterior exit door.
3. In buildings where Group I-4 day care is provided on levels other than the level of exit discharge, an automatic sprinkler in accordance with Section 903.3.1.1 shall be installed on the entire floor where care is provided and all floors between the level of care and the level of exit discharge, all floors below the level of exit discharge, other than areas classified as an open parking garage.

**903.2.8 Group R.** An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Groups R-1 and R-4 fire areas and Group R-2 multifamily residences having six or more dwelling units.

**[F] 903.2.10 Group S-2 parking garages.** An *automatic sprinkler system* shall be provided throughout buildings classified as parking garages where any of the following conditions exist:

1. Where the fire area of the enclosed parking garage in accordance with [Section 406.6](#) exceeds 12,000 square feet (1,115 m<sup>2</sup>).
2. Where the enclosed parking garage in accordance with [Section 406.6](#) is located beneath other groups.

**Exception:** Enclosed parking garages located beneath Group R-3 occupancies.

**903.3.1.1.1 Exempt locations.** Automatic sprinklers shall not be required in the following rooms or areas where such rooms or areas are protected with an approved automatic fire detection system in accordance with Section 907.2 that will respond to visible or invisible particles of combustion. Sprinklers shall not be omitted from any room merely because it is damp, of fire-resistance-rated construction, or contains electrical equipment.

1. Any room where the application of water, or flame and water, constitutes a serious life or fire hazard.
2. Any room or space where sprinklers are considered undesirable because of the nature of the contents when approved by the fire code official. Such rooms shall be separated from the remainder of the building by fire barrier walls and horizontal assemblies having a fire-resistance rating of not less than two hours.
3. Generator and transformer rooms separated from the remainder of the building by walls and floor/ceiling or roof/ceiling assemblies having a fire-resistance rating of not less than two hours.
4. Rooms or areas that are of noncombustible construction with wholly noncombustible contents.
5. Fire service access elevator machine rooms and machinery spaces.
6. Machine rooms and machinery spaces associated with occupant evacuation elevators designed in accordance with Section 3008.

**[F] 903.3.1.2 NFPA 13R sprinkler systems.** Automatic sprinkler systems in Group R occupancies shall be permitted to be installed throughout in accordance with NFPA 13R where the Group R occupancy meets all of the following conditions:

1. Four stories or fewer above grade plane.
2. The floor level of the highest story is 60 feet (18,288 mm) or less above the lowest level of fire department vehicle access.
3. The floor level of the lowest story is 60 feet (18,288 mm) or less below the lowest level of fire department vehicle access.

The number of stories of Group R occupancies constructed in accordance with Sections 510.2 and 510.4 shall be measured from grade plane.

**[F] 903.3.5 Water supplies.** Water supplies for automatic sprinkler systems shall comply with this section and the standards referenced in Section 903.3.1. The potable water supply shall be protected against backflow in accordance with the requirements of this section and the Plumbing Code. For connections to public waterworks systems, the water supply test used for design of fire protection systems shall be adjusted to account for seasonal and daily pressure fluctuations based on information from the water supply authority and as approved by the fire code official.

**904.13.2 System interconnection.** The actuation of the fire suppression system shall automatically shut down the fuel and/or electrical power supply to the cooking equipment and all electrical receptacles located beneath the hood. The fuel and electrical supply reset shall be manual.

**907.2.1.1 System initiation in Group A occupancies with an occupant load of 1,000 or more.** Activation of the fire alarm in Group A occupancies with an occupant load of 1,000 or more shall initiate a signal using an emergency voice/alarm communications system in accordance with Section 907.5.2.2.

**Exceptions:**

1. Group A-3 occupancies used for religious worship.
2. Where approved, the prerecorded announcement is allowed to be manually deactivated for a period of time, not to exceed 3 minutes, for the sole purpose of allowing a live voice announcement from an approved, constantly attended location.

**907.2.2 Group B.** A manual fire alarm system, which activates the occupant notification system in accordance with Section 907.5 shall be installed in Group B occupancies where one of the following conditions exists:

1. The combined Group B occupant load of all floors is 500 or more.
2. The Group B occupant load is more than 100 persons above or below the lowest level of exit discharge.
3. The fire area contains an ambulatory care facility.
4. The Group B occupancy has more than two occupied levels.

**Exception:** Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.

**907.2.6.2 Group I-2.** An automatic smoke detection system shall be installed in corridors in nursing homes, long-term care facilities, detoxification facilities, and spaces permitted to be open to the corridors by Section 407.2. The system shall be activated in accordance with Section 907.5. Hospitals shall be equipped with smoke detection as required in Section 407.

**Exceptions:**

Corridor smoke detection is not required in smoke compartments that contain sleeping units where such units are provided with smoke detectors that comply with UL 268. Such detectors shall provide a visual display on the corridor side of each sleeping unit and shall provide an audible and visual alarm at the care provider station attending each unit. Smoke detectors installed as part of an intelligent or addressable fire alarm system capable of annunciation of room origin at a constantly attended location shall be acceptable.

**907.2.8.2 Automatic smoke detection system.** An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.5 shall be installed throughout all interior corridors serving sleeping units and at the top of each stairwell.

**Exception:** An automatic smoke detection system is not required in buildings that do not have interior corridors serving sleeping units and where each sleeping unit has a means of egress door opening directly to an exit or to an exterior exit access that leads directly to an exit.

**907.2.9 Group R-2.** Fire alarm systems and smoke alarms shall be installed in Group R-2 occupancies as required in Sections 907.2.9.1 through 907.2.9.5.

**907.2.9.1 Manual fire alarm system.** A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-2 occupancies where:

1. Any dwelling unit or sleeping unit is located three or more stories above the lowest level of exit discharge.
2. Any dwelling unit or sleeping unit is located more than one story below the highest level of exit discharge of exits serving the dwelling unit or sleeping unit; or
3. The building contains more than 16 dwelling units or sleeping units.
4. The building contains four or more dwelling units or sleeping units above the level of exit discharge.

**Exceptions:**

1. A fire alarm system is not required in buildings not more than two stories in height where all dwelling units or sleeping units and contiguous attic and crawl spaces are separated from each other and public or common areas by at least 1- hour fire partitions and each dwelling unit or sleeping unit has an exit directly to a public way, egress court or yard.

2. Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and the occupant notification appliances will automatically activate throughout the notification zones upon a sprinkler water flow.
3. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directly to the exits or are served by open-ended corridors designed in accordance with Section 1026.6, Exception 4.

**907.2.9.4 Smoke detectors.** Automatic smoke detection shall be provided in each stairway and all exit corridors.

**907.2.13.1.2 Duct smoke detection.** Duct smoke detectors complying with Section 907.3.1 shall be located as follows:

1. In the main return air and exhaust air plenum of each air-conditioning system having a capacity greater than 2,000 cubic feet per minute (cfm) (0.94 m<sup>3</sup>/s). Such detectors shall be located in a serviceable area downstream of the last duct inlet.
2. At each connection to a vertical duct or riser serving two or more stories from a return air duct or plenum of an air-conditioning system. In Group R-1 and R-2 occupancies, a smoke detector is allowed to be used in each return air riser carrying not more than 5,000 cfm (2.4 m<sup>3</sup>/s) and serving not more than 10 air-inlet openings.
3. Duct smoke detectors installed more than 10 feet above a finished floor, above a ceiling, or on a rooftop shall be installed with remote test/indicators in an approved location below and in proximity to the unit served.

**[F] 907.5 Occupant Notification.** Occupant notification by fire alarms shall be in accordance with Sections 907.5.1 through 907.5.2.3.3. Occupant notification by smoke alarms in Group R-1 occupancies shall comply with Section 907.5.2.1.3.2.

**[F] 907.5.2.1.3 Audible signal frequency in Group R-1 sleeping rooms.** Audible signal frequency in Group R-1 occupancies shall be in accordance with Sections 907.5.2.1.3.1 and 907.5.2.1.3.2.

**[F] 907.5.2.1.3.1 Fire alarm system signal.** In sleeping rooms of Group R-1 occupancies, the audible alarm activated by a fire alarm system shall be a 520-Hz low-frequency signal complying with NFPA 72.

**[F] 907.5.2.1.3.2 Smoke alarm signal in sleeping rooms.** In sleeping rooms of Group R-1 occupancies that are required by Section 907.2.8 or 907.2.9 to have a fire alarm system, the audible alarm signal activated by single- or multiple-station smoke alarms in the dwelling unit or sleeping unit shall be a 520-Hz signal complying with NFPA 72. Where a sleeping room smoke alarm is unable to produce a 520-Hz signal, the 520-Hz alarm signal shall be provided by a listed notification appliance or a smoke detector with an integral 520-Hz sounder.

**912.2.1 Visible location.** Fire department connections shall be located on the street side of buildings or facing approved fire apparatus access roads, fully visible and recognizable from the street, fire apparatus road or nearest point of fire department vehicle access or as otherwise *approved* by the building official and/ or local fire chief. A weather-rated horn/strobe connected to the fire detection or sprinkler system shall

be located not lower than 8 feet above the fire department connection and within 10 feet horizontally of the connection. The weather-rated horn/strobe must be visible from the fire lane or street.

**Table 1004.5 Maximum Floor Area Allowances Per Occupant**

<b>Function of Space</b>	<b>Occupant Load Factor</b>
Accessory storage areas, mechanical equipment room	300 gross
Agricultural building	300 gross
Aircraft hangars	500 gross
Airport terminal	
Baggage claim	20 gross
Baggage handling	300 gross
Waiting areas	15 gross
Assembly	
Gaming floors (keno, slots, etc.)	11 gross
Exhibit gallery and museum	30 net
Assembly with fixed seats	<a href="#">See Section 1004.6</a>
Assembly without fixed seats	
Concentrated (chairs only—not fixed)	7 net
Standing space	5 net

Unconcentrated (tables and chairs)	15 net
Bowling centers, allow 5 persons for each lane including 15 feet of runway, and for additional areas	7 net
Business areas	150 gross
Concentrated business use areas	<a href="#">See Section 1004.8</a>
Courtrooms—other than fixed seating areas	40 net
Day care	35 net
Dormitories	50 gross
Educational	
Classroom area	25 net
Shops and other vocational room areas	50 net
Exercise rooms	50 gross
Group H-5 fabrication and manufacturing areas	200 gross
Industrial areas	100 gross
Institutional areas	
Inpatient treatment areas	240 gross
Outpatient areas	100 gross



Sleeping areas	120 gross
Kitchens, commercial	200 gross
Library	
Reading rooms	50 net
Stack area	100 gross
Locker rooms	50 gross
Mall buildings—covered and open	<a href="#">See Section 402.8.2</a>
Mercantile	60 gross
Storage, stock, shipping areas	300 gross
Parking garages	200 gross
Residential	200 gross
Skating rinks, swimming pools	
Rink and pool	50 gross
Decks	15 gross
Stages and platforms	15 net
Warehouses	500 gross

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m<sup>2</sup>

a. Floor area in square feet per occupant

**1010.1.6 Thresholds.** Thresholds at doorways shall not exceed 3/4 inch (19.1 mm) in height above the finished floor or landing for sliding doors serving dwelling units or 1/2 inch (12.7 mm) above the finished floor or landing for other doors. Raised thresholds and floor level changes greater than 1/4 inch (6.4 mm) at doorways shall be beveled with a slope not greater than one unit vertical in two units horizontal (50 percent slope).

**Exception:** In occupancy Group R-2 or R-3, threshold height for sliding and side- hinged exterior doors shall be permitted to be up to 8” inches (203 mm) in height if all of the following apply

1. The door is not part of the required means of egress.
2. The door is not part of an accessible route as required by Chapter 11.
3. The door is not part of an Accessible unit, Type A unit, or Type B unit. In Type B units, where Exception 5 to Section 1010.1.5 permits a 4-inch (102 mm) elevation change at the door, the threshold height on the exterior side of the door shall not exceed 43/4 inches (120 mm) in height above the exterior deck, patio or balcony for sliding doors or 41/2 inches (114 mm) above the exterior deck, patio or balcony for other doors.

**1011.5.2 Riser height and tread depth.** *Stair* riser heights shall be 7 inches (178 mm) maximum and 4 inches (102 mm) minimum. The riser height shall be measured vertically between the *nosings* of adjacent treads or between the stairway landing and the adjacent tread. Rectangular tread depths shall be 11 inches (279 mm) minimum measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's *nosing*. *Winder* treads shall have a minimum tread depth of 11 inches (279 mm) between the vertical planes of the foremost projection of adjacent treads at the intersections with the walkline and a minimum tread depth of 10 inches (254 mm) within the clear width of the *stair*.

**Exceptions:**

1. *Spiral stairways* in accordance with Section 1011.10.
2. *Stairways* connecting stepped *aisles* to cross *aisles* or concourses shall be permitted to use the riser/tread dimension in Section 1029.14.2.
3. In Group R-3 occupancies; within *dwelling units* in Group R-2 occupancies; and in Group U occupancies that are accessory to a Group R-3 occupancy or accessory to individual *dwelling units* in Group R-2 occupancies; the maximum riser height shall be 8 inches (203 197 mm); the minimum tread depth shall be 10 inches (254 mm); the minimum *winder* tread depth at the walkline shall be 10 inches (254 mm); and the minimum *winder* tread depth shall be 6 inches (152 mm). A *nosing* projection not less than 3/4 inch (19.1 mm) but not more than 1 1/4 inches (32 mm) shall be provided on *stairways* with solid risers where the tread depth is less than 11 inches (279 mm).
4. See Section 503.1 of the *International Existing Building Code* for the replacement of existing *stairways*.
5. In Group I-3 facilities, *stairways* providing access to guard towers, observation stations and control rooms, not more than 250 square feet (23 m<sup>2</sup>) in area, shall be permitted to have a maximum riser height of 8 inches (203 mm) and a minimum tread depth of 9 inches (229 mm).

**1015.4 Opening limitations.** Required guards shall not have openings which allow passage of a sphere 5" inches (127 mm) in diameter from the walking surface to the required guard height.

**Exceptions:**

1. The triangular openings at the open sides of a stair, formed by the riser, tread, and bottom rail shall not allow passage of a sphere 6 inches (152 mm) in diameter.
2. At elevated walking surfaces for access to and use of electrical, mechanical, or plumbing systems or equipment, guards shall not have openings which allow passage of a sphere 21 inches (533 mm) in diameter.
3. In areas that are not open to the public within occupancies in Group B, I-3, F, H, M, or S, and for alternating tread devices and ship ladders, guards shall not have openings which allow passage of a sphere 21 inches (533 mm) in diameter.
4. In assembly seating areas, guards at the end of aisles where they terminate at a fascia of boxes, balconies and galleries shall not have openings which allow passage of a sphere 5

inches in diameter (127 mm) up to a height of 26 inches (660 mm). From a height of 26 inches (660 mm) to 42 inches (1067 mm) above the adjacent walking surfaces, guards shall not have openings which allow passage of a sphere 8 inches (203 mm) in diameter.

5. Within individual dwelling units and sleeping units in Group R-2 and R-3 occupancies, guards on the open sides of stairs shall not have openings which allow passage of a sphere 5 inches (127 mm) in diameter.

**1020.5 Dead ends.** Where more than one exit or exit access doorway is required, the exit access shall be arranged such that dead ends in corridors do not exceed 20 feet (6096 mm) in length.

**Exceptions:**

1. In Group I-3, Condition 2, 3 or 4, occupancies, the dead end in a *corridor* shall not exceed 50 feet (15,240 mm).
2. In occupancies in Groups B, E, F, M, R-1, R-2, S and U, where the building is equipped throughout with an *automatic sprinkler system* in accordance with Section 903.3.1.1, the length of the dead-end *corridors* shall not exceed 50 feet (15,240 mm).
3. In occupancies in Group I-1 where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, the length of the dead-end corridors shall not exceed 30 feet (9,144 mm).
4. A dead-end *corridor* shall not be limited in length where the length of the dead- end *corridor* is less than 2.5 times the least width of the dead-end *corridor*.
5. In Group I-2, Condition 2 occupancies, the length of dead-end *corridors* that do not serve patient rooms or patient treatment spaces shall not exceed 30 feet (9,144 mm).

**1023.8 Barrier at level of exit discharge.** An interior exit stairway and ramp shall not continue below its level of exit discharge unless an approved barrier or a directional exit sign is provided at the level of exit discharge to prevent persons from unintentionally continuing into levels below. Directional exit signs shall be provided as specified in Section 1011.

**1031.3.1 Minimum size.** Emergency escape and rescue openings shall have a minimum net clear opening of 5.0 square feet (0.50 m<sup>2</sup>).

**1030.3 Maximum height from floor.** Emergency escape and rescue openings shall have the bottom of the clear opening not greater than 48" inches (1219 mm) measured from the floor.

**1031.5.2 Ladders or steps.** Area wells with a vertical depth of more than 48 inches (1,219 mm) shall be equipped with an approved permanently affixed ladder or steps. The ladder or steps shall not be obstructed by the emergency escape and rescue opening when the window or door is in the open position. Ladders or steps required by this section shall not be required to comply with Section 1011.

**1104.4 Multistory buildings and facilities.** At least one accessible route shall connect each accessible story, mezzanine and occupied roofs in multilevel buildings and facilities.

**Exceptions:**

1. An *accessible route* from an accessible level is not required in facilities that are less than three stories in height or have less than 3000 square feet (279 m<sup>2</sup>) per story.

This exception shall not apply to:

- 1.1 Multiple tenant facilities of Group M occupancies containing five or more tenant spaces used for the sales or rental of goods and where at least one such tenant space is located on a floor level above or below the *accessible* levels; or
  - 1.2. *Stories* or *mezzanines* containing offices of health care providers (Group B or I); or
  - 1.3 Passenger transportation facilities and airports (Group A-3 or B); or
  - 1.4 Government buildings; or
  - 1.5 Structures with four or more dwelling units.
2. *Stories* or *mezzanines* or occupied roofs that do not contain *accessible* elements or other spaces as determined by Section 1107 or 1108 are not required to be served by an *accessible route* from an *accessible* level.
  3. In air traffic control towers, an *accessible route* is not required to serve the cab and the floor immediately below the cab.
  4. Where a two-story building or facility has one *story* or *mezzanine* with an *occupant load* of five or fewer persons that does not contain *public use* space, that *story* or *mezzanine* shall not be required to be connected by an *accessible route* to the *story* above or below.

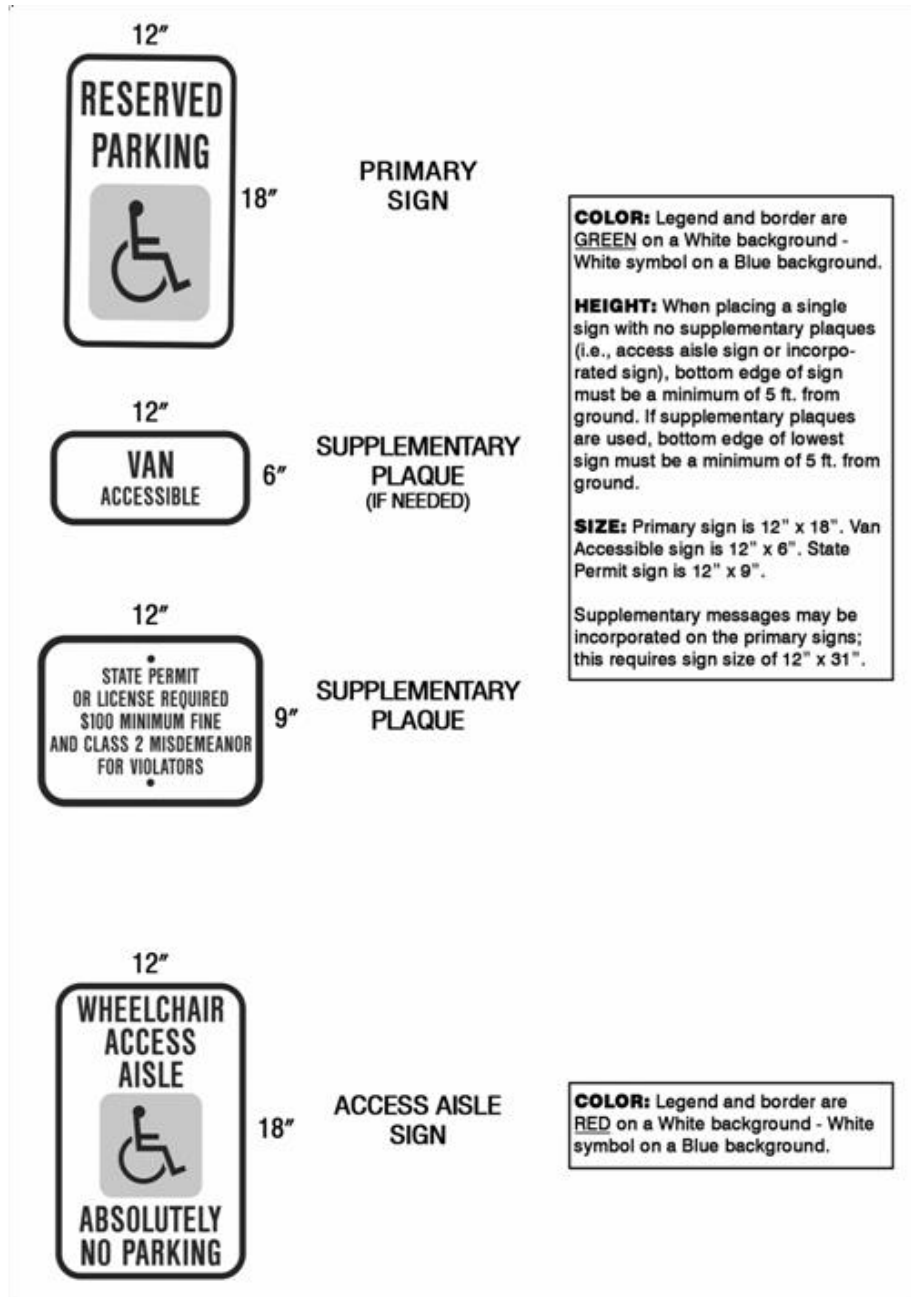
**1106.10 Signage.** Accessible parking spaces and access aisles are required to be identified by signs. Signs shall be located at the head of accessible parking stalls and access aisles. The bottom of the lowest signs shall be located at least 60 inches above the pavement.

As referenced below, standard and van accessible parking space signs shall state, “RESERVED PARKING” and include the International Symbol of Accessibility, and supplemental signage must additionally state, “STATE PERMIT OR LICENSE REQUIRED. \$100 MINIMUM FINE AND CLASS 2 MISDEMEANOR FOR VIOLATORS.” A van accessible parking space must have additional signage stating, “VAN ACCESSIBLE.” A van accessible access aisle must be provided with signage including the International Symbol of Accessibility which states, “WHEELCHAIR ACCESS AISLE. ABSOLUTELY NO PARKING.”

**1106.11 Access aisles and markings.** Each access that is part of an accessible route shall extend the full length of the parking space it serves. The aisle must have diagonally striped markings spaced every 4 feet (1219 mm). Boundaries of the access aisle must be marked. The end may be a squared or curved shape. Two parking spaces may share an access aisle.

Access aisles shall be placed on a level surface with a slope not to exceed 1:48.

Where an access aisle is located immediately adjacent to a sidewalk that provides the closest accessible route, the sidewalk must be provided with a curb ramp access to serve the access aisle.



**1108.6.2.2.1 Type A units.** In Group R-2 occupancies containing more than 20 dwelling units or sleeping units, at least 2 percent but not less than one of the units shall be a Type A unit. All Group R-2 units on a site shall be considered to determine the total number of units and the required number of Type A units. Type A units shall be dispersed among the various classes of units.

**Exceptions:**

1. The number of Type A units is permitted to be reduced in accordance with Section 1108.7.

2. Existing structures on a site shall not contribute to the total number of units on a site.
3. The following provisions of the 2017 ICC/ANSI A117.1-2017 referenced in Section 1103 Type A Dwelling are applicable.
  - 3.1 A work surface in the kitchen referenced in Section 1103.12.3 Clear Floor Space of ICC/ANSI A117.1-2017 is not required.
  - 3.2 The reduced work height of the kitchen sink at 34 inches referenced in Section 1103.12.4.2 ICC/ANSI A117.1-2017 is not required.
  - 3.3 Appliances referenced in Section 1103.12.5 Appliances ICC/ANSI A117.1-2009 and Laundry Equipment requires only the clear floor space referenced in Section 305 Clear Floor Space of ICC/ANSI A117.1-2017.

**1205.3.3 Court Drainage.** The bottom of every court shall be properly graded and drained to a public sewer or other approved disposal system complying with the Plumbing Code.

**1301.1.1 Criteria.** Buildings shall be designed and constructed in accordance with the 2009 *International Energy Conservation Code*.

**1502.1 General.** Design and installation of roof drainage systems shall comply with this section, Section 1611 of this code, and shall be sized, and discharge in accordance with the Plumbing Code. Unless roofs are sloped to drain over roof edges, roof drains or scuppers shall be installed at each low point of the roof. Roofs shall be sloped a minimum of 1 unit vertical in 48 units horizontal (2 percent slope) for drainage unless designed for water accumulation in accordance with Section 1611.2 Ponding instability. Roof drainage water from a building shall not be allowed to flow over public property.

**1502.2 Secondary (emergency overflow) drains or scuppers.** Where roof drains are required, secondary (emergency overflow) roof drains or scuppers shall be provided where the roof perimeter construction extends above the roof in such a manner that water will be entrapped if the primary drains allow buildup for any reason. The installation and sizing of secondary emergency overflow drains, leaders and conductors shall comply with Section 1611 of this code and the Plumbing Code.

**1601.1 Scope.** The provisions of this chapter shall govern the structural design of buildings, structures and portions thereof regulated by this code.

It shall not be the responsibility of the building official to determine engineering requirements of this code. Exclusive of conventional light-frame wood construction provisions referenced in Section 2308, the method to resist loads as referenced in this chapter is the responsibility of a structural engineer or other qualified design professional.

**1612.3 Establishment of flood hazard areas.** To establish flood hazard areas, the applicable governing authority shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled “The Flood Insurance Study for The City of Hartford, South Dakota” dated September 2, 2009, with the accompanying Flood Insurance Rate Map (FIRM), dated September 2, 2009 and related supporting data along with any revisions thereto, including all applicable LOMR data. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of

this section. If there is a conflict between the provisions of this code and the city's Floodplain Management Ordinance, the provisions of the Floodplain Management Ordinance shall prevail.

**1703.1 Approved agency.** An approved agency or the design professional of record shall provide all information as necessary for the building official to determine that the agency meets the applicable requirements.

**1704.2 Special inspections.** Where application is made for construction as described in this section, the owner or the registered design professional in responsible charge acting as the owner's agent shall employ one or more approved agencies to perform inspections during construction on the types of work listed under Section 1705. These inspections are in addition to the inspections identified in Section 110.

**Exceptions:**

1. Special inspections are not required for construction of a minor nature or as warranted by conditions in the jurisdiction as approved by the building official.
2. Unless otherwise required by the building official, special inspections are not required for Group U occupancies that are accessory to a residential occupancy including, but not limited to, those listed in Section 312.1.
3. Special inspections are not required for portions of structures designed and constructed in accordance with the cold-formed steel light-frame construction provisions of Section 2211.1.2 or the conventional light-frame construction provisions of Section 2308.
4. The frequency and amount of special inspections shall be as determined by the design professional of record. The continuous and periodic inspections referenced in Tables 1705.2.2, 1705.3, 1705.6, 1705.7 and 1705.8 are considered as guidelines.
5. The contractor is permitted to employ the approved agencies where the contractor is also the owner.

**1705.3 Concrete construction.** The special inspections and verifications for concrete construction shall be as required by this section and Table 1705.3.

**Exception:** Special inspections shall not be required for:

1. Isolated spread concrete footings of buildings three stories or less above grade plane that are fully supported on earth and rock.
2. Continuous concrete footings and foundation walls supporting walls of buildings three stories or less above grade plane that are fully supported on earth or rock where:
  - 2.1. The footings and foundation walls support walls of light-frame construction; or
  - 2.2. The footings are designed in accordance with Table 1809.7; or
  - 2.3. The structural design of the footing and foundations is based on a specified compressive strength,  $f'c$ , no greater than 3000 pounds per square inch (psi) (20.6 MPa), regardless of the compressive strength specified in the construction documents or used in the footing construction.

3. Nonstructural concrete slabs supported directly on the ground, including pre-stressed slabs on grade, where the effective pre-stress in the concrete is less than 150 psi (1.03 MPa).
4. Concrete foundation walls constructed in accordance with Table 1807.1.6.2.
5. Concrete patios, driveways, and sidewalks on grade.
6. Electrical, plumbing, and mechanical permits and fees shall conform to the State of South Dakota fee requirements.

**[BF] 1705.18 Fire-resistant penetrations and joints.** In high-rise buildings or in buildings assigned to Risk Category III or IV, special inspections for through-penetrations, membrane penetration fire-stops, fire-resistant joint systems, and perimeter fire containment systems that are tested and listed in accordance with Sections 714.4.1.2, 714.5.1.2, 715.3.1, and 715.4 shall be in accordance with Section 1705.18.1 or 1705.18.2.

**1710.1 Moving and location of buildings (within City limits):** No building or structure including mobile and prefabricated houses, shall be moved to any lot within the City of Hartford unless the owner of the building or lot shall first apply for and obtain a building permit. The application for the building permit shall include a plot plan showing the location of the building on the lot and compliance with the yard requirements of local municipal zoning ordinances.

**1710.2 Moving and location of buildings (out of the City Limits):** No building or structure shall be moved out of the city limits, unless the owner of the building obtains a moving permit authorized by the Hartford City Council per City Ordinance 6.04 and follows all of the said regulations.

**1804.8 Grading permits required.** No person shall excavate or grade without first obtaining a permit from the city building department. If a building permit is not obtained, a separate grading permit must be obtained from the building official for each site and may cover both excavations and fills.

**Exceptions:**

1. A separate grading permit is not required from the building official where a site plan for a new building, structure, or addition is submitted for plan review where an excavation below finished grade for basements, footings, and foundations of a building, retaining wall, or other structure is authorized by a valid building permit.
2. A fill of less than 1 foot in depth and placed on natural terrain with a slope flatter than one unit vertical to five units horizontal (20 percent slope), or less than 3 feet (914 mm) in depth not intended to support structures, which does not exceed 300 cubic yards (229 m<sup>3</sup>) on any one lot and does not obstruct a drainage course.
3. Excavation, removal, or stockpiling of rock, sand, dirt, clay, or other like material as may be required by the state, county, or city authorities in connection with the construction or maintenance of roads and highways. This shall not exempt work for street construction when such work is performed by private developers. When the private developer has



obtained a permit to perform site grading, a second permit will not be required for street grading.

4. When approved by the building official, grading in an isolated, self-contained area if there is no danger to public or private property.
5. Cemetery graves.
6. Refuse disposal sites controlled by other regulations.
7. Excavations for wells, tunnels, or utilities.
8. Mining, quarrying, excavating, processing, or stockpiling of rock, sand, gravel, aggregate, or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.
9. Exploratory excavations under the direction of soils engineers or engineering geologists.
10. An excavation that (1) is less than 2 feet (610 mm) in depth; or (2) does not create a cut slope of less than 5 feet (1,524 mm) in height and steeper than 1 unit vertical in 1 1/2 units horizontal (66.7 percent slope).

Exemptions from the permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of this jurisdiction.

**1804.8.1 Grading permit requirements.** Grading shall be performed in accordance with a grading plan approved by the building official. Submitted plans shall indicate existing elevations, proposed elevations, method of erosion control, and shall include the legal description

**1806.2 Presumptive load-bearing values.** The load-bearing values used in design for supporting soils near the surface shall not exceed the values specified in Table 1806.2 unless data to substantiate the use of higher values are submitted and approved. Where the building official has reason to doubt the classification, strength or compressibility of the soil, the requirements of Section 1803.5.2 shall be satisfied.

Presumptive load-bearing values shall apply to materials with similar physical characteristics and dispositions. Where a presumed soil-bearing capacity is in excess of 3,000 psf (471 kPa/m) data to substantiate the use of the presumed higher value must be submitted from a soils engineer for approval from the building official. Mud, organic silt, organic clays, peat or unprepared fill shall not be assumed to have a presumptive load-bearing capacity unless data to substantiate the use of such a value are submitted.

**Exception:** A presumptive load-bearing capacity shall be permitted to be used where the building official deems the load-bearing capacity of mud, organic silt, or unprepared fill is adequate for the support of lightweight or temporary structures.

**1809.5 Frost protection.** Except where otherwise protected from frost, foundations and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

1. Extending below the frost line of the locality; or

2. Constructing in accordance with ASCE 32; or
3. Erecting on solid rock.

**Exception:** Free-standing buildings meeting all of the following conditions shall not be required to be protected:

1. Assigned to Risk Category I
2. Area of 1500 square feet (138 m<sup>2</sup>) or less for light-frame construction or 400
3. Eave height of 10 feet or less. Shallow foundations shall not bear on frozen soil unless such frozen condition is of a permanent character.

**(P) 2901.1 Scope.** The provisions of this chapter and the Plumbing Code shall govern the design, construction, erection and installation of plumbing components, appliances, equipment and systems used in buildings and structures covered by this code. Toilet and bathing rooms shall be constructed in accordance with Section 1209. Private sewage disposal systems shall conform to the Plumbing Code. The International Fire Code, the International Property Maintenance Code and the Plumbing Code shall govern the use and maintenance of plumbing components, appliances, equipment and systems. The International Existing Building Code and the Plumbing Code shall govern the alteration, repair, relocation, replacement and addition of plumbing components, appliances, equipment and systems.

**[P] Table 2902.1**  
**Minimum Number of Required Plumbing Fixtures <sup>a</sup>**  
**(See Sections 2902.1.1 and 2902.2)**

No.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS SEE SECTION 2902.1.4)		LAVATORIES		BATHTUBS/SHOWERS	DRINKING FOUNTAINS (SEE SECTION 2902.1.5)	OTHER
			Male	Female	Male	Female			
1	Assembly	Theaters and other buildings for the performing arts and motion pictures	1 per 125	1 per 65	1 per 200	—	—	1 per 500	1 service sink
		Nightclubs, bars, taverns, dance halls and buildings for similar purposes	1 per 40	1 per 40	1 per 75	—	—	1 per 500	1 service sink
		Restaurants, banquet halls and food courts	1 per 75	1 per 75	1 per 200	—	—	1 per 500	1 service sink
		Casino gaming areas	1 per 100 for the first 400 and 1 per 250 for the remainder exceeding 400	1 per 50 for the first 400 and 1 per 150 for the remainder exceeding 400	1 per 250 for the first 750 and 1 per 500 for the remainder exceeding 750	—	—	1 per 1,000	1 service sink
		Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums	1 per 125	1 per 65	1 per 200	—	—	1 per 500	1 service sink
		Passenger terminals and transportation facilities	1 per 500	1 per 500	1 per 750	—	—	1 per 1,000	1 service sink
		Places of worship and other religious services	1 per 150	1 per 75	1 per 200	—	—	1 per 1,000	1 service sink

		Coliseums, arenas, skating rinks, pools and tennis courts for indoor sporting events and activities	1 per 120	1 per 60	1 per 200	1 per 150	—	1 per 1,000	1 service sink
		Stadiums, amusement parks, bleachers and grandstands for outdoor sporting events and activities	1 per 120	1 per 60	1 per 200	1 per 150	—	1 per 1,000	1 service sink
2	Business	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industrial, ambulatory care and similar uses	1 per 25 for the first 50 and 1 per 50 for the remainder exceeding 50		1 per 40 for the first 80 and 1 per 80 for the remainder exceeding 80		—	1 per 100	1 service sink
3	Educational	Educational facilities	1 per 50		1 per 50		—	1 per 100	1 service sink

4	Factory and industrial	Structures in which occupants are engaged in work fabricating, assembly or processing of products or materials	1 per 100		1 per 100		—	1 per 400	1 service sink
5	Institutional	Custodial care facilities	1 per 10		1 per 10	1 per 8		1 per 100	1 service sink
		Medical care recipients in hospitals and nursing homes	1 per room		1 per room	1 per 15		1 per 100	1 service sink
		Employees in hospitals and nursing homes	1 per 25		1 per 35		—	1 per 100	—
		Visitors in hospitals and nursing homes	1 per 75		1 per 100		—	1 per 500	—
		Prisons	1 per cell		1 per cell	1 per 15		1 per 100	1 service sink
		Reformatories, detention centers and correctional centers	1 per 15		1 per 15	1 per 15		1 per 100	1 service sink
		Employees in reformatories, detention centers and correctional centers	1 per 25		1 per 35		—	1 per 100	—
		Adult day care and child day care	1 per 15		1 per 15	1		1 per 100	1 service sink
6	Mercantile	Retail stores, service stations, shops, salesrooms, markets and shopping centers	1 per 500		1 per 750		—	1 per 1,000	1 service sink
7	Residential	Hotels, motels, boarding houses (transient)	1 per sleeping unit		1 per sleeping unit	1 per sleeping unit		—	1 service sink
		Dormitories, fraternities, sororities and boarding houses (not transient)	1 per 10		1 per 10	1 per 8		1 per 100	1 service sink
		Apartment house	1 per dwelling unit		1 per dwelling unit	1 per dwelling unit		—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per 20 dwelling units
		One- and two-family dwellings and lodging houses with five or fewer guestrooms	1 per dwelling unit		1 per 10	1 per dwelling unit		—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per dwelling unit
		Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10	1 per 8		1 per 100	1 service sink
8	Storage	Structures for the storage of goods, warehouses, storehouses and freight depots, low and moderate hazard	1 per 100		1 per 100		—	1 per 1,000	1 service sink

- a. The fixtures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by this code.
- b. Toilet facilities for employees shall be separate from facilities for inmates or care recipients.
- c. A single-occupant toilet room with one water closet and one lavatory serving not more than two adjacent patient sleeping units shall be permitted, provided that each patient sleeping unit has direct access to the toilet room and provisions for privacy for the toilet room user are provided.
- d. The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.
- e. For business and mercantile classifications with an occupant load of 15 or fewer, a service sink shall not be required.
- f. The required number and type of plumbing fixtures for outdoor swimming pools shall be in accordance with Section 609 of the *International Swimming Pool and Spa Code*.

**2902.1.4 Substitution for water closets.** In a toilet room or bathroom, urinals shall not be substituted for more than 67 percent of the required water closets.

**2902.1.5 Drinking fountains.** Where water is served in restaurants or where bottled water is served in other occupancies, drinking fountains shall not be required. Drinking fountains shall not be installed in public restrooms.

**[P] 2902.2 Separate facilities.** Where plumbing fixtures are required, separate facilities shall be provided for each sex.

**Exceptions:**

1. Separate facilities shall not be required for *dwelling units* and *sleeping units*.
2. Separate facilities shall not be required in structures or tenant spaces with a total *occupant load*, including both employees and customers, of 15 or fewer.
3. Separate facilities shall not be required in mercantile occupancies in which the maximum *occupant load* is 100 or fewer.
4. Separate facilities shall not be required in business occupancies in which the maximum *occupant load* is 25 or fewer.
5. Separate facilities shall not be required to be designated by sex where single-user toilets rooms are provided in accordance with Section 2902.1.2.
6. Separate facilities shall not be required where rooms having both water closets and lavatory fixtures are designed for use by both sexes and privacy for water closets are installed in accordance with Section 2902.2.2. Urinals shall be located in an area visually separated from the remainder of the facility or each urinal that is provided shall be located in a stall.

**[P] 2902.6 Small occupancies.** Drinking fountains and service sinks shall not be required for an occupant load of 15 or fewer.

**3111.2 Solar thermal systems.** Solar thermal systems shall be designed and installed in accordance with this section, the *International Mechanical Code*, and the *International Fire Code*. Where light-transmitting plastic covers are used, solar thermal collectors shall be designed in accordance with Section 2606.12

**Section 3116. Prefabricated construction. 3116.1. General.**

**3114.1.1 Purpose.** The purpose of this section is to regulate materials and establish methods of safe construction where any structure or portion thereof is wholly or partially prefabricated.

**3116.1.2 Scope.** Unless otherwise specifically stated in this section, all prefabricated construction and materials used therein shall conform to all the requirements of this code.

**3116.1.3 Definitions.**

*Prefabricated assembly* is a structural unit, the integral parts of which have been built or assembled prior to incorporation in the building.

*Prefabricated structures* are structures, the parts of which are fabricated and assembled in a central assembly point, where on-site building, electrical, plumbing, and mechanical rough-in inspections occur at the assembly location.

**3116.2 Tests of materials.** Every approval of a material not specifically mentioned in this code shall incorporate as a proviso the kind and number of nationally recognized tests to be made.

**3116.3 Tests of assemblies.** The building official may require special tests to be made on assemblies to determine their durability and weather resistance.

**3116.4 Connections.** Every device used to connect prefabricated assemblies shall be designed as required by this code and shall be capable of developing the strength of the members connected, except in the case of members forming part of a structural frame as specified in Chapter 16.

Connections shall be capable of withstanding uplift forces as specified in this code and in Chapter 16.

**3116.5 Pipes and conduits.** In structural design, due allowance shall be made for any material to be removed for the installation of pipes, conduit, and other equipment.

**3116.6. Permits, materials, plans, fees, certificate, and inspections.**

**3116.6.1 Materials.** Materials and the assembly thereof shall be inspected to determine compliance with this code. Every material shall be graded, marked, or labeled as required elsewhere in this code.

**3116.6.2 Plans.** One complete set of plans and specifications shall be submitted to the building inspection division of planning and building services for approval prior to issuing a building permit for a prefabricated structure. Plans shall be of sufficient detail and clarity to indicate compliance with all applicable codes (electrical, plumbing, building, mechanical, and zoning).

**3116.6.3 Permits and fees.** Permit fees shall be as follows:

1. The fee for a building permit shall conform to Tables 1-A and 1-B, and the plan review fee, if applicable, shall be in accordance with Table 1-C.
2. Electrical, plumbing, and mechanical permits and fees shall conform to the respective permit requirements and fee schedules.

**3116.6.4 Certificate.** A certificate of approval shall be furnished with every prefabricated assembly and prefabricated structure, except where the assembly is readily accessible to inspection at the site. The certificate of approval shall certify that the assembly in question has been inspected and meets all the requirements of this code. When mechanical equipment is installed so that it cannot be inspected at the site, the certificate of approval shall certify that such equipment complies with the laws applying thereto.

**3116.6.5 Certifying agency.** To be acceptable under this code, every certificate of approval shall be made by the approved agency.

**3116.6.6 Field erection.** The building official shall inspect placement of prefabricated assemblies at the building site to determine compliance with this code. Installation and finishing work at the building site must be performed by locally licensed contractors where required. Final inspections are to be made after the installation and finishing work has been completed and the building is ready for occupancy.

**3116.6.7 Continuous inspection.** If continuous inspection is required for certain materials where construction takes place on the site, it shall also be required where the same materials are used in prefabricated construction.

**Exception:** Continuous inspection will not be required during prefabrication if the approved agency certifies to the construction and furnishes evidence of compliance.

**3303.1 Construction documents.** No person shall demolish or wreck a building or structure without first obtaining a razing permit. Permit fees shall be paid in accordance with City Ordinance #718 and associated

table of minimum value. *Construction documents* and a schedule for demolition shall be submitted where required by the *building official*. Where such information is required, no work shall be done until such *construction documents* or schedule, or both, are *approved*. The applicant shall secure insurance covering any possible liability that could incur during demolition.

**3303.6 Utility connections.** Service utility connections shall be discontinued and capped in accordance with the *approved* rules and the requirements of the applicable governing authority. Before a razing permit can be issued, the applicant must furnish approval from the city officials that applicable permits have been secured to ensure that all utilities will be properly disconnected and inspected as per city engineer's specifications. The applicant shall be responsible for notifying other utilities of such anticipated demolition.

## **CHAPTER 9.06 – PLUMBING, MECHANICAL, ELECTRICAL, AND FUEL/GAS**

### 9.0601 Adoption.

The following are adopted in their entirety without amendments: 2020 National Electrical Code, 2021 International Mechanical Code, 2021 International Fuel/Gas Code, and 2021 International Fire Code.

A copy of the above listed codes (and amendments) are filed at the business office of the City of HARTFORD and the same is hereby adopted and incorporated as fully as if set out at length herein, and from the date of which this ordinance shall take effect, the provisions thereof shall be controlling in the construction of all buildings and other structures within the corporate limits of the City of HARTFORD.

*(Amended: Ordinance No. 543, 5-5-2009)*

*(Amended: Ordinance No. 730, 3-31-2022)*

## **CHAPTER 9.07 – FLOOD DAMAGE PREVENTION**

### 9.0701 Statutory Authorization, Findings of Fact, Purpose and Methods.

#### A. Statutory Authorization.

The Legislature of the State of South Dakota has in (statutes) SDCL 9-36 and 7-18-14 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Hartford City Council of Hartford, SD, does ordain as follows:

The city/town of Hartford elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid act, provides that areas of the town having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. The National Flood Insurance Program was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. It was further modified by the National Flood Insurance Reform Act of 1994. The National Flood Insurance Program is administered by

the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security.

B. Findings of Fact.

1. The flood hazard areas of Hartford are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

C. Statement of Purpose.

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

D. Methods of Reducing Flood Losses.

In order to accomplish its purposes, this ordinance uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;



4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

9.0702 Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its' most reasonable application.

***Area of future-conditions flood hazard*** means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

***Area of shallow flooding*** means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

***Area of special flood-related erosion hazard*** is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area; in preparation for publication of the FIRM, Zone E may be further refined.

***Area of special flood hazard*** is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

***Base flood*** means the flood having a one percent chance of being equaled or exceeded in any given year.

***Base Flood Elevation (BFE)*** – Is the water surface elevation of the one (1) percent annual chance flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

***Basement*** means any area of the building having its floor subgrade (below ground level) on all sides.

***Breakaway wall*** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

***Building***--see structure.

**Development** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**Erosion** means the process of the gradual wearing away of land masses. This peril is not per se covered under the Program.

**Existing construction** means for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.”

**Existing manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**Existing structures**--see existing construction.

**Expansion to an existing manufactured home park or subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Flood or Flooding** means:

- (a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (1) The overflow of inland or tidal waters.
  - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
  - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

**Flood elevation** determination means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

***Flood Insurance Rate Map (FIRM)*** means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

***Flood Insurance Study or Flood elevation study*** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

***Flood plain or flood-prone area*** means any land area susceptible to being inundated by water from any source (see definition of “flooding”).

***Flood proofing*** means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

***Floodway***--see regulatory floodway.

***Floodway encroachment lines*** mean the lines marking the limits of floodways on Federal, State and local flood plain maps.

***Freeboard*** means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

***Functionally dependent use*** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

***Highest adjacent grade*** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

***Historic Structure*** means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic reservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (1) By an approved state program as determined by the Secretary of the Interior or
- (2) Directly by the Secretary of the Interior in states without approved programs.

***“Letter of Map Amendment” and “Letter of Map Revision Based on Fill” - add  
Conditional Letter of Map Revision - add***

***Levee*** means a man-made structure usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

***Levee System*** means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

***Lowest Floor*** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Sec. 60.3.

***Manufactured home*** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

***Manufactured home park or subdivision*** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

***Map*** means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

***Mean sea level*** means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

***New construction*** means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

***New manufactured home park or subdivision*** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

***Recreational vehicle*** means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**Special flood hazard area:** see “area of special flood hazard”.

**Special hazard area** means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.

**Start of Construction** (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes, means:

- (1) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;
- (2) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
- (3) A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

**Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure's continued designation as a “historic structure.”

**Variance** means a grant of relief by a community from the terms of a flood plain management regulation.

**Violation** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**Water surface elevation** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

#### 9.0703 General Provisions.

##### A. Lands to Which This Ordinance Applies.

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of Hartford, South Dakota.

##### B. Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for the City of Hartford, South Dakota," dated September 2, 2009, with accompanying Flood Insurance Rate Maps (FIRM), dated September 2, 2009 and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

- The Flood Insurance Study report and Flood Insurance Rate map is revised by Letter of Map Revision (LOMR), with an effective date of February 14, 2011. The

annotated Flood Insurance Rate Map (FIRM) panels revised by the LOMR are 460099C0405D and 460099C0410D. The Flood panels created by the revision are 27P, 28P, 29P, and 30P. Base Flood Elevation's (BRE's) are established in the study area identified in the LOMR and reference the North American Vertical Datum of 1988.

*(Amended: Ordinance No. 563, 4-19-2011)*

C. Establishment of Development Permit.

A Development Permit shall be required to ensure conformance with the provisions of this ordinance.

D. Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

E. Abrogation and Greater Restrictions.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

F. Interpretation.

In the interpretation and application of this ordinance, all provisions shall be:

1. considered as minimum requirements;
2. liberally construed in favor of the governing body; and
3. deemed neither to limit nor repeal any other powers granted under State statutes.

G. Warning and Disclaimer or Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes.

This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

H. Severability.

If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

9.0704 Administration.

A. Designation of the Floodplain Administrator.

The City Administrator is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

B. Duties & Responsibilities of the Floodplain Administrator.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for development permits required by adoption of this ordinance.
4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Department of Public Safety, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. When base flood elevation data has not been provided in accordance, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of this ordinance.
9. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will



not increase the water surface elevation of the base flood more than one foot at any point within the community.

10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community **first** applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

C. Permit Procedures.

Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard.

Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article V, Section B;
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
5. Maintain a record of all such information.

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;

6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

D. Variance Procedures.

The appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.

1. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
2. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency and the State Office of Emergency Management upon issuing a variance.
3. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
4. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance.
5. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
6. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
7. Prerequisites for granting variances:
  - a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - b) Variances shall only be issued upon:

- 1) showing a good and sufficient cause;
  - 2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - 3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- c) Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
8. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- a) the criteria outlined in Article 4, Section D(1)-(9) are met, and
  - b) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

9.0705 Provisions for Flood Hazard Reduction.

A. General Standards.

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

B. Specific Standards.

In all areas of special flood hazards where base flood elevation data has been provided the following provisions are required:

1. **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standards of this ordinance are satisfied.
2. **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
3. **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b) The bottom of all openings shall be no higher than one foot above grade.
  - c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
4. **Manufactured Homes** -

- a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
  - b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - c) In A-1-30, AH, and AE Zones, require that manufactured homes to be placed or substantially improved in an existing manufactured home park to be elevated so that the lowest floor is at or above the Base Flood Elevation; OR the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored.
5. **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
- a) be on the site for fewer than 180 consecutive days,
  - b) be fully licensed and ready for highway use, or
  - c) meet the permit requirements of Article IV, Section C, and the elevation and anchoring requirements for "manufactured homes" of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

C. Standards for Subdivision Proposals.

- 1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with the provisions of this ordinance.
- 2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of this ordinance.
- 3. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser.

4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

E. Floodways.

Floodways located within areas of special flood hazard established in Article III, are extremely hazardous areas due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Designate a regulatory floodway which will not increase the Base Flood level more than 1 foot.
2. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
3. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V in this ordinance.
4. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** applies for a conditional FIRM and floodway revision through FEMA.

F. Penalties for Noncompliance.

In accordance with Section 59.2(b) of CFR 44, Chapter 1, of the National Flood Insurance Program (NFIP) regulation, to qualify for the sale of Federally-subsidized flood insurance, a community must adopt floodplain management regulations that meet or exceed the minimum standards of Section 60. "These regulations must include effective enforcement provisions." In accordance with Section 60.1(b) of CFR 44, Chapter 1, of the NFIP regulations, "These regulations must be legally-enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone (i.e. mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over less restrictive conflicting local laws, ordinances or codes."

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein contained shall prevent

the City of Hartford from taking such other lawful action as is necessary to prevent or remedy any violation.

9.0706 Certification.

It is hereby found and declared by the City of Hartford that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

*(Amended: Ordinance No. 498, 4-4-2006; Ordinance No. 544, NO DATE IN ORD)*

## **CHAPTER 9.08 – UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS**

9.0801 Uniform Code for the Abatement of Dangerous Buildings. The Uniform Code for Abatement of Dangerous Buildings, its most recent edition as published by the International Conference of Buildings Officials and as amended by sections within this Chapter are hereby adopted by the City of Hartford. A printed copy of such code and the amendments shall be kept on file with the building official.

- A. Definitions. Whenever the phrase "building official" occurs in the code adopted by this chapter, the same shall be construed to mean the director of inspections, the City health officer, the director of the minimum housing code, the fire prevention officer, the building official, their respective authorized representatives, or any other City official authorized by the legislative body of this jurisdiction with the enforcement of this code.
- B. When reference is made to any governmental title in the code adopted by this Chapter, the title shall be construed to correspond with the governmental title designated by the laws of the City of Hartford or the State of South Dakota.

## **CHAPTER 9.09 – FIRE CODE**

9.0901 Key Lock Box System. The most recent edition of the fire code which has been duly adopted by the State of South Dakota is hereby officially adopted for the City of Hartford.

Section 506.1 of the fire code allows the fire code official to require an approved key box to be installed in an approved location to gain necessary access into restricted or secured openings for life-saving or fire-fighting purposes.

The City of Hartford is enacting a key lock box system to allow the emergency responders the access necessary to promote the health, safety and welfare of its residents and to prevent forced

entry damage to property or personnel. The regulations for the key lock box system will be as follows:

A. Key Box System: The approved manufacturer of the lock box system used in the City of Hartford shall be by the Knox Company of Phoenix, Arizona. This system shall be required on the following structures:

- Commercial, Industrial or Non-Residential Structures protected by an automatic alarm system or automatic suppression system, or such structures that are secured in a manner that restricts access during an emergency.
- Multi-Family residential structures that have restricted access through locked doors or have a common corridor for access to the living units.
- All properties having a security gate at the vehicular entrance to the property.

All newly constructed structures subject to this section shall have the key lock box installed and operational prior to the issuance of an occupancy permit. All structures in existence on the effective date of this ordinance and subject to this section shall have one year from the effective date of this ordinance and subject to this section shall have one year from the effective date of this ordinance to have a key lock box installed and operational.

B. Location of Key Box: The key box system shall be securely installed on the address side of the building within 15 feet of the main entrance or at an alternate location approved by the Hartford Fire Chief.

C. Key Box Contents: All master keys, key codes or card entry systems for all exterior doors shall be kept inside the key box system. Each item in the key box must be clearly labeled.

D. Style of Key Box: The style or type of the key box shall be determined and approved by the Hartford Area Fire and Rescue Fire Chief.

E. Purchase of Key Box: It shall be the responsibility of the property owner to purchase, install and maintain the key box system.

F. Changes: The owner of the property shall immediately notify the Fire Chief when any locks within their property are added, changed or rekeyed.

G. Master Key: Only the approved emergency responders will have access to the lock box master key. Access is monitor by the Hartford Area Fire and Rescue.

*(Amended: Ordinance No. 679, 11-5-2019)*

9.0902 Violations. Any entity violating any of the provision of this Ordinance or failing or neglecting or refusing to obey any order or notice of the Fire Chief or the City of Hartford is subject to the following penalty: Every violation of any of the provisions of this ordinance shall be punishable by a fine not exceed two hundred dollars (\$200.00) or by imprisonment for a period not exceeding thirty (30) days or both such fine and imprisonment.

*(Amended: Ordinance No. 679, 11-5-2019)*

## **CHAPTER 9.10 – URBAN AND RURAL SERVICE DISTRICTS**



9.1001 Service districts established. Pursuant to the authority granted in SDCL Ch. 9-21A, the city is hereby divided in area into an urban service district and a rural service district constituting separate taxing districts for the purpose of levying all city ad valorem property taxes, except those levied for the payment of bonds.

9.1002 Rural service district--Criteria for lands included. The rural service district shall include only such platted or unplatted lands as in the judgment of the city commission are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes. The rural service district may include lands which are not contiguous to one another.

9.1003 Lands described--Rural service district. The rural service district shall consist of those platted or unplatted lands described in Exhibit A, on file with the city finance officer's office, entitled "Lands Included in the Rural Service District" and attached to the end of this chapter and made a part of this section, all of which lands are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes. (See Appendix II)

The rural service district shall also include lands outside the municipality, if annexed into the city limits, which are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes.

9.1004 Lands included in urban service district. The urban service district shall include all lands within the boundaries of the city which are not included in the rural service district.

9.1005 Agricultural land annexed; limitation on mill levy and assessed value. The tax levy and assessed value on the agricultural land annexed shall not exceed the average tax levy and average assessed value on unannexed agricultural land in adjoining townships in the county so long as the annexed land remains rural property and is included in the rural service district.

9.1006 Platting or construction in rural district. Whenever any parcel of land included within the rural service district:

- A. Is platted in whole or in part;
- B. Is the subject of an application for a permit for the construction of a commercial, industrial or urban residential development or improvement to be situated on such parcel or any part thereof; or
- C. Otherwise fails to meet the criteria as set forth in Section 3.05.030 of this chapter.

The board or officer of the city approving such plat or building permit or having knowledge of the change in circumstances shall report the change to the city commission which shall make and enter an order transferring such parcel from the rural service district to the urban service district.

9.1007 Filing ordinance amendment or order with county auditor. The city finance officer is hereby directed to file with the appropriate county auditor a certified copy of the ordinance codified in this chapter, every amendment thereof and every order adopted or entered pursuant to such ordinance.

(Amended: Ordinance No. 553, 4-6-2010)

## CHAPTER 9.11 – INTERNATIONAL PROPERTY MAINTENANCE CODE

### 9.1101 Adoption International Residential Building Code 2021.

The *International Property Maintenance Code*, 2021 edition, published by the International Code Council as amended, is hereby adopted as the property maintenance code 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 jurisdiction 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 and will be adopted on March 31, 2022.

A printed copy as amended is on file at the Hartford City Hall.

### 9.1102 Amendments, additions, and deletions to the 2015 *International Property Maintenance Code*.

The following sections and subsections of the property maintenance code adopted in this article shall be amended, added, or not adopted by the city as follows. All other sections or subsections of the 2021 *International Property Maintenance Code* shall remain the same.

**101.1 Title.** These regulations shall be known as the International Property Maintenance Code of The City of Hartford, 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 Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Residential Code*, *Uniform Plumbing Code* and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any of the Ordinances of Hartford, South Dakota.

**103.1 Enforcement agency.** The City of Hartford shall be the enforcement agency and the official in charge thereof shall be known as the Building Official.

**103.2 Appointment.** The section not adopted by the City of Hartford.

**104.1 Fees.** The fees for building permits, activities, and services performed by the city in carrying out its responsibilities under this code shall be established by the Hartford City Council.

**105.7 Liability.** The building official, member of the board of adjustment, 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 an act or by reason of an act or omission in the discharge of official duties. Any suit brought against the building official, officer or employee because of such act or omission performed by the building official, officer or employee in the lawful discharge of duties and enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the enforcement of this code or enforced by the code enforcement agency shall be afforded all the protection provided by the City's liability insurance, immunities and any immunities and defenses provided by other applicable state and federal laws

and shall be defended by legal representative of the jurisdiction 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.

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 city, 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.

**107.1 General.** The *code official* shall order the *owner, or owner's authorized agent* of any *premises* upon which is located any structure, which in the *code official's* judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary, or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* option; or where there has been a cessation of normal construction of any structure for a period of more than 18 months, the *code official* shall order the *owner or owners authorized agent* to demolish and remove such structure. The structure must remain secured during the 18-month time period. This adopted language will replace the City of Hartford's adopted Ordinance Chapter 3.04 "Abatement of Dangerous Buildings".

**107.5 Application for appeal.** Any person directly affected by a decision of the *code official*, or a notice or order issued under this code shall have the right to appeal to the Board of Adjustments, 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 is adequately satisfied by other means. The Board is additionally charged with the review of all proposed changes to the Property Maintenance Code and to submit recommendations to the responsible official and the city council. The Board shall have authority relative to the interpretation of the administrative provisions of the code. The board shall not be empowered to waive requirements of this code. The appeal process will align with the City of Hartford's zoning ordinance Section 17-03. The City of Hartford's Board of Adjustments will be the representative body to hear all appeals.

**108.1 Membership of board.** The Board of Adjustments shall consist of a minimum of seven members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction.

**108.2 Compensation of Members.** Compensation of members shall be at a rate of \$50.00 for each scheduled meeting regardless of the number of agenda items. Members shall be compensated at this rate each time the Board of Adjustments is assembled for a scheduled meeting.

**108.3 Open hearing.** All hearings before the board shall be open to the public. The appellant, the appellant's representative, the *code official*, and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than four members of the planning commission.

**108.4 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 thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority relative to the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

**109.2 Notice to person responsible.** Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3. Notwithstanding the above, this section shall not apply to the giving of notice as it relates to a violation of Hartford City Ordinance 430, Section 3.01 concerning weeds and failure to mow violations.

**109.6 Extension of time agreement.** If the code official determines that an extension of time will not create or perpetuate a situation imminently dangerous to life or property, the code 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.

**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 Fire Code, International Fuel Gas Code, International Mechanical Code, Uniform International Plumbing Code, International Residential Code, NFPA 70* or the City of Hartford Zoning Ordinances, such terms shall have the meanings ascribed to them as stated in those codes.

**302.4 Weeds.** All weeds, grass height and plant growth shall be maintained and controlled in a manner so as to not be in conflict with the Hartford City Ordinance #430 and #685.

**302.4.1.** The occupant, person in charge, or owner of any lot or parcel of land in the City of Hartford shall keep such lot, to include any abutting city, township, county or state right-of-way, free of such nuisance vegetation, as declared in Hartford City Ordinance #430 and #685 by cutting, spraying, or removal, as may be appropriate. The City has the authority to require compliance with this article on all property within the city limits of Hartford.

**302.8 Motor vehicles.** Abandoned and inoperative vehicles shall be regulated by Hartford City Ordinances #430. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any *premises*, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.

**Exception:** A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and *approved* for such purposes.

**304.14 Insect screens.** During the period from April 1st to September 30th, 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 is processed, manufactured, packaged, or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), 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.

**307.1 General.** Every exterior and interior flight of stairs having four or more risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp, or other walking surface that is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall be not less than 34 inches (762 mm) in height or more than 38 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall be not less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp, or other walking surface.

**Exception:** *Guards* shall not be required where exempted by the adopted building code and a handrail is not required on a stairway if the guard is not required by the adopted building code.

**402.1 Habitable spaces.** Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall Not be deemed to face neither directly to the outdoors nor to a court and shall not be

included as contributing to the required minimum total window area for the room.

**Exceptions:**

1. Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m). The exterior glazing area shall be based on the total floor area being served.

2. The glazed areas need not be provided in rooms where artificial light is provided capable of producing an average illumination of six foot-candles (6.46 lux) over the area of the room at a height of 30 inches (762 mm) above the floor level.

**404.4.1 Room area.** Every living room shall contain not less than 120 square feet (11.2 m<sup>2</sup>) and every bedroom shall contain not less than 70 square feet (6.5 m<sup>2</sup>), and bedrooms 100 square feet (9.33 m<sup>2</sup>) or less are allowed two occupants and every bedroom occupied by more than two one persons shall contain not less than 50 additional square feet (4.6 m<sup>2</sup>) of floor area for each occupant thereof.

**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 Uniform Plumbing Code.

**602.2 Residential occupancies.** Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperatures for the locality. 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 (-1°C), a minimum temperature of 65°F (18°C) 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 1st to April 30th to maintain a minimum temperature of 68°F (20°C) 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. The winter outdoor design temperature for the locality shall be as indicated in the plumbing code.

2. In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.

**602.4 Occupiable workspaces.** Indoor occupiable workspaces shall be supplied with heat during the period from September 1st to April 30th to maintain a temperature of not less than 65°F (18°C) 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.

*(Amended: Ordinance No. 522, 10-16-2007)*

*(Amended: Ordinance No. 549, 10-20-2009)*

*(Amended: Ordinance No. 570, 8-16-2011)*

*(Amended: Ordinance No. 591, 8-6-2013)*

*(Amended: Ordinance No. 595, 10-1-2013)*

*(Amended: Ordinance No. 635, 1-17-2017)*

*(Amended: Ordinance No. 727, 3-1-2022)*

## **CHAPTER 9.12 – INTERNATIONAL RESIDENTIAL BUILDING CODE**

9.1201 Adoption International Residential Building Code 2021. The International Residential Code, 2021 edition including Appendix AE, Appendix AG, and Appendix AH and Appendix AQ as published by the International Code Council Inc. as amended is hereby adopted as the residential building code by the city for regulating the design, construction, quality of materials, erection, installation, alteration, movement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings and town houses not more than three stories in height with a separate means of egress and their accessory structures not more than three stories in height, and provides for the issuance of permits and the collection of fees therefore. The minimum building standards in the 2021 edition of the International Residential Code and amendments thereto shall be applied to any building permit issued after March 31, 2022. The adoption of the International Residential Building Code, 2021 edition will become effective March 31, 2022.

9.1202 Amendments, additions and deletions to the 2021 International Residential Building Code. The following sections and subsections of building code adopted in this subchapter shall be amended, added, or deleted as follows. All other sections or subsections of the 2021 International Building Code shall remain the same.

**R101.1 Title.** These provisions shall be known as the Residential Code for One- and Two-family Dwellings of the City of Hartford and shall be cited as such and will be referred to herein as "this code."

**R101.2 Scope.** The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures not more than three stories above grade plane in height.

**Exception 1:** The following shall be permitted to be constructed in accordance with this code where provided with an automatic fire sprinkler system complying with Section P2904 of the 2021 IRC code:

1. A care facility with five or fewer persons receiving custodial care within a dwelling unit.
2. A care facility with five or fewer persons receiving medical care within a dwelling unit.
3. A care facility for five or fewer persons receiving care that are within a single-family dwelling.

**Exception 2:**

1. Live/work units located in townhouses and complying with the requirements of Section 419 of the International Building Code.
2. Owner-occupied lodging houses with five or fewer guestrooms.

**Exception 3:** Existing buildings undergoing repair, alteration or additions and change of occupancies may be permitted to comply with the International Existing Building Code.

**R102.5.1 Electrical.** The term ICC Electrical Code shall mean the 2020 National Electrical Code as adopted by the State of South Dakota. The electrical code shall be administered by the State of South Dakota.

**R102.5.2 Gas.** The term International Fuel Gas Code shall mean the International Fuel Gas Code as adopted by the State of South Dakota. The International Fuel Gas Code shall be administered by the State of South Dakota.

**R102.5.3 Mechanical.** The term International Mechanical Code shall mean the International Mechanical Code as adopted by the State of South Dakota. The International Mechanical Code shall be administered by the State of South Dakota.

**R102.5.4 Plumbing.** The 2018 Uniform Plumbing Code shall be administered by the State of South Dakota.

**R102.5.6 Fire prevention.** The term International Fire Code shall mean the International Fire Code as adopted by the State of South Dakota. The International Fire Code shall be administered by the State of South Dakota.

**R102.5.7 Energy.** The term International Energy Conservation Code shall mean the International Energy Conservation Code as adopted by the State of South Dakota. The International Energy Conservation Code shall be administered by the State of South Dakota.

**R103.1 Enforcement agency.** The City of Hartford shall be the enforcement agency and person in charge thereof shall be known as the Building Official.

**R103.2 Appointment.** This section does not apply to the City of Hartford.

**R104.8 Liability.** The building official, member of the board of adjustment 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. 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 liability insurance and any immunities and defenses provided by other applicable state and federal law and defended by legal representative of the jurisdiction 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.

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 code enforcement agency or the city be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code

**R105.1 Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, 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.

Exclusive of a homeowner, no person or firm shall be issued a building permit for residential building defined as owner-occupied one- and two-family dwellings, including accessory garages, until that person or firm has been issued a residential contractor's license required by this chapter and City Zoning Ordinance #627.

**R105.2 Work exempt from permit.** Permits shall not be required for the following. Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

**Building:**

1. Children's playhouses which are less than 96 square feet, one story tall with side walls 8' feet or under.
2. Gutters/Downspouts
3. Retaining walls that are not over 4' feet in height measured from the bottom of the grade elevation to the top of the wall, unless supporting a surcharge.
4. Water tanks.
5. Painting, papering, tiling, carpeting, cabinets, counter-tops and similar finish work.
6. Prefabricated swimming pools that are less than 24" inches (610 mm) deep.
7. Swings and another playground equipment.
8. Window awnings supported by an exterior wall that do not project more than 54" inches from the exterior wall and do not require additional support.
9. Drain-tile work.

**R105.5: EXPIRATION OF A BUILDING PERMIT**



Every building permit issued under the provisions of this chapter shall expire by limitation and become null and void if the work or use authorized by such permit is not completed within 365 days from the date of such permit, Before such work can be recommenced, a new permit shall first be obtained to do so, provided and changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year.

The Building Official may, except as otherwise provided herein, extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once. No more than two active residential (open) building permits are allowed on one property at a time.

**R106.1 Submittal documents.** Submittal documents consisting of construction documents and other data shall be submitted with each application for a permit. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

**Exception:** The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with this code.

**R106.1.6 Energy efficiency.** Construction documents for detached one and two family dwellings and townhomes shall be provided with intended R-value for the ceilings, walls, floors, basement walls (if finished) slab perimeter R-value and depth, and crawl space walls.

**R106.1.7 Foundation reinforcement.** Construction for detached one- and two-family dwellings and town houses shall be provided with the intended reinforcement of foundation walls referenced in Tables R404.1. I (2), R404.1.1 (3), and R404.1.1 (4) for reinforced masonry foundation walls; Tables R404.1.2(2), R404.1.2(3), R404.1.2(4), and R404.1.1 (8) for flat concrete foundation walls; Tables 404.1.2(5) and R404. I .2(6) for waffle-grid basement walls; and Table R404.1.2(7) for screed-grid basement walls where the foundation wall exceeds the provisions for plain masonry and concrete foundation walls.

**R106.3.1 Approval of construction documents.** Where the building official issues a permit, the construction documents shall be approved. One set of construction documents for reviewed shall be retained by the building department.

**R108.2 Permit Fees.** A fee for each permit shall be paid as required in accordance with city ordinances.

**R108.6. Work commencing before permit issuance.** Any person who commences any work on a building or structure before obtaining the necessary permits shall be subject to the doubling of the standard permit fee and could be subject to an additional fine. Legal and/or civil proceedings may also be commenced.

**R108.7 Delinquent Accounts.** The City of Hartford may refuse to issue permits or conduct inspections for any person or business whose account is delinquent.

**R109.1.1 Footing inspection.** Inspection of the footings shall be made after poles or piers are set or trenches or basement areas are excavated, and any required forms erected and any required reinforcing steel is in

place and supported prior to the placing of concrete. The footing inspection shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports, or equipment and special requirements for wood foundations.

**R109.1.2 Electrical systems** inspections shall be made by the State of South Dakota.

**R109.1.3 Floodplain inspections.** Shall be made in accordance with the City of Hartford's Floodplain Ordinance.

**R109.1.4 Frame inspection.** Inspection of the framing shall be made after the roof, all framing, fire blocking and bracing are in place and all pipes, chimneys and vents are complete.

**R109.1.6.1 Elevation documentation.** If located in a flood hazard area, the documentation of elevations is required and shall be submitted to the Building Official prior to the final inspection.

**R101.1 Use and occupancy.** No building or structure shall be used or occupied, and no change of occupancy or a change of use of a building or structure or portion thereof shall be made until the Building Official has completed a final inspection and all construction and code requirements have been met to the Building Official's satisfaction, including obtaining the final approved plumbing and electrical inspections. An inspection sticker shall be posted on the electrical panel signed off by the Building Official. 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.

**Exceptions:**

1. Accessory buildings or structures.
2. Certificates of occupancy are not required for work exempt from permits.

**R110.5 Revocation.** The Building Official shall, in writing, suspend or revoke occupancy allowed under the provision of this code wherever occupancy was allowed in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provision of this code.

**R110.6 Inspection Stickers:** Inspection record stickers placed on the job by the inspectors to indicate approval of the work inspected shall not be removed, except when authorized by the building official.

**R111.1 Application for appeal.** Any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the Board of Adjustments, 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 is adequately satisfied by other means. The Board is additionally charged with the review of all proposed changes to the Residential Code and to submit recommendations to the responsible official and the city council. 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. The City of Hartford's Board of Adjustments will be the representative body to hear all appeals.

**R111.2 Membership of board.** The Board of Adjustments shall consist of a minimum of seven members who are qualified by experience and training to pass on matters pertaining to property maintenance and

who are not employees of the jurisdiction.

**R112.1 General.** In order to hear and decide appeals of orders, decisions or determinations made by the building official or employee relative to the application and interpretation of this code, to review all proposed changes to the respective codes and to submit recommendations to the responsible official and the city council, here shall be and is hereby created a Board of Appeals consisting of the members of the Board of Adjustment. The Board of Adjustment, acting as the board of appeals, may call upon experts in the field of architecture, engineering and construction before making a decision on any appeal coming before them.

**R112.2 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 thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. 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.

**R113.3 Prosecution of violation.** If the notice of violation is not complied with in the time prescribed by such notice, the building official is authorized to request the legal counsel of the City of Hartford to deem the violation as a strict liability offense and institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

**Section R202. Definitions.** Add the following definition.

Strict liability offense. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited or failed to do an act which the defendant was legally required to do.

GROUND SNOW LOAD	WIND DESIGN				SEISMIC DESIGN CATEGORY	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP.	ICE BARRIERS LANDSLIDE REQUIRED	EL-GOOD HAZARDOUS	AIR FREEZING INDEX	MEAN ANNUAL TEMP.
	Speed (mph)	Topographic effects	Special wind region	Windborne debris zone		Weathering	Frost line depth (100's mm)	Terminic					
40 psf	115	no	no	no	A	Score	43	Subsidiary Medium	-11° F	Yes	Some Falls erosion has regularly of the National Flood Insurance District on September 17, 1979	1,000	-46° F
MANUAL J DESIGN CRITERIA													
Excavation	Latitude	Winter heating		Summer cooling	Altitude correction factor	Indoor design temperature	Outdoor temperature	Design temperature	Heating temperature difference				
1418	43 degrees North	-1° F		94° F	None	=	=	=	=				
Cooling temperature difference	Wind velocity heating	Wind velocity cooling	Coincident wind bulb	Daily range	Winter humidity	Summer humidity							
=	=	=	72° F	M	=	=	=	=	=				

For SI: 1 pound per square foot = 0.0479 kPa, 1 mile per hour = 0.447 m/s.

- a. Where weathering requires a higher strength concrete or grade of masonry than necessary to satisfy the structural requirements of this code the frost line depth strength required for weathering shall govern. The weathering column shall be filled in with the weathering index, "negligible," "moderate" or "severe" for concrete as determined from Figure R301.2(4). The grade of masonry units shall be determined from ASTM C34, C55, C62.
- b. Where the frost line depth requires deeper footings than indicated in Figure R403. I (1), the frost line depth strength required for weathering shall govern. The jurisdiction shall fill in the frost line depth column with the minimum depth of footing below finish grade.

- c. The jurisdiction shall fill in this part of the table to indicate the need for protection depending on whether there has been a history of local subterranean termite damage.
- d. The jurisdiction shall fill in this part of the table with the wind speed from the basic wind specific basis in accordance with Section R301.2.1.4.

speed map [figure R301.2(5)A] Wind exposure category shall be determined on a site.

- e. The outdoor design dry-bulb temperature shall be selected from the columns of 97/1/2percent values for winter from appendix D of the International Plumbing Code. Deviations from the Appendix D temperatures shall be permitted to reflect local climates or local weather experience as determined by the building officials [Also see Figure R301.2(1).]
- f. The jurisdiction shall fill in this part of the table with the seismic design category determined from Section R301.2.2.1.
- g. The jurisdiction shall fill in this part of the table with (a) the date of the jurisdiction's entry into the National Flood Insurance Program (date of adoption of the first code or ordinance for management of flood hazard areas), (b) the date(s) of the Flood Insurance Study and (c) the panel numbers and dates of the currently effective FIRMs and FBFMs or other flood hazard map adopted by the authority having jurisdiction, as amended.
- h. In accordance with Sections R905.1.2 R905.4.3.1 R905.5.3.1 R905.6.3.1 R905.7.3.1 and R905.8.3.1, where there has been a history of local damage from the effects of ice damming, the jurisdiction shall fill in this part of the table with "YES." Otherwise, the jurisdiction shall fill in this part of the table with "NO."
- i. The jurisdiction shall fill in this part of the table with the 100-year return period air freezing index (BF-days) from Figure R403.3(2) or from the 100-year (99 percent) value on the National Climatic Data Center data table "Air freezing Index-USA Method (Base 320F)."
- j. The jurisdiction shall fill in this part of the table with the mean annual temperature from the National Climatic Data Center data table "Air freezing Index – USA Method (Base 320F).
- k. In accordance with Section R301.2.1.5, where there is local historical data documenting structural damage to buildings due to topographic wind speed-up effects, the jurisdiction shall fill in this part of the table with "YES." Otherwise, the jurisdiction shall indicate "NO" in this part of the table.
- l. In accordance with Figure R301.2(5)A, where there are local historical data documenting unusual wind conditions. the jurisdiction shall fill in this part of the table with "YES" and identify any specific requirements. Otherwise, the jurisdiction shall indicate "NO" in this part the table.
- m. In accordance with Section R301.2.1.2 the jurisdiction shall indicate the wind-borne debris wind zone(s). Otherwise, the jurisdiction shall indicate "NO" in this part of the table.
- n. The jurisdiction shall fill in these sections of the table to establish the design criteria using Table 1a or 1b from ACCA Manual J or established criteria determined by the jurisdiction.
- o. The jurisdiction shall fill in this section of the table using the Ground Snow Loads in Figure R301.2(6).

**TABLE R301.5**

**MINIMUM UNIFORMLY DISTRIBUTED LIVE LOADS (in pounds per square foot)**

<u>USE</u>	<u>LIVE LOAD</u>
<u>Uninhabitable attics without storage</u>	10
<u>Uninhabitable attics with limited storage</u> <sup>b1</sup> <sup>g</sup>	20
<u>Habitable attics and attics served with fixed stairs</u>	30
<u>Balconies (exterior) and decks</u> <sup>e</sup>	40
<u>Fire escapes</u>	40
<u>Guards and handrails</u> <sup>d</sup>	<u>200h</u>
<u>Guard in-fill components</u>	50h
<u>Passenger vehicle garages</u> <sup>a</sup>	
<u>Rooms</u>	40
<u>Stairs</u>	40C

For SI: 1 pound per square foot = 0.0479 kPa 1 square inch = 645 mm<sup>2</sup> 1 pound = 4.45 N.

- a. Elevated garage floors shall be capable of supporting a 2,000-pound load applied over a 20-square-inch area.
- b. Uninhabitable attics without storage are those where the clear height between joists and rafters is not more than 42 inches, or where there are not two or more adjacent trusses with web configurations capable of accommodating an assumed rectangle 42 inches in height by 24 inches in width, or greater, within the plane of the trusses. This live load need not be assumed to act concurrently with any other live load requirements.
- c. Individual stair treads shall be designed for the uniformly distributed live load or a 300-pound concentrated load acting over an area of 4 square inches, whichever produces the greater stresses.
- d. A single concentrated load applied in any direction at any point along the top.
- e. See Section R507.1 for decks attached to exterior walls.
- f. Guard in-fill components (all those except the handrail), balusters and panel fillers shall be designed to withstand a horizontally applied normal load of 50 pounds on an area equal to 1 square foot. This load need not be assumed to act concurrently with any other live load requirement.
- g. Uninhabitable attics with limited storage are those where the clear height between joists and rafters is 42 inches or greater, or where there are two or more adjacent trusses with web configurations capable of accommodating an assumed rectangle 42 inches in height by 24 inches in width, or greater, within the plane of the trusses. The live load need only be applied to those portions of the joists or truss bottom chords where all of the following conditions are met:
  - 1. The attic area is accessed from an opening not less than 20 inches in width by 30 inches in length that is located where the clear height in the attic is not less than 30 inches.
  - 2. The slopes of the joists or truss bottom chords are not greater than 2 inches vertical to 12 units horizontal.

3. Required insulation depth is less than the joist or truss bottom chord member depth. The remaining portions of the joists or truss bottom chords shall be designed for a uniformly distributed concurrent live load of not less than 10 pounds per square foot.
- h. Glazing used in handrail assemblies and guards shall be designed with a safety factor of 4. The safety factor shall be applied to each of the concentrated loads applied to the top of the rail, and to the load on the infill components. These loads shall be determined independent of one another, and loads are assumed not to occur with any other live load.

**TABLE R302.1(1)  
EXTERIOR WALLS**

Exterior Wall Element		Minimum Fire-Resistance Rating	Minimum Fire Separation Distance
Walls	Fire-resistance rated	1 hour—tested in accordance with ASTM E 119 or UL 263 or Section 703.3 of the International Building Code with exposure from both sides	< 5 feet
	Not fire-resistance rated	0 hours	> 5 feet
Projections	Fire-resistance rated	1 hour on the underside, or heavy timber or fire-retardant treated wood <sup>a,b</sup>	> 2 to < 3 feet
	Not fire-resistance rated	0 hours	3 feet
Openings	Not allowed	N/A	< 3 feet
	25% Maximum of Wall Area	0 hours	3 feet
Penetrations	Unlimited	0 hours	5 feet
	All	Comply with Section R302.4	< 5 feet
		None required	5 feet

For SI: 1 foot = 304.8 mm. N/A  
= Not Applicable.

- a. The fire resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave overhand if the fire blocking is provided from the wall top plate to the underside of the roof sheathing.
- b. The fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the rake overhang where gable vent openings are not installed.

**R302.2.2 Common walls.** Common walls separating townhouses units shall be assigned a fire resistance rating in accordance with Item 1 or 2 and shall be rated for fire exposure from both sides. Common walls shall extend to and be tight against the exterior sheathing of the exterior walls, or the inside face of exterior walls without stud cavities, and the underside of the roof sheathing. The common wall shared by two townhouses units shall be constructed without mechanical equipment, ducts or vents, other than water filled

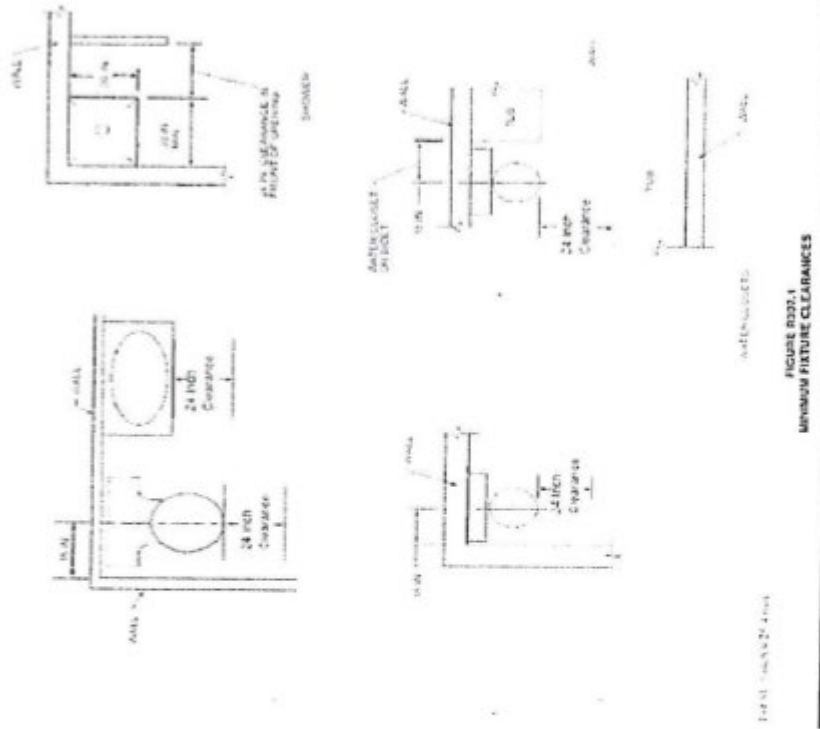
fire sprinkler piping in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Electrical installations shall be in accordance with the National Electric Code. Penetrations of the membrane of common walls for electrical outlet boxes shall be in accordance with Section R302.4. Plumbing installations shall be in accordance with the Uniform Plumbing Code. Membrane or through penetrations of common walls for plumbing systems shall be in accordance with Section 302.4.

1. Where an automatic sprinkler system in accordance with Section P2904 is provided, the common wall shall be not less than a 1-hour fire-resistance-rated wall assembly tested in accordance with ASTM E1 19, UL 263 or Section 703.3.2.2 of the International Building Code.
2. Where an automatic sprinkler system in accordance with Section P2904 is not provided, the common wall shall be not less than a 2-hour fire-resistance-rated wall assembly tested in accordance with ASTM E1 19, UL 263 or Section 703.2.2 of the International Building Code.

Exception: Common walls are permitted to extend to and be tight against the inside of the exterior walls if the cavity between the end of the common wall and the exterior sheathing is filled with a minimum of two 2 inch nominal thickness wood studs.



**R307.1 Space required. Fixtures shall be spaced in accordance with Figure R307.1.**



**FIGURE R307.1  
MINIMUM FIXTURE CLEARANCES**

**R302.2.3 Continuity.** The fire-resistance-rated wall or assembly separating townhouse units shall be continuous from the foundation to the underside of the roof sheathing, deck or slab. The fire resistance

rating shall extend the full length of the wall or assembly, including wall extensions through and separating attached enclosed accessory structures.

Exterior walls that extend beyond an adjacent structure that has a fire separation distance less than 5 feet (1,523 mm) to a common property line shall have not less than a one-hour fire rating with exposure from both sides with no openings allowed therein.

Projections such as a deck that have a fire separation distance of less than 3 feet (914 mm) to a common property line shall have a 1-hour fire rating with exposure from both sides with no openings allowed therein that extends at least 30 inches (762 mm) above the projection.

**R302.3 Two Family Dwellings.** Dwelling units in two family dwellings shall be separated from each other by wall and floor assemblies having not less than a 1 hour fire resistance rating where tested in accordance with ASTM E119, UL 263 or Section 703.2.2 of the International Building Code. Such separation shall be provided regardless of whether a lot line exists between the two dwelling units or not. Fire-resistance rated floor/ceiling and wall assemblies shall extend to and be tight against the exterior wall, and wall assemblies shall extend from the foundation to the underside of the roof sheathing.

**Exception:** A fire resistance rating of ½ hour shall be permitted in buildings equipped throughout with an automatic sprinkler system installed in accordance with Section P2904.

**R302.13 Fire protection of floors.** Not adopted by the city.

**R303.5.1 Intake openings.** Mechanical and gravity outdoor air intake openings shall be located not less than 10 feet (3048 mm) from any hazardous or noxious contaminant, such as vents, chimneys, plumbing vents, streets, alleys, parking lots and loading docks, except as otherwise specified in this code.

For the purpose of this section, the exhaust from dwelling unit toilet rooms, bathrooms and kitchens shall not be considered as hazardous or noxious.

Exceptions:

- 1) For equipment replacements on existing structures, gravity outdoor intake openings for combustion air shall be located a minimum of 3 feet from any hazardous or noxious contaminant.
- 2) The 10-foot separation is not required where the intake opening is located 3 feet or greater below the contaminant source.
- 3) Clothes dryer exhaust ducts shall be terminated in accordance with Section MI 502.3
- 4) Vents and chimneys serving fuel-burning appliances shall be terminated in accordance with the applicable provisions of Chapters 18 and 24.

**R308.4.2 Glazing adjacent to doors.** Glazing in an individual fixed or operable panel adjacent to a door shall be considered to be a hazardous location where the bottom exposed edge of the glazing is less than 60 inches (1524 mm) above the floor or walking surface and it meets either of the following conditions: 1. Where the glazing is within 24 inches (610 mm) of either side of the door in the plane of the door in a closed position.

2. Where the glazing is on a wall perpendicular to the plane of the door in a closed position and within 24 inches (610 mm) of the hinge side of an in-swinging door. Exceptions: 1. Decorative glazing. 2. Where there is an intervening wall or other permanent barrier between the door and the glazing. 3. Where access through the door is to a closet or storage area 3 feet (914 mm) or less in depth. Glazing in this application shall comply with Section R308.4.3. 4. Glazing that is adjacent to the fixed panel of patio doors.

**R309.5 Fire sprinklers.** Not adopted by the city.

**R310.2.1 Minimum size.** Emergency and escape rescue openings shall have a net clear opening of not less than 5.0 square feet (720 sq. inches).

**R310.2.3 Maximum height from floor.** Emergency escape and rescue openings shall have the bottom of the clear opening not greater than 48" inches above the floor.

**R310.4.2 Ladder and steps.** Area wells with a vertical depth greater than 48 inches (1219 mm) shall be equipped with a permanently affixed ladder or steps. The ladder or steps shall not be obstructed by the emergency escape and rescue opening where the window or doors in the open position. Ladders or steps required by this section shall not be required to comply with Section R311.7.

**R311.3.1 Floor elevations at the required egress doors.** Landings or finished floors at the required egress door shall not be more than 1 1/2 inches (38 mm) lower than the top of the threshold.

**Exception:** The landing or floor on the exterior side shall not be more than 8" inches (202 mm) below the top of the threshold provided the door does not swing over the landing or floor.

Where exterior landings or floors serving the required egress door are not at grade, they shall be provided with access to grade by means of a ramp in accordance with Section R311.8 or a stairway in accordance with Section R311.7.

**R311.3.2 Floor elevations for other exterior doors.** Doors other than the required egress door shall be provided with landings or floors not more than 8" inches (202 mm) below the top of the threshold.

**Exception:** A landing is not required where a stairway of two or fewer risers is located on the exterior side of the door, provided the door does not swing over the stairway.

**R311.7.5.1 Risers.** The maximum riser height shall be 8" inches (202 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Risers shall be vertical or sloped from the underside of the nosing of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted.

**Exceptions:**

1. The opening between adjacent treads is not limited on spiral stairways.
2. The riser height of spiral stairways shall be in accordance with Section R311.7.10.1.

**R311.7.8 Handrails:** Handrails shall be provided on not less than one side of each flight of stairs with four or more risers.

**Exception:** When the landing at the top of the stair is not required to have a guardrail.

**R311.7.8.4 Continuity.** Handrails for stairways shall extend for the full length of the flight from a point directly above the top riser of the flight to a point directly above the lowest riser of the flight. Handrail ends shall be returned toward a wall, guard walking surface continuous to itself or terminate to a post.

**Exceptions:**

1. Handrails shall be permitted to be interrupted by a newel post at the turn.
2. The use of a volute, turnout, starting, easing or starting newel shall be allowed over the lowest tread and over the top landing.

**R311.7.8.5 Grip-size.** All required handrails shall be of one of the following types or provide equivalent grasp ability.

1. Type I. Handrails with a circular cross section shall have an outside diameter of at least 1 1/4 inches (32 mm) and not greater than 2 inches (51 mm). If the handrail is not circular, it shall have a perimeter dimension of at least 4 inches (102 mm) and not greater than 6 1/4 inches (160 mm) with a maximum cross section of dimension of 2 1/4 inches (57 mm). Edges shall have a minimum radius of 0.01 inch (0.25 mm).

2. Type II. Handrails with a perimeter greater than 6 1/4 inches (160 mm) shall have a graspable finger recess area on both sides of the profile. The finger recess shall begin within a distance of 3/4 inch (19 mm) measured vertically from the tallest portion of the profile and achieve a depth of at least 5/16 inch (8 mm) within 7/8 inch (22 mm) below the widest portion of the profile. This required depth shall continue for at least 3/8 inch (10 mm) to a level that is not less than 1 3/4 inches (45 mm) below the tallest portion of the profile. The minimum width of the handrail above the recess shall be 1/4 inches (32 mm) to a maximum of 2 3/4 inches (70 mm). Edges shall have a minimum radius of 0.01 inch (0.25 mm).

**Exception:** Exterior stairs are allowed to have a horizontal 2X member to form a 1 1/2-inch graspable dimension in lieu of the above-referenced perimeter dimensions.

**R312.1.3 Opening limitations.** Required guards shall not have openings from the walking surface to the required guard height which allow passage of a sphere 5 inches (127 mm) in diameter.

**Exceptions:** The triangular openings at the open side of stair, formed by the riser, tread and bottom rail of a guard, shall not allow passage of a sphere 6 inches (153 mm) in diameter.

**R312.2.1 Window opening height:** in dwelling units, where the bottom of the clear opening of an operable window opening is located less than 24 inches above the finished floor and greater than 72 inches above the finished grade or other surface below on the exterior of the building, the operable window shall comply with one of the following:

1) Operable window openings will not allow a 5" inch diameter sphere to pass through where the openings are in their largest opened position.

2) Operable windows are provided with window opening control devices or fall prevention devices that comply with ASTM F2090.

**R313.1 Townhouse automatic fire sprinkler systems.** This section not adopted by the city.

**R313.1.1 Design and installation.** When an automatic fire sprinkler system for townhouses are installed, it shall be designed and installed in accordance with Section P2904.

**R313.2 One- and two-family dwellings automatic fire systems.** This section not adopted by the city.

**R313.2.1 Design and installation.** When an automatic sprinkler system is installed, it shall be designed and installed in accordance with Section P2904 or NFPA 13D.

**R314.2.2 Alterations, repairs and additions.** Where alterations, repairs or additions requiring a permit occur with a valuation of more than \$1,000, the individual dwelling unit shall be equipped with smoke alarms located as required for new dwellings. Exceptions: 1. Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, the addition or replacement of windows or doors, or the addition of a porch or deck. 2. Installation, alteration or repairs of plumbing or mechanical systems.

**R314.3 Location.** Smoke alarms shall be installed in the following locations:

1. In each sleeping room.
2. Outside each separate sleeping area in the immediate vicinity of the bedrooms.
3. On each additional story of the dwelling, including basements and habitable attics but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
4. Not less than 3 feet horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by this section.
5. In the hallway and in the room open to the hallway in dwelling units where the ceiling height of a room open to a hallway serving bedrooms exceeds that of the hallway by 24 inches or more.

**Exception:**

1) Hallways less than 4 feet (1,220 mm) in length are allowed to omit the smoke detector within the hallway adjacent to the bedrooms.

**R314.4 Interconnection.** Where more than one smoke alarm is required to be installed within an individual dwelling unit in accordance with Section R314.3, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

**Exception:** Interconnection of smoke alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

**R315.2.2 Alterations, repairs and additions.** Where alterations, repairs or additions requiring a permit occur with a valuation of more than \$1 ,000, the individual dwelling unit shall be equipped with carbon monoxide alarms located as required for new dwellings.

**Exceptions:**

1. Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck.
2. Installation, alteration or repairs of plumbing systems.
3. Installation, alteration or repairs of mechanical systems that are not fuel fired.

**R326.3 Story above grade plane:** A habitable attic shall be considered a story above grade plane.

**Exceptions:** A habitable attic shall not be considered to be a story above grade provided that the habitable attic meets all the following:

- 1) The aggregate area of the habitable attic is either of the following:
  - 1.1 not greater than one-third of the floor area of the story below.
  - 1.2 Not greater than one -half of the floor area of the story below where the habitable attic is located within a dwelling unit equipped with a fire sprinkler system in accordance with Section P2904.
- 2) The occupiable space is enclosed by the roof assembly above, knee walls if applicable on the sides and the floor ceiling assembly below.
- 3) The floor of the habitable attic does not extend beyond the exterior walls of the story below.

**R403.1.4.1 Frost protection.** Except where otherwise protected from frost, foundation walls, piers and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

1. Extended below the frost line specified in Table R301.2.(1);
2. Constructing in accordance with Section R403.3;
3. Constructing in accordance with ASCE 32; or
4. Erected on solid rock.

\*\* Footings shall not bear on frozen soil unless the frozen condition is permanent.

**Exceptions:**

1. Protection of freestanding accessory structures with an area of 1,500 square feet (139 m<sup>2</sup>) or less of light-frame construction, with an eave height of 10 feet (3048 mm) or less shall not be required.
2. Protection of freestanding accessory structures with an area of 400 square feet (37 m<sup>2</sup>) or less, of other than light-frame construction, with an eave height of 10 feet (3048 mm) or less shall not be required.

**R501.3 Fire protection of floors.** This section not adopted by the city.

**R502.3.1 Sleeping areas and attic joists.** Table R502.3.1(1) shall be used to determine the maximum allowable span of floor joists that support sleeping areas and attics that are accessed by means of a fixed stairway in accordance with Section R311.7, provided that the design live load does not exceed 40 pounds per square foot (1.92 kPa) and the design dead load does not exceed 20 pounds per square foot (0.96 kPa). The allowable span of ceiling joists that support attics used for limited storage or no storage shall be determined in accordance with Section R802.4.

**R506.2.3 Vapor retarder:** A minimum 6-mil vapor retarder conforming to ASTM E1745 Class A requirements with joist lapped not less than 6 inches shall be placed between the concrete floor slab and the base course or the prepared subgrade where a base course does not exist.

**Exception:** The vapor retarder is not required for the following:

- 1) Garages, utility buildings and other unheated accessory structures.
- 2) For unheated storage rooms having an area of less than 70 square feet and carports.
- 3) Driveways, patios, and other flatwork not likely to be enclosed and heated at a later date.
- 4) Where approved by the Building Official, based on local conditions.

**R507.3 Footings.** Decks shall be supported on concrete footings or other approved structural systems designed to accommodate all loads in accordance with Section R301. Deck footings shall be sized to carry the imposed loads from the deck structure to the ground as shown in Figure R507.3.

**Exception:** Decks not supported by a dwelling need not be provided with footings that extend below the frost line.

**R507.3.1 Minimum size.** Not adopted by the city.

**Table R507.3.1** Not adopted by the city.

**R602.10.1.2 Location of braced wall lines** and permitted offsets. Each braced wall line shall be located such that no more than two-thirds of the required braced wall length is located to one side of the braced wall

line. Braced wall panels shall be permitted to be offset not more than 4 feet (1219 mm) from the designated braced wall line. Braced wall panels parallel to a braced wall line shall be offset not more than 4 feet from the designated braced wall line shown in Figure R602.10.1.1.

Exterior walls parallel to a braced wall line shall be offset not more than 4 feet from the designated braced wall line location as shown in Figure R602.10.1.1.

Interior walls used as bracing shall be offset not more than 4 feet from a braced wall line through the interior of the building as shown in Figure R602.10.1.1.

**Exception:** The offset out-of-plane may exceed 4 feet (1219 mm) and the out-to-out offset dimension may exceed 8 feet (2438 mm) if the area of the offset is less than 200 square feet.

**R602.12 Simplified wall bracing.** Buildings meeting all of the conditions listed in Items 1—8 shall be permitted to be braced in accordance with this section as an alternative to the requirements of Section R602.10. The entire building shall be braced in accordance with this section; the use of other bracing provisions of R602.10, except as specified herein, shall not be permitted.

1. There shall be no more than two stories above the top of a concrete or masonry foundation or basement wall. Permanent wood foundations shall not be permitted.
2. Floors shall not cantilever more than 24 inches (607 mm) beyond the foundation or bearing wall below.
3. Wall height shall not be greater than 12 feet (3292 mm).
4. The building shall have a roof eave-to-ridge height of 20 feet (6096 mm) or less.
5. All exterior walls shall have gypsum board with a minimum thickness of 1/2 inch (12.7 mm) installed on the interior side fastened in accordance with Table R702.3.5.
6. The structure shall be located where the basic wind speed is less than or equal to 90 mph (40 m/s), and the Exposure Category is A, B or C.
7. The structure shall be located in Seismic Design Category A, B or C for detached one- and two-family dwellings or Seismic Design Category A or B for town houses.
8. Cripple walls shall be permitted below two-story buildings.

**R806.2 Minimum vent area.** The minimum net free ventilating area shall be 1/150 of the area of the vented space.

Exception: The minimum net free ventilation area shall be 1/300 of the vented space provided one or more of the following conditions are met:

1. In Climate Zones 6, 7 and 8, a Class I or II vapor retarder is installed on the warm-in winter side of the ceiling.
2. Not less than 40 percent and not more than 50 percent of the required ventilating area is provided by ventilators located in the upper portion of the attic or rafter space. Upper ventilators shall be located not more than 3 feet (914 mm) below the ridge or highest point of the space, measured vertically. The balance of the required ventilation provided shall be located in the bottom one-third of the attic space. Where the location of wall or roof framing members conflicts with the installation of upper ventilators, installation more than 3 feet (914 mm) below the ridge or highest point of the space shall be permitted.

**N1101.2 (R101.3) Intent.** This chapter shall regulate the design and construction of buildings for the effective use and conservation of energy over the useful life of each new building. Additions, alterations, renovations, or repairs to an existing building, building system or portion thereof may conform to the provisions of this code as they relate to new construction without requiring the unaltered portion(s) of the existing building or building system to comply with this code. This chapter is intended to provide flexibility

to permit the use of innovative approaches and techniques to achieve this objective. This chapter is not intended to abridge safety, health or environmental requirements contained in other applicable codes or ordinances.

**N1101.13 (R401.2) Application.** Not adopted by the city.

**N1101.14 (R401.3) Certification.** Not adopted by the city.

• **TABLE N1103.1.1 (R402.1.3)**

**INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT<sup>a</sup>**

For SI: 1 foot = 304.8 mm.

NR=Not Required

a. R-values are minimums. U-factors and SHGC are maximums. Where insulation is installed in a cavity is less than the label or design thickness of the insulation, the installed R-value of the insulation shall not be less than the R-value specified in the table.

b. The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.

Exception: Skylights may be excluded from glazed fenestration SHGC requirements in Climate Zones 1 through 3 where the SHGC for such skylights does not exceed 0.30.

c. "10/13" means R-10 continuous insulation on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall. "15/19" shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulation on the interior or exterior of the home.

CLIMATE ZONE	FENESTRATION UFACTOR <sup>b</sup>	SKYLIGHT <sup>b</sup> UFACTOR	GLAZED FENESTRATION SHGC <sup>b,e</sup>	CEILING R-VALUE	WOOD FRAME WALL RVALUE <sup>j</sup>	MASS WALL RVALUE <sup>i</sup>	FLOOR R-VALUE	BASEMENT <sup>c</sup> WALL RVALUE	SLAB <sup>d</sup> R-VALUE	CRAWL SPACE <sup>c</sup> WALL VALUE
6	0.32	0.55		49	20 or 13+5	15/19	30 <sup>g</sup>	10/13	10, 4 ft	10/13

d. R-5 insulation shall be provided under the slab area of a heated slab in addition to required slab edge insulation R-values for slabs, as indicated in the table. The slab edge insulation for heated slabs shall not be required to extend below the slab.

e. There are no SHGC requirements in the Marine Zone.

f. Basement wall insulation is not required in warm humid locations as defined by Figure N1101.10 and Table N1101.7.

g. The first value is cavity insulation, the second value is continuous insulation. Therefore, as an example 13 & 5 means R-13 cavity insulation plus R-5 continuous insulation.

h. Mass walls shall be in accordance with Section N1102.2.5. The second R-value applies where more than half of the insulation is on the interior of the mass wall.

i. A maximum U factor of 0.32 shall apply in Climate zones 3 through 8 to vertical fenestration products installed in buildings located either:

- 1) Above 4,000 feet in elevation.



2) In Windborne debris regions where protection of openings is required by Section R301.2.12.

j. Alternatively, insulation sufficient to fill the framing cavity providing not less than an R-value of R-19.

k. The minimum R-value for ceilings is further based on a minimum 6 inch heel height to allow the ceiling insulation to extend over the top plate.

**N1102.2.8.1 (R402.2.8.1) Basement wall insulation install.** Where basement walls are insulated, the insulation shall be installed from the top of the basement wall down to 10 feet below grade or to the basement floor whichever is less.

**Exception:** Exterior basement walls of enclosed mechanical rooms.

**N1102.4.1.2 (R402.4.1.2) Testing.** This section not adopted by the city.

**N102.4.1.3 (R402.4.1.3) (leakage Rate)** Not adopted by the city.

**N 1102.4.4 (R402.44) Rooms containing fuel-burning appliances.** This section is not adopted by the city.

**N1102.4.6 (R402.4.6) Electrical and communication outlet boxes (air-sealed boxes).** Not adopted by the city.

**N1103.3.1 (R403.3.1) Ducts located outside conditioned space.** Supply and return ducts located outside *conditioned space* shall be insulated to an *R*-value of not less than R-8 for ducts 3 inches (76 mm) in diameter and larger and not less than R-6 for ducts smaller than 3 inches (76 mm) in diameter.

**N1103.3.5 (R403.3.5) Sealing (Mandatory).** This section not adopted by the city.

**N1103.5 (R403.5) Service hot water systems.** Energy conservation measures for service hot water services shall be in accordance with the Plumbing code.

**N1103.6.3 (R403.6.3) Testing.** Not adopted by the city.

**N1104.1 (R4)4.1) Lighting equipment.** This section not adopted by the city.

**N1109.2 (R501.2) Compliance.** Additions, alterations, repairs or changes of occupancy to, or relocation of, an existing building, building system, or portion thereof may comply with Section N1110, N1111, N1112, or N1113, respectively, in this code. Changes where unconditioned space is changed to conditioned space shall comply with Section N1110.

**N1110.1 (R502.1) General.** *Additions* to an existing *building*, *building* system, or portion thereof may conform to the provisions of this chapter as they relate to new construction without requiring the unaltered portion of the existing *building* or *building* system to comply with this chapter. *Additions* shall not create an unsafe or hazardous condition or overload existing *building* systems. An *addition* shall be deemed to comply with this chapter where the *addition* alone complies, where the existing *building* and *addition* comply with this chapter as a single *building*, or where the *building* with the *addition* does not use more energy than the existing *building*. *Additions* shall be in accordance with Section N1110.2 or N1110.3.

**N1111.1 (R503.1) General.** Alterations to any building or structure may comply with the requirements of the code for new construction, without requiring the unaltered portions of the existing building or building system to comply with this chapter. Alterations shall be such that the existing building or structure is no

less conforming with the provisions of this chapter than the existing building or structure was prior to the alteration.

Alterations to an existing building, building system, or portion thereof may conform to the provisions of this chapter as they relate to new construction without requiring the unaltered portions of the existing building or building system to comply with this chapter. Alterations shall not create an unsafe or hazardous condition or overload existing building systems. Alterations shall be such that the existing building or structure uses no more energy than the existing building or structure prior to the alteration. Alterations to existing buildings shall comply with Sections N1111.1.1 through N1111.1.4.

**N1112.1 (R504.1) General.** Buildings, structures, and parts thereof may be repaired in compliance with Section N1109.3 and this section. Work on nondamaged components necessary for the required repair of damaged components shall be considered part of the repair and shall not be subject to the requirements for alterations in this chapter. Routine maintenance required by Section N1109.3, ordinary repairs exempt from permit, and abatement of wear due to normal service conditions shall not be subject to the requirements for repairs in this section.

**N1113.1 (R505.1) General.** Any space that is converted to a *dwelling unit* or portion thereof from another use or occupancy may comply with this chapter.

**Exception:** Where the simulated performance option in Section N1105 is used to comply with this section, the annual energy cost of the *proposed design* is permitted to be 110 percent of the annual energy cost allowed by Section N1105.2.

**M1305.1.3.1 Ground clearance.** Equipment and appliances supported from the ground shall be level and firmly supported on a concrete slab or other approved material extending not less than 1 1/2 inches (38 mm) above the adjoining ground. Such support shall be in accordance with the manufacturer's installation instructions. Appliances suspended from the floor shall have a clearance of not less than 6 inches (152 mm) from the ground.

**M1305.1.3.3 Electrical requirements.** A luminaire controlled by a switch located at the required passageway opening and a receptacle outlet shall be installed at or near the *appliance* location in accordance with *National Electric Code*. Exposed lamps shall be protected from damage by location or lamp guards.

**M1502.4.2 Duct installation.** Exhaust ducts shall be supported at 4-foot (1,219 mm) intervals and shall be secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Exhaust duct joints shall be sealed in accordance with Section M1601.4.1. Ducts shall not be joined with screws or similar fasteners that protrude into the inside of the duct. Where dryer exhaust ducts are enclosed in wall or ceiling cavities, such cavities shall allow the installation of the duct without deformation.

**M1504.2 Duct length.** The length of exhaust and supply ducts used with ventilating equipment shall not exceed the lengths determined in accordance with Table M1504.2 as revised.

<b>Table M1504.2</b>					
<b>Duct Length</b>					
<b>Fan airflow rating CFM</b>	<b>0–80</b>	<b>81–125</b>	<b>126–200</b>	<b>201–300</b>	<b>Over 300</b>
<b>Minimum duct diameter (inches)</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>

**M1504.3 Exhaust openings.** Air exhaust openings shall terminate as follows:

1. Not less than 3 feet (914 mm) from property lines.
2. Not less than 3 feet (914 mm) from gravity air intake openings, operable windows, and doors.
3. Not less than 10 feet (3,048 mm) from mechanical air intake openings except where the exhaust opening is located not less than 3 feet (914 mm) above the air intake opening. Openings shall comply with Sections R303.5.2 and R303.6.
4. Minimum clearance between the exhaust and intake openings of an HRV/PRV system shall be in accordance with the manufacturer’s installation instructions.

**M1505.4 Whole-house mechanical ventilation system.** Whole-house mechanical ventilation systems shall be designed in accordance with Sections M1505.4.1 through M1505.4.4.

**Exceptions:**

1. A bathroom exhaust fan shall operate continuously at a minimum rate of 20 cfm. A 6-inch-round passive makeup air shall be provided. If opening directly into the occupied space, such opening shall not decrease the comfort conditions of the occupied space. Such opening may also be used to provide combustion air for fuel-fired appliances if sized and designed for combustion air purposes. If opening into the mechanical room, permanent openings shall be provided between the mechanical room and occupied space to provide a path of travel for the air. The exhaust fan shall be located in the bathroom farthest away from the source of makeup air and shall be rated for 0.8 sones or less.
2. A 4-inch-round outdoor air duct connected to the return side of the air handler. The duct shall be insulated to a minimum R-6 and shall connect to the return duct within 8 feet of the air handler connection, not above a finished ceiling.

**Table M1505.4.4**  
**Minimum Required Local Exhaust Rates for One- and Two-Family Dwellings**

<b>Area to be Exhausted</b>	<b>Exhaust Rates</b>
<b>Bathrooms—Toilet Rooms</b>	<b>Mechanical exhaust capacity of 50 cfm intermittent or 20 cfm continuous</b>

**Section M1506 Subslab Soil Exhaust Systems.**

**M1506.1 General.** When a subslab soil exhaust system is provided, the duct shall conform to the requirements of this section.

**M1506.2 Materials.** Subslab soil exhaust system duct material shall be air duct material listed and labeled to the requirements of UL 181 for Class 0 air ducts, or any of the following piping materials that comply with the plumbing code as building sanitary drainage and vent pipe: cast iron; galvanized steel; copper or copper-alloy pipe and tube of a weight not less than type DWV; and plastic piping.

**M1506.3 Grade.** Exhaust system ducts shall not be trapped and shall have a minimum slope of 1/8 unit vertical in 12 units horizontal (1 percent slope).

**M1506.4 Termination.** Subslab soil exhaust system ducts shall extend through the roof and terminate at least 6 inches (152 mm) above the roof and at least 10 feet (3,048 mm) from any operable openings or air intake.

**M1506.5 Identification.** Subslab soil exhaust ducts shall be permanently identified within each floor level by means of a tag, stencil, or other approved marking.

**M1601.1.1** Aboveground duct systems. Aboveground duct systems shall conform to the following:

1. Equipment connected to duct systems shall be designed to limit discharge air temperature to not greater than 250°F (121°C).
2. Factory-made ducts shall be listed and labeled in accordance with UL 181 and installed in accordance with the manufacturer's instructions. Flexible air ducts shall be limited in length to 14 feet. Flexible air connectors are not allowed.
3. Fibrous glass duct construction shall conform to the SMACNA *Fibrous Glass Duct Construction Standards* or NAIMA *Fibrous Glass Duct Construction Standards*.
4. Field-fabricated and shop-fabricated metal and flexible duct constructions shall conform to the SMACNA *HVAC Duct Construction Standards—Metal and Flexible* except as allowed by Table M1601.1.1. Galvanized steel shall conform to ASTM A 653, except that sheet steel and strip used for duct, connectors, and round duct shall be G40 galvanized steel of lock-forming quality.
5. The use of gypsum products to construct return air ducts or plenums is permitted, provided that the air temperature does not exceed 125°F (52°C) and exposed surfaces are not subject to condensation.
6. Duct systems shall be constructed of materials having a flame spread index of not greater than 200.
7. Stud wall cavities and the spaces between solid floor joists to be used as air plenums shall comply with the following conditions:
  - 7.1. These cavities or spaces shall not be used as a plenum for supply air.
  - 7.2. These cavities or spaces shall not be part of a required fire-resistance-rated assembly.
  - 7.3. Stud wall cavities shall not convey air from more than one floor level.
  - 7.4. Stud wall cavities and joist-space plenums shall be isolated from adjacent concealed spaces by tight-fitting fire blocking in accordance with Section R302.11. Fireblocking materials used for isolation shall comply with Section R302.11.1.
  - 7.5. Stud wall cavities in the outside walls of the building envelope assemblies shall not be utilized as air plenums.
8. Volume dampers, equipment, and other means of supply, return, and exhaust air adjustment used in system balancing shall be provided with access.

**M1601.1.2 Underground duct systems.** Underground duct systems shall be constructed of approved concrete, clay, metal, or plastic. The maximum design temperature for systems utilizing plastic duct and fittings shall be 150°F (66°C). Metal ducts shall be protected from corrosion in an approved manner or shall be completely encased in concrete not less than 2 inches (51 mm) thick. Nonmetallic ducts shall be installed in accordance with the manufacturer's instructions. Plastic pipe and fitting materials shall conform to cell classification 12454-B of ASTM D1248 or ASTM D1784 and external loading properties of ASTM D2412.

Ducts shall slope to a drainage point that has access. Ducts shall be sealed and secured prior to encasing the ducts in concrete or direct burial. Metallic ducts having an approved protective coating and nonmetallic ducts shall be installed in accordance with the manufacturer's instructions.

**M1601.4.1 Joints, seams, and connections.** Longitudinal and transverse joints, seams, and connections in metallic and nonmetallic ducts shall be constructed as specified in *SMACNA HVAC Duct Construction Standards—Metal and Flexible* and *NAIMA Fibrous Glass Duct Construction Standards*. Joints, longitudinal and transverse seams, and connections in ductwork outside the building thermal envelope, all return ducts located within 10 feet (3.05 m) of any appliance or all return ducts within a mechanical room, and all supply main trunk ducts and branch duct connections to the main trunk ducts shall be securely fastened and sealed with welds, gaskets, mastics (adhesives), mastic-plus-embedded-fabric systems, liquid sealants, or tapes. Tapes and mastics used to seal fibrous glass ductwork shall be listed and labeled in accordance with UL 181A and shall be marked “181A-P” for pressure-sensitive tape, “181 A-M” for mastic, or “181 A-H” for heat-sensitive tape.

Tapes and mastics used to seal metallic and flexible air ducts and flexible air connectors shall comply with UL 181B and shall be marked “181 B-FX” for pressure-sensitive tape or “181 B-M” for mastic. Duct connections to flanges of air distribution system equipment shall be sealed and mechanically fastened. Mechanical fasteners for use with flexible nonmetallic air ducts shall comply with UL 181B and shall be marked 181 B-C. Crimp joints for round metallic ducts shall have a contact lap of not less than 1 inch (25 mm) and shall be mechanically fastened by means of not less than three sheet metal screws or rivets equally spaced around the joint.

Closure systems used to seal all ductwork shall be installed in accordance with the manufacturer's instructions.

**Exceptions:**

1. Spray polyurethane foam shall be permitted to be applied without additional joint seals.
2. Where a duct connection is made that is partially inaccessible, three screws or rivets shall be equally spaced on the exposed portion of the joint so as to prevent a hinge effect.
3. For ducts having a static pressure classification of less than 2 inches of water column (500 Pa), additional closure systems shall not be required for continuously welded joints and seams and locking-type joints and seams. This exception shall not apply to snap-lock and button-lock type joints and seams that are located outside of conditioned space.

**M1601.4.4 Support.** Factory-made ducts listed in accordance with UL 181 shall be supported in accordance with the manufacturer's installation instructions. Field- and shop-fabricated fibrous glass ducts shall be supported in accordance with the *SMACNA Fibrous Glass Duct Construction Standards* or the *NAIMA Fibrous Glass Duct Construction Standards*. Field- and shop-fabricated metal and flexible ducts shall be supported in accordance with the *SMACNA HVAC Duct Construction Standards—Metal and Flexible*. Metal ducts shall be supported by 1/2-inch-wide (13 mm) 18-gage, 1-inch-wide (25 mm) 24-gage, or 1 1/2-inch-wide (39 mm) 26-gage metal straps or 12-gage galvanized wire at intervals not exceeding 10 feet (3,048 mm), or other approved means.

**G2402.3 (201.3) Terms defined in other codes.** Where terms are not defined in this code and are defined in the *International Building Code*, *International Fire Code*, *NFPA-70*, *International Mechanical Code*, *International Fuel Gas Code* or *Uniform Plumbing Code*, such terms shall have meanings ascribed to them as in those codes.

**G2407.6 (304.6) Outdoor combustion air.** Outdoor combustion air shall be provided through opening(s) to the outdoors in accordance with Section G2407.6.1, G2407.6.2, or G2407.6.3. The minimum dimension of air openings shall be not less than 3 inches (76 mm).

Combustion air intake opening shall be located a minimum of 3 feet (914 mm) from a gas meter.

**G2407.6.3 Alternate combustion air sizing.** As an alternate, the net free area of openings, ducts, or plenums supplying air to an area containing gas- and oil-burning appliances shall be in accordance with CSA B149.1:20, Natural Gas and Propane Installation Code, published by the Canadian Standards Association (CSA).

The combustion air duct is required to be upsized one diameter size when a dryer is installed in the same room as the combustion air.

**G2408.1 (305.1) General.** Equipment and appliances shall be installed as required by the terms of their approval in accordance with the conditions of listing, the manufacturer's instructions, and this code. Manufacturer's installation instructions shall be available on the job site at the time of inspection. Where a code provision is less restrictive than the conditions of the listing of the equipment or appliance or the manufacturer's installation instructions, the conditions of the listing and the manufacturer's installation instructions shall apply.

After completion of the installation, all safety and operating controls and venting shall be tested before placing the burner in service in accordance with the manufacturer's installation instructions. The following requirements need to be recorded and affixed to the inside of the gas train access panel:

1. The rate of flow of the gas or fuel shall be adjusted to within plus or minus 5 percent of the required Btu/hr rating at the manifold pressure specified by the manufacturer. When the prevailing pressure is less than the manifold pressure specified, the rates shall be adjusted at the prevailing pressure.
2. The gas inlet pressure per the manufacturer's installation settings.
3. The temperature rise across the heat exchanger per the manufacturer's installation settings.
4. The static pressure of the supply and return ducts per the manufacturer's installation settings.

Unlisted appliances approved in accordance with Section G2404.3 shall be limited to uses recommended by the manufacturer and shall be installed in accordance with the manufacturer's instructions, the provisions of this code, and the requirements determined by the code official.

**G2408.4 (305.7) Clearances from grade.** *Equipment and appliances* installed at grade level shall be supported on a level concrete slab or other *approved* material extending not less than 1 1/2 inches (38 mm) above adjoining grade or shall be suspended not less than 6 inches (152 mm) above adjoining grade. Such supports shall be installed in accordance with the manufacturer's instructions.

**G2410.2 (309.2) Connections.** Electrical connections between *appliances* and the building wiring, including the grounding of the *appliances*, shall conform to the *National Electric Code*.

**G2415.2 (404.2) CSST.** CSST piping systems shall be installed in accordance with the terms of their approval, the conditions of listing, the manufacturer's instructions, and this code.

The piping located on the exterior extending from the gas meter to the inside of the structure shall be a metallic pipe in compliance with Section G2414.3. The entrance into the structure shall be provided with the appropriate transition flange where an alternate gas piping material is utilized on the inside of the structure.

**G2415.3 (404.3) Prohibited locations.** Piping shall not be installed in or through a ducted supply, return or exhaust, or a clothes chute, chimney or gas vent, dumbwaiter, or elevator shaft.

**G2415.6 (404.6) Piping through foundation walls.** Underground piping, where installed through the outer foundation or basement wall of a building, shall be encased in a protective sleeve or protected by an approved device or method. The space between the gas piping and the sleeve and between the sleeve and the wall shall be sealed to prevent the entry of gas and water.

**G2415.12 (404.12) Minimum burial depth.** The minimum depth shall be increased to 18 inches (457 mm) if external damage to the piping or tubing from external forces is likely to result. Where a minimum of 12 inches (305 mm) of depth cannot be provided, the pipe shall be installed in conduit or bridged (shielded).

**G2415.12.1 (404.12.1) Individual outdoor appliances.** Not adopted by the city.

**G2420.1.2 (409.1.2) Prohibited locations.** Shutoff valves shall be prohibited in concealed locations, furnace plenums, and accessible spaces between a fixed ceiling and a dropped ceiling unless serving a gas appliance installed in that space.

**SECTION 5 Plumbing.** The provisions of the 2018 Uniform Plumbing Code shall apply to the installation, alterations, repairs, and replacement of plumbing systems, including equipment, appliances, fixtures, and appurtenances, and where connected to a water or sewage system for detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories high with separate means of egress and their accessory structures. (As mandated by the South Dakota State Plumbing Commission).

#### **SECTION 6 Electrical:**

The provisions of the 2020 National Electrical Code as adopted by the State of South Dakota apply to the installation, alteration, repair, relocation, replacement, addition to, use, or maintenance of any electrical system, apparatus, wiring, or equipment for electrical, light, heat, power, fire alarms, and associate controls for detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories high with separate means of egress and their accessory structures.

*(Amended: Ordinance No. 597, 10-1-2013)*

*(Amended: Ordinance No. 634, 1-17-2017)*

*(Amended: Ordinance No. 729, 3-31-2022)*

### **CHAPTER 9.13 – INTERNATIONAL EXISTING BUILDING CODE**

9.1301 Adoption International Existing Building Code 2021. 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 ordinance are hereby adopted as the Existing Building Code by the City of Hartford as an alternate 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 collection of fees therefore. The alternate minimum building standards in the 2021 edition of the International Existing Building Code and amendments thereto shall be applied to any building permit issued after March 31, 2022. The adoption of the International Existing Building Code, 2021 edition will become effective March 31, 2022. A printed copy of such code and additions and amendments thereto is on file with the City of Hartford.

9.1302 Amendments, additions and deletions to the 2012 International Existing Building Code. The following sections and subsections of building code adopted in this subchapter shall be amended, added, or deleted as follows. All other sections or subsections of the 2021 International Existing Building Code shall remain the same.

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

**103.1 Enforcement agency.** The City of Hartford shall be the enforcement agency and the individual 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.** This section not adopted by the City of Hartford.

**104.8 Liability.** The building official, member of the board of adjustment, 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 an act or by reason of an act or omission in the discharge of official duties. Any suit brought against the building official, officer or employee because of such act or omission performed by the building official, officer or employee in the lawful discharge of duties and enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the enforcement of this code or enforced by the code enforcement agency shall be afforded all the protection provided by the City’s liability insurance and any 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.

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 county, 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.

**104.11 Alternative materials, design and methods of construction, and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or 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 code 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, fire resistance, durability and safety.

**105.1 Required.** Any owner or owner’s 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 unless a separate permit for each building or structure has first been obtained from the building official or designate. Permits for minor work may be exempted by the building official or designate.

**105.1.1 Annual permit.** Not adopted by the city.

**105.1.2 Annual permit record.** Not adopted by the city.



**107.1 General.** The building official is authorized to issue a permit for temporary uses. Such permits shall be limited as to time of service but shall not be permitted for more than 365 days. Extensions beyond 365 days are not allowed. Structures used as a temporary business office shall be provided with an accessible route that meets accessibility requirements of this code.

**108.7 Delinquent accounts.** The City of Hartford may refuse to issue permits or conduct inspections for any person or business whose account is delinquent.

**109.3.1 Footing inspection.** Footing inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. If an inspection is required for concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

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

1. The permit number.
2. The address of the structure.
3. 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.
4. The name of the code official.
5. The edition of the code under which the permit was issued.
6. The use and occupancy in accordance with the provisions of the *International Building Code*.
7. The type of construction as defined in the *International Building Code*.
8. The design occupant load in assembly occupancies only.
9. Where an automatic sprinkler system is provided, and whether an automatic sprinkler system is required.
10. Any special stipulations and conditions of the building permit.

**111.1 Application for appeal.** Any person directly affected by a decision of the *building inspector* or a notice or order issued under this code shall have the right to appeal to the Board of Adjustments, 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 is adequately satisfied by other means. The Board is additionally charged with the review of all proposed changes to the Existing Building Code and to submit recommendations to the responsible official and the city council. The board shall have authority relative to the interpretation of the administrative provisions of the code. The board shall not be empowered to waive requirements of this code. The appeal process will align with the City of Hartford's zoning ordinance section 17-03. The City of Hartford's Board of Adjustments will be the representative body to hear all appeals.

**111.2 Membership of board.** The Board of Adjustments shall consist of a minimum of seven members who are qualified by experience and training to pass on matters pertaining to building codes and who are not employees of the jurisdiction.

**112.1 General.** In order to hear and decide appeals of orders, decisions or determinations made by the building official or employee relative to the application and interpretation of this code, there shall be and is hereby created a Board of Appeals consisting of the members of the City of Hartford Board of Adjustment.

**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 thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority relative to the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

**113.3 Prosecution of violation.** If the notice of violation is not complied with promptly, the building official is authorized to request the legal counsel of the jurisdiction to deem the violation as a strict liability offense and institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

**SECTION 202-GENERAL DEFINITIONS.** Add the following definition.

**Strict Liability Offense.** An offense, in which the prosecution in a legal proceeding, is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

**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 Energy Conservation Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, Uniform Plumbing Code, International Property Maintenance Code, International Residential Code, and NFPA 70 as adopted by 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.

**303 Storm Shelters.** Not adopted by the city.

**406.1 Material.** Existing electrical wiring and equipment undergoing repair shall be allowed to be repaired or replaced with like material. Minor additions, alterations, and repairs to existing electrical systems or equipment may be installed in accordance with the law in effect at the time the original installation was made, when approved by the electrical inspector.

**406.1.4 Health care facilities:** Portions of electrical systems being repaired in Group I-2, ambulatory care facilities and outpatient clinics, shall comply with NFPA 99 requirements for repairs and Article 517 of NFPA 70.

**406.1.6 New electrical service entrances in existing single-family and multiple family dwellings.** When adding a new service entrance with increased amperage, the existing electrical system shall, at a minimum, comply with the following:

- (1) *Kitchens.* Each kitchen shall have a minimum of one 20-ampere circuit serving a countertop receptacle and a grounded receptacle serving a refrigerator.
- (2) *Overcurrent device location.* Each occupant shall have access to his branch circuit overcurrent devices without going outdoors or through another occupancy.
- (3) *Habitable areas.* All habitable areas, other than closets, kitchens, basements, garages, hallways, laundry areas, utility areas, storage areas, and bathrooms, shall have a minimum of two duplex receptacle outlets, or one duplex receptacle outlet and one ceiling or wall- type lighting outlet.

- (4) *Minimum lighting outlets.* At least one lighting fixture shall be provided in every habitable room, bathroom, hallway, stairway, attached garage, and detached garage with electrical power, in utility rooms and basements where such spaces are used for storage or contain equipment requiring service, and to illuminate outdoor entrances and exits. A switched receptacle is allowed in lieu of a lighting fixture in habitable rooms only.
- (5) *Ground fault circuit interrupters.* Ground fault circuit interrupter protection shall be provided for all receptacles in bathrooms, above kitchen counters, attached and detached garages provided with power, at readily accessible receptacles within 6 feet of sinks, basements, and at outdoor locations. The exceptions of the *National Electrical Code* 210.8(A) 3 and 5 shall apply.
- (6) *Laundries.* Each laundry shall be provided with at least one separate 20-ampere circuit.
- (7) *Heat sources.* The primary heat source shall be provided with a separate circuit.
- (8) *Exposed wiring methods.* All exposed wiring methods shall be installed in accordance with the applicable *National Electrical Code* article.
- (9) *Bathrooms.* Each bathroom shall have one receptacle outlet located within 3 feet of the basin. Any bathroom receptacle outlet shall have ground fault circuit interrupter protection.
- (10) *Emergency disconnect.* An emergency disconnect shall be provided as required in Section 230.85 of the *National Electric Code* for one- and two-family dwelling units and townhomes.

**408.1 Materials.** Plumbing materials and supplies shall not be used for repairs that are prohibited in the *Uniform Plumbing Code*.

**702.7 Materials and methods.** New work shall comply with the materials and methods requirements in the International Building Code, International Residential Code, International Energy Conservation Code, International Mechanical Code, International Fuel Gas Code, NFPA70, and Uniform Plumbing Code, as applicable, that specify material standards, detail of installation and connection, joints, penetrations, and continuity of any element, component, or system in the building.

**702.7.2 International Mechanical Code.** The following sections of the *International Mechanical Code* shall constitute the mechanical materials and methods requirements for Level 1 alteration:

1. All of Chapter 3, entitled "General Regulations," except Sections 303.7 and 306.
2. All of Chapter 8, entitled "Chimneys and Vents."
3. All of Chapter 9, entitled "Specific Appliances."

**702.6.3 International Residential Code.** The following sections of Part V—Mechanical of the *International Residential Code* shall constitute the residential mechanical and fuel gas materials and methods requirements for Level 1 alterations:

1. All of Chapter 13, entitled "General Mechanical System Requirements," except Section M1305
2. All of Chapter 18, entitled "Chimneys and Vents."

3. All of Section G2412 entitled “General” and G2413 entitled “Pipe Sizing” except Sections 2412.8 and G2413.3.
  - 3.1. Sections G2412 and G2413 shall apply where the work being performed increases the load on the system such that the existing pipe does not meet the size required by code. Existing systems that are modified shall not require resizing as long as the load on the system is not increased and the system length is not increased even if the altered system does not meet code minimums.
4. All of Sections G2431 through G2453 governing the appliances and equipment specifically identified therein.

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

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 (0.46 m<sup>2</sup>).
  - 2.2. The minimum net clear opening height shall be 24 inches (610 mm) and net clear opening width shall be 20 inches (508 mm).
  - 2.3. The bottom of the clear opening shall not be greater than 48 inches (1220 mm) 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 stairway size or because of the sidewalks, alleys, or roads at grade level.
4. Openings within 10 feet (3048 mm) of fire escape stairways shall be protected by fire assemblies having minimum 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 Uniform Plumbing Code, the new occupancy shall comply with the intent of the respective Uniform Plumbing Code provisions.

**Exception:** Only where the occupant load of the story is increased by more than 20 percent, plumbing fixtures for the story shall be provided in quantities specified in the *International Building Code* based on the increased occupant load.

**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 Uniform Plumbing Code.

**1009.3 Interceptor required.** If the new occupancy will product grease or oil-laden wastes interceptors shall be provided as required in the Uniform Plumbing Code.

**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 Uniform Plumbing Code.

**Table 1011.5  
Means of Egress Hazard Categories**

Relative Hazard	Occupancy Classifications
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

**1011.5.6 Existing emergency escape and rescue openings.** Where a *change of occupancy* would require an *emergency escape and rescue opening* in accordance with Section 1031 of the *International Building Code*, operable windows serving as the *emergency escape and rescue opening* shall comply with the following:

1. An existing operable window shall provide a minimum net clear opening of 4 square feet (0.38 m<sup>2</sup>) with a minimum net clear opening height of 22 inches (559 mm) and a minimum net clear opening width of 20 inches (508 mm), provided the operable window has a sill height of not more than 48 inches (1,219 mm) above the floor.
2. A replacement window where such window complies with both of the following:
  - 2.1. The replacement window meets the size requirements in Item 1.
  - 2.2. The replacement window is the manufacturer's largest standard size window that will fit within the existing frame or existing rough opening. The replacement window shall be permitted to be of the same operating style as the existing window or a style that provides for an equal or greater window opening area than the existing window.

**Table 1011.6**

## Heights and Areas Hazard Categories

Relative Hazard	Occupancy Classifications
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

**1011.6.2 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 1011.6, 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.

*(Amended: Ordinance No. 594, 10-1-2013)*

*(Amended: Ordinance No. 636, 1-17-2017)*

*(Amended: Ordinance No. 726, 3-1-2022)*

## CHAPTER 9.14 – INTERNATIONAL SWIMMING POOL AND SPA CODE 2021

9.1401 Adoption. The International Swimming Pool and Spa Code, 2021 edition, as published by the International Code Council Inc., and amendments and additions thereto as provided in this article, are hereby adopted as the swimming pool and spa code by the city for regulating and governing the design, construction, alteration, repair, and maintenance of swimming pools, spas, hot tubs, and aquatic facilities, as herein provided and provides for the issuance of permits and the collection of fees therefor.

(a) The adoption of the International Swimming Pool and Spa Code, 2021 edition, will become effective March 31, 2022. 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 March 31, 2022.

(b) A printed copy as amended is on file at the Hartford City Hall.

9.1402 Amendments, additions and deletions to the 2021 Swimming Pool and Spa Code.

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

101.1 Title. These regulations shall be known as the swimming pool and spa code of the city of HARTFORD, hereinafter referred to as "this code. "

102.7 Application of the International Codes. Where the International Residential Code is referenced in this code, the provisions of the International Residential Code shall apply to related systems in detached one- and two-family dwellings and town houses not more than three stories in height. Other related systems shall comply with the applicable International Code, National Electric Code, Uniform Plumbing Code, or referenced standard.

103.1 Agency. City of Hartford's Building Department (Building Official) is the official in charge thereof shall be known as the code official. The function of the agency shall be in the implementation, administration, and enforcement of the provisions of this code.

103.2 Appointment. Not adopted by the city.

104.8 Liability. The code 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 civilly or criminally 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 code enforcement agency or the city be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

104.8.1 Legal defenses. Any suit or criminal complaint 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 and shall be defended by legal representatives of the jurisdiction until the final termination of the proceedings. The code 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.

104.11 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 code 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 code official one complete set of signed and sealed construction documents in an electronic submittal in PDF format for the alternative engineered design.

104.12.5 Design approval. Where the code 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 code official shall notify the registered design professional, stating the reasons why the alternative was not approved.

105.4.1 Approved construction documents. When the code 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 code official. Work shall be done in accordance with the approved construction documents.

The code 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 code 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 code 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.

108.4 Work commencing before permit issuance. Any person who commences any work on a mechanical system before obtaining the necessary permits shall be subject to a fee as established by the code official that shall be in addition to the required permit fees.

Administrative citations and legal and/or civil proceedings may also be commenced.

112.1 Membership of board. Not adopted by the city.

113.3 Prosecution of violation. If the notice of violation is not complied with promptly, the code official shall request the legal counsel of the jurisdiction to deem the violation as a strict liability offense and institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful pool or spa in violation of the provisions of this code or of the order or direction made pursuant thereto.



113.4 Violation penalties. Any person 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 a pool or spa in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of an ordinance violation and be subject to administrative citations through the code enforcement process.

Section 202 Definitions. Add the following definitions:

**STRICT LIABILITY OFFENSE.** An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited or failed to do an act which the defendant was legally required to do.

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

302.5 Backflow protection. Water supplies for pools and spas shall be protected against backflow in accordance with the Uniform 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 Uniform 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 F 1346, 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 Uniform Plumbing Code, as applicable in accordance with Section 102.7.1, and shall be located not greater than 150 feet (45,720 mm) apart.

Waterpowered 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 (45,720 mm) 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.

*(Amended: Ordinance No. 728, 3-31-2022)*

## TITLE 10 – UTILITY FRANCHISES

[MUNICIPAL UTILITIES IN GENERAL SDCL 9-39]

[UTILITY REVENUE BONDS SDCL 9-40]

[MUNICIPAL TELEPHONE SYSTEMS 9-41]

[MUNICIPAL POWER AGENCIES 9-41A]

Chapter 10.01 – Cable Television

Chapter 10.02 – Union Telephone System

Chapter 10.03 – Natural Gas

Chapter 10.04 – Cable Television

### CHAPTER 10.01 – CABLE TELEVISION

10.0101 Definitions. For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in present tense include the future; words in the singular number include the plural number.

- A. “Cable Television System,” “Cable System” or “CATV” shall mean a system utilizing coaxial cable and certain electronic and other components which deliver to subscribing members of the public various communications services.
- B. “FCC” shall mean Federal Communications Commission.
- C. “Grantee” shall mean Goldenwest Cablevision Inc., or an affiliate or successor in accordance with the provisions of this Franchise.
- D. “Subscribers” are those persons contracting to receive cable television reception services furnished under this Franchise by Grantee.
- E. “Cable Television Reception Service” shall mean the simultaneous delivery by the Grantee to television receivers or any other suitable type of audio-video communications receivers of the signals of over-the-air television broadcast stations licensed by the Federal Communications Commission and authorized to be carried over said system; and such additional closed-circuit channels at the option of Grantee.
- F. “Affiliate” or “Affiliated Company” shall mean a corporation, partnership or other business entity which is wholly owned by the same person or persons who own Goldenwest Cablevision, Inc.
- G. “City” means the City of Hartford, South Dakota, a municipal corporation.

10.0102 Qualifications of Grantee and Grant of Nonexclusive Authority. Whereas the City has approved of the legal, character, financial, technical and other qualifications of the Grantee and the

adequacy and feasibility of the Grantee's construction arrangements as part of a full public proceeding affording due process, including notice to all interested persons and members of the public, there is hereby granted by the City to the Grantee a nonexclusive franchise, right and privilege to construct, erect, operate, modify and maintain in, upon, along, across, above and over and under the highways, streets, alleys, sidewalks, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a Cable Television System for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purposes herein set forth.

10.0103 Duration and Acceptance of Franchise. The Franchise granted the Grantee herein shall be deemed effective June 1, 2021 and shall be reviewed every three years and terminate May 31, 2031, subject to renewal for periods of reasonable duration on the same terms and conditions as contained herein, or on such different or additional terms and conditions as may be lawfully specified by the City and as are consistent with the requirements of Rule 76.31 of the Federal Communications Commission. No renewal hereof shall be granted unless authorized by the City following a public hearing. Grantee shall be awarded a franchise renewal provided its applications shows that its CATV service during the preceding franchise period has reflected material compliance with the terms of this Franchise Ordinance and a good faith effort to serve the needs and interests of the service area.

10.0104 Compliance with Applicable Laws, Regulations, Ordinances and Codes.

- A. The Grantee shall at all times, operate and maintain its Cable Television System in full compliance with the rules, regulations and standards of the FCC and any applicable rules, regulations and standards of the State of South Dakota.
- B. The Grantee shall at all times during the life of this Franchise, be subject to all lawful exercise of the police power by the City and to any such reasonable regulations as the City shall hereafter provide.

10.0105 Territorial Area Involved. This Franchise relates to the present territorial limits of the City and to any area henceforth added thereto during the term of this Franchise.

10.0106 Liability and Indemnification. Grantee shall at all times keep in effect the following types of insurance coverage:

- A. Workers Compensation upon its employees engaged in any manner in the installation or servicing of its plant and equipment within the City of Hartford.
- B. Property Damage Liability insurance to the extent of One Hundred Thousand Dollars (\$100,000.00) as to any person and Three Hundred Thousand Dollars (\$300,000.00) as to any one accident and personal injury liability insurance to the extent of Three Hundred Thousand Dollars (\$300,000.00) as to any one person and Five Hundred Thousand Dollars (\$500,000) as to any one accident.

Grantee shall indemnify, protect, and save harmless the City from and against losses and physical damage to property and bodily injury or death to persons, including payments made under any Workers Compensation law which may be caused by the erection, maintenance, use or removal of any of their attachments, poles or other undertakings within the City, or by any action of Grantee, its agents or employees.

Grantee shall carry insurance in the above described amounts to protect the parties hereto from and against all claims, demands, actions, suits, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. Grantee shall also carry such insurance as it deems necessary to protect it from all claims under the Workers Compensation laws in effect that may be applicable to Grantee. The City shall give the Grantee prompt written notice of any such claims, demands, actions, suits, judgments, costs, expenses or liabilities. All insurance required shall be and remain in full force and effect for the entire life of the rights granted hereunder. The City retains the right to change the insurance requirements herein by proper resolution after prior notice to Grantee and a hearing thereon.

10.0107 Operation and Maintenance of System.

- A. The Grantee shall maintain an office which shall be open during all usual business hours for the receipt of sums due by its subscribers and shall provide for regular billing of accounts, have a locally listed telephone and be so operated that complaints and requests for repairs for adjustments may be received at any time.
- B. The Grantee shall render safe and efficient service, make repairs promptly and interrupt service only for good cause and for the shortest possible time. Such interruptions insofar as possible shall be preceded by notice and shall occur during periods of minimum use of the system.
- C. The Grantee shall provide for safe, adequate and prompt service for its facilities.

10.0108 Service to Schools and City. The Grantee shall provide service to elementary or secondary school locations within the City with one terminal junction for educational purposes upon request by the City or the school system and at no cost to the City or to the school system. This shall mean only an energized cable to such buildings.

The cost of any internal wiring shall be borne by the institution. The Grantee shall also provide service, within city limits, with one terminal junction to any city owned facility and the fire station upon request at no cost to the City or the Hartford Area Fire and Rescue, Inc.,

10.0109 Emergency Use of Facilities. In the case of any emergency or disaster the Grantee shall, upon request of the City Council, make available its facilities to the City for emergency use during the emergency or disaster.

10.0110 Safety Requirements. The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries or nuisances to the public.

10.0111 New Developments. It shall be the policy of the City to consider the amendment of this Franchise, upon application of the Grantee, when necessary to enable the Grantee to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity more effectively, efficiently or economically to serve its customers; provided, however, that this section shall not be construed to require the City to make any amendment or to prohibit it from unilaterally changing its policy stated herein.

10.0112 Limitations of Rights Granted.

- A. All transmission and distribution structures, lines, and equipment erected by the Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said streets, alleys, or other public ways and places, and said poles or fixtures shall be removed by Grantee whenever in the opinion of the City Council of the City of Hartford the same restrict or obstruct the operation, maintenance, construction or reconstruction of any streets or public places in the City of Hartford.
- B. All transmission and distribution structures lines and equipment erected by the Grantee within the City shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with any installations of the City or of a public utility serving the City, or to interfere with improvements the City may deem proper to make.
- C. In the maintenance and operation of their television transmission and distribution system in the streets, alleys, and other public places, and in the course of any new construction or addition to their facilities Grantees shall proceed so as to cause the least possible inconvenience to the general public. Any opening or obstruction in the streets or other public places made by Grantees in the course of their operations shall be guarded and protected at all times by the placement of adequate barriers, fences, or boardings, the bounds of which, during periods of dusk and darkness shall be clearly designated by warning lights.
- D. In case of disturbance of any street, sidewalk, alley, public way, or paved areas the Grantee shall, at its own cost and expense and in manner approved by the City Council, replace and restore such street, sidewalk, alley, public ways or paved area in as good a condition as before the work involving such disturbance was done.
- E. If at any time during the period of this Franchise the City shall lawfully elect to alter or change the grade of any street, sidewalk, alley, or other public way, the Grantee, upon reasonable notice by the City, shall remove, relate, and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.
- F. All installations of equipment shall be of a permanent nature-durable and installed in accordance with good engineering practices, and of sufficient height to comply with all existing City regulations ordinances and state laws so as not to interfere in any manner with the right of the public or individual property owners and any equipment installed in a public way or place shall not interfere with the usual travel on such public way or usual

use of such public place by the public and during the construction, repair, or removal thereof, shall not obstruct or impede traffic.

- G. The Grantee shall, on the request of any person holding a building-moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The reasonable expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.
  - H. The Grantee shall have the authority to trim trees overhanging upon the streets, sidewalks and public ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee, except that at the option of the City, such trimming may be done by it or under its supervision and direction at the expense of the Grantee.
  - I. In all sections of the City where the cables, wires or other like facilities of public utilities are placed underground the Grantee shall in the future place its wires, cables or other like facilities underground to the maximum extent that existing technology reasonably permits the Grantee to do so.
  - J. Grantee shall, at its expense, protect, support, temporarily disconnect, relocate on the same street, alley or public place, or remove from the street or public place, any property of Grantee when required by the City by reason of traffic conditions, safety, street vacation, vacation of right of way, and street construction change or establishments of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other types of structures or improvements by governmental agencies when acting in a governmental or proprietary capacity or other structure of public improvement; provided, however, that Grantee shall in all such cases have the privilege to abandon any property of Grantee in place as hereinafter provided.
  - K. In the event that the use of any part of the system is discontinued for any reason for a continuous period of twelve (12) months, or in the event such systems or property have been installed in any street or public place without complying with the requirements of this ordinance or the rights granted hereunder have been terminated canceled or have expired, Grantee shall promptly remove from the Streets, or public places all such property and poles of such system other than any which the City may permit to be abandoned in place. In the event of such removal, Grantee shall promptly restore the street or other area from which such property has been removed to a condition satisfactory to the City.
  - L. Any property of Grantee to be abandoned in place shall be abandoned in such a manner as the City may prescribe. Upon permanent abandonment of the property of Grantee in place, it shall submit to the City an instrument to be approved by the City, transferring to the City the ownership of such property.
- 10.0113 Removal of Facilities Upon Request. Upon termination of service to any subscriber the Grantee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his request.

10.0114 Transfer of Franchise. The rights granted under this ordinance may be assigned or transferred by the Grantee, provided, however, that the proposed assignee or transferee must show financial responsibility to the satisfaction of the City and must agree to comply with the provisions of this ordinance. The City's acceptance of the financial responsibility of the assignee or transferee shall not be unreasonably withheld.

10.0115 Payment to the City. During the term of the franchise granted hereunder and so long as Grantee or its successors or assigns operate the Cable Television System, commencing from the date of institution of service to subscribers, Grantee shall pay to the City annually the maximum percent allowed by FCC regulations or law of the annual "gross subscriber revenue", as defined herein, of said Cable Television System as compensation for the said franchise.

"Gross subscriber revenues". Gross subscriber revenues shall include, but are not limited to, all revenue received from basic cable and expanded basic cable, pay cable, digital services, high definition services, digital video recorder services, video on demand services, and any services added that are classified as cable services under federal law.

Such payments by Grantee to City shall be in lieu of any occupation tax, license tax, or similar levy, and shall be paid annually. Nothing herein contained, however, shall in any way relieve Grantee or its assigns or successors from the obligation of paying property taxes to the City of Hartford or any other governmental subdivision of the State of South Dakota or any other taxes lawfully levied by the State of South Dakota on the operation of the Grantee. Such payment also does not affect the responsibility of Grantee to collect state and local sales tax on the service provided.

Grantee shall file with the City, within ninety (90) days after the expiration of any fiscal year of Grantee during the term of the rights granted hereunder, a statement prepared by a Certified Public Accountant showing the gross subscriber revenue as defined herein. It shall be the duty of Grantee to pay to the City within fifteen (15) days after the time for filing such statement.

10.0116 Erection, Removal, and Common Use of Poles.

A. No poles or other wire-holding structures shall be erected by the Grantee without prior approval from the City Engineer with regard to locations, heights, type or any other pertinent aspect. However, no locations of any pole or wire-holding structure of the Grantee shall be a vested interest and such poles or structures shall be removed or modified by the Grantee at its own expense whenever the City Council determines that the public convenience would be enhanced thereby.

B. There is hereby granted to the extent that the City is authorized to so do, the right and authority to Grantee to lease, rent, or in another manner obtain the use of towers, poles, lines, cables, and other equipments and facilities from any and all holders of public licenses and franchises within the corporate limits of the City of Hartford to use such towers, poles, lines, cables, and other equipment and facilities subject to all existing and future ordinances and regulations of the City. It is the stated intention of the City of



Hartford that all other holders of public licenses and franchises within the corporate limits of the City shall cooperate with Grantee to allow Grantee's joint usage of their poles and pole-line facilities whenever possible or wherever such usage does not interfere with the normal operation of said poles and pole-lines so that the number of new or additional poles constructed by Grantee within the City may be minimized.

- C. Grantee shall grant to the City, free of expense, joint use of any and all poles owned by them for any proper municipal purpose acceptable to Grantee, insofar as it may be done without interfering with the free use and enjoyment of Grantee's own wires and fixtures, and the City shall hold Grantee harmless from any and all claims, actions, causes of actions or damages caused by the placing of the City's wires or appurtenances upon the poles of Grantee. Proper regard shall be given to all existing safety rules covering construction and maintenance in effect at the time of construction. If, in accommodating the City's joint use of its poles Grantee is required to change or replace poles or install new poles, the City shall compensate Grantee for such additional expense.

10.0117 Rates.

- A. Grantee shall at all times maintain on file with the City Finance Officer a schedule setting forth all rates and charges to be made to subscribers for any service, including installation charge.
- B. This provision does not limit the right of Grantee to pass along to the subscriber state and local sales tax or any specific copyright fees.

10.0118 Complaint Procedures. Complaints regarding the quality of service, equipment malfunctions and similar matters shall first be directed to Grantee's office. Should Grantee fail to satisfy a complaint, it may then be directed to the City Administrator for investigation. In response to a complaint, Grantee shall be afforded a reasonable opportunity to present written statements of its position. The City Administrator shall attempt to resolve the complaints, but if this cannot be achieved, the City Administrator shall submit a recommendation to the City Council recommending: (1) the complaint be dismissed, or (2) corrective action be taken by Grantee. Appeal from the City Council's action may be made to the appropriate judicial or administrative forum.

10.0119 Compliance with FCC Franchise Standards. Pursuant to applicable FCC standards the following recitations and provisions are set forth:

- A. Grantee's legal, character, financial, technical and other qualifications and the adequacy and feasibility of its construction arrangements, have been approved by the City Council of the City of Hartford after consideration in a full public proceeding, affording due process to all interested parties.
- B. The initial franchise period of this agreement shall be ten (10) years in duration and the renewal franchise periods shall be for a length of time agreed upon by both parties. The franchise granted by this agreement shall be reviewed every three years.

- C. The City Council has specified guidelines in charging rates. No changes in rates charged to subscribers shall be made except as they shall be deemed approved by the City Council as provided herein as governed by FCC Regulations.
- D. The franchise fee shall be the maximum percent allowed by FCC regulations or law of Grantee's "gross subscriber revenues" per year from cable television operations in the City.

10.0120 Grantee Rules.

- A. The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions covering the conduct to this business as shall be reasonably necessary to enable the Grantee to exercise its rights and perform its obligations under this Ordinance.
- B. All such rules, regulations, terms and conditions promulgated under 10.0120 (A), shall not be in conflict with the provisions hereof, or applicable federal or state law or rules promulgated by the City in the exercise of its regulatory authority granted hereunder.
- C. One copy of all such rules, regulations, terms and conditions promulgated under 10.0120 (A) together with any amendments, additions or deletions thereof, shall be kept currently on file with the City Finance Officer, and another copy thereof shall be maintained for public inspection during normal business hours at Grantee's office in the City; no such rules, regulations, terms, conditions or amendments, additions or deletions thereto shall take effect unless and until so filed and

10.0121 Unauthorized Cable Tapping. It shall be unlawful for any person or persons to obtain any Cable Television services from any cable television company or any firm or private person by installing, rearranging or tampering with any facilities or equipment of said Cable Television Company unless the same is done with the knowledge of and with the permission of the Cable Television Company. Any person or persons found guilty of a violation of any of the provisions of this Section shall be deemed guilty of a misdemeanor.

10.0122 Separability.

- A. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.
- B. Should any provision of this Franchise be inconsistent or at variance with any rule, regulation or policy, in whole or in part, of the Federal Communications Commission or any other agency having jurisdiction such provision shall be invalid, but the remaining provisions hereof shall not be affected thereby.

10.0123 Publication. Grantee shall pay to the City a sum of money sufficient to reimburse it for all expenses incurred by it in connection with the publication and passage of this

ordinance and the rights granted to Grantee hereunder. Such payment shall be made by Grantee to City within thirty (30) days after City shall furnish Grantee with a written statement of such expense.

The Grantee shall assume the cost of publication of this Franchise as such publication is required by law and such is payable upon the Grantee's filing of acceptance of this Franchise.

- 10.0124 Ordinances Repealed. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

*(Amended: Ordinance No. 564, 5-3-2011)*

*(Amended: Ordinance No. 704, 3-2-2021)*

## **CHAPTER 10.02 – UNION TELEPHONE COMPANY**

- 10.0201 Union Telephone Company, a corporation, its successors and assigns, are hereby granted the right to use and occupy the streets, alleys and other public places of the City of Hartford, South Dakota, for a term of twenty (20) years from the effective date hereof, for the purpose of constructing, maintaining and operating a telecommunications system within said City.

That the rights herein granted are subject to the exercise of the police power as the same now is or may hereafter be conferred upon said City.

- 10.0202 Grant of Franchise. That there is hereby granted unto the Union Telephone Company of Hartford, South Dakota, a corporation duly organized and existing under and by virtue of the laws of the State of South Dakota, and to its successors and assigns, the right and privilege to use the streets and alleys of said incorporated City of Hartford, except main Avenue south of Second Street and north of the former Chicago, St. Paul, Minneapolis and Omaha Railway right-of-way, for the following purposes, to wit: To erect and maintain upon said streets and alleys, telephone poles and wires, to excavate said streets and alleys for the purpose of laying down and maintaining underground conduits, wires and cables, appurtenances and for the further purpose of constructing manholes to be used in connections with the construction and maintenance of said underground conduits, wires and cables, and to erect, maintain and operate within said incorporated City of Hartford, a telephone exchange.

- 10.0203 Term. This Franchise shall expire twenty (20) years from its effective date, unless renewed, revoked or terminated sooner as herein provided.

- 10.0204 Conditions of Street Occupancy. The said Union Telephone Company of Hartford, shall construct, maintain and operate said telephone system, lay and maintain said underground conduits, wires and cable, appurtenances, if any, and construct and maintain said manholes, if any, in such a manner as not to interfere with any system of sewerage or water works of said City and if any excavation shall be made by said company, said company shall refill all said excavations, except for manholes, and replace the surface of said street and alleys in as good condition as they were prior to said excavation, and said company shall save the said City of Hartford harmless from any and all damages, costs or expenses that may in any manner result

to it by reason of the construction, maintenance and operation of said telephone system, and the poles, anchors, wires, cables and conduits and manholes necessary and incident thereto.

All poles, anchors, wires and fixtures erected by virtue of this ordinance, shall be erected at such places and in such manner as not to unnecessarily encroach upon said streets, alleys or public places, or to obstruct or impede the use thereof for ordinary purposes of travel thereon, and all wires, poles and appliances maintained and used in connection therewith, shall be subject to such reasonable rules and regulations respecting such highways, avenues, streets and alleys, as the City of Hartford, by its Governing Board, may from time to time, and in accordance with the provisions and restrictions herein contained, and to do all other things in and upon the streets and alleys aforesaid, which may be necessary to the construction, maintenance and operation by the said Union Telephone Company of Hartford, of a local and long distance telephone system.

Provided that the poles hereby authorized to be erected, shall be placed and located under the supervision of the Governing Board of the said City of Hartford, and in such manner that said poles will in the least degree, inconvenience property owners, and interfere as little as possible with the public use of said streets and alleys.

- 10.0205 Height Requirements. The lowest wire that may at any time be attached to and stretched between said poles, or any of them, shall not be less than fifteen (15) feet above the ground at any point, and at all street crossings, not less than twenty (20) feet above the ground.
- 10.0206 Relocation at Request of Third Party. Whenever any person desires to move any building, or cross any street or alley of said City of Hartford, within or upon which any such wires are strung, by which removal, any such wires be injured or interfered with, such person shall give the owner or manager of said Union Telephone Company, its successors or assigns, at least twenty-four (24) hours notice of the time and place when and where he desires such wires moved for such purpose, and thereupon the owner or manager of said company, its successors or assigns, shall cause such wires to be so moved, as to allow the passage of such building, but in all such cases, the actual and necessary expense of such removal of wires shall be borne by the party having the building moved.
- 10.0207 In consideration of the grant and privileges herein granted, said Union Telephone Company, by the acceptance of this grant and the privileges appertaining to the same, shall in all respects comply with the provisions of this ordinance, and shall at all times save and keep harmless, said City from any loss, damage and liability that may arise or result from erecting, maintaining or operating the poles, anchors, lines, wires and appliances aforesaid, and to save and keep harmless, said City of Hartford from all damage occasioned by accidents or otherwise, in constructing, operating or maintaining the lines, wires, poles, anchors and appliances.
- 10.0208 The grant and privileges by this ordinance provided, are not exclusive, and said City of Hartford may at any time grant to any individual or company the right and privilege to erect and maintain poles, wires and appliances for the purpose herein provided for, without reference to the right herein granted and without any right to compensation or claim of damages for or on behalf of said Union Telephone Company, its successors and assigns.
- 10.0209 The rights by this ordinance granted, are and shall be by said company, its successors and assigns, taken and accepted under the subject to all the conditions of this ordinance, and of all right of abutting property owners for compensation for damages from said company.

- 10.0210 Said Union Telephone Company, a corporation, of Hartford, South Dakota, shall have full right and authority to assign to any person, person, firm or corporation, all rights conferred upon it by this franchise, provided, that the assignee of such rights, by accepting such assignment shall become subject to the terms and provisions of this franchise.
- 10.0211 Separability.
- A. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.
- B. Should any provision of this Franchise be inconsistent or at variance with any rule, regulations or police, in whole or in part, of the Federal Communications Commission or any other agency having jurisdiction such provision shall be invalid, but the remaining provisions hereof shall not be affected thereby.
- 10.0212 Publication. Grantee shall pay to the City a sum of money sufficient to reimburse it for all expenses incurred by it in connection with the publication and passage of this ordinance and the rights granted to Grantee hereunder. Such payment shall be made by grantee to City within thirty (30) days after City shall furnish Grantee's filing with a written statement of such expense.
- 10.0213 Ordinances Repealed. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

### **10.03 – NATURAL GAS**

- 10.0301 There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called "Company," and to its successors and assigns the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Hartford, South Dakota, hereinafter called the "City," a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. This franchise shall be effective for a twenty (20) year period from and after the effective date of this ordinance.
- 10.0302 The rights and privileges hereby granted are subject to the restrictions and limitations of South Dakota law, or as subsequently amended or changed. (See Appendix III)
- 10.0303 Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to unreasonably interfere with the construction of any water pipes, drain or sewer or the flow of water therefrom, storm sewer or other underground utility facilities owned by the City, which have been or may hereafter be located by authority of the City, with construction, repair, laying, relaying or extending of gas pipes, mains, conduits, and other facilities being in form and matter authorized by the city.
- 10.0304 The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with South Dakota law including Company's tariff on file with and made effective by the South Dakota Public Utilities Commission as may subsequently be amended ("Tariff") , at its cost and expense,

locate and relocate its existing facilities or equipment in, on, or under any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction reconstruction, maintenance or repair of the street or alley or any other public property owned by the city. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested, the City shall provide, for the cost to reproduce it and subject to the approval of the City Engineer, to the Company, copies of its relocation plan and profile and cross section drawings.

- 10.0305 In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring it to the condition as existed immediately prior to excavation. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition.
- 10.0306 Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has facilities in the vicinity, the City shall provide Company with notice upon receipt of a vacate petition.
- 10.0307 The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City at any time during the previous five years.
- 10.0308 The Company shall not be required at its expense to relocate Company facilities or equipment in order to facilitate a project of a commercial or private developer or other non-public entity.
- 10.0309 The Company shall maintain insurance, which may be through a program of self-insurance, which will, among other things, indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, relaying, extending operation or maintenance of the natural gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.
- 10.0310 Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in city right of way, including documents, maps and other information in paper or electronic or other forms ("Information").
- 10.0311 The Company shall extend its mains and pipes and operate, and maintain the system in accordance with the applicable regulations of the South Dakota Public Utilities Commission or its successors and state law.
- 10.0312 During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent and in accordance with the applicable regulations of the South Dakota Utilities Commission the Company's tariff made effective by the South Dakota Utilities Commission or its successors and state law.
- 10.0313. Either City or Company ("party") may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying

the alleged breach. The breaching party shall have 60 days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a shorter or longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise.

- 10.0314. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.
- 10.0315. This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with South Dakota law and the written acceptance by the Company. The City shall provide Company with an original signed and sealed copy of this ordinance within 10-days of its final passage. The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all the terms and provisions of this ordinance. Following City Council approval, this ordinance shall be published in accordance with the Code of South Dakota. The effective date of this ordinance shall be twenty (20) days after publication of the ordinance. In the event that MidAmerican Energy Company does not file its written acceptance of this ordinance within 30 days after its approval by the City Council, this ordinance shall be void and of no effect.
- 10.0316 Upon the effective date of this ordinance, all prior natural gas franchises granted to the Company to furnish natural gas to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

*(Amended: Ordinance No. 577, 6-19-2012)*

## **CHAPTER 10.04 – CABLE TELEVISION**

- 10.0401 Definitions. For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in present tense include the future; words in the singular number include the plural number.
- A. “Cable Television System,” “Cable System” or “CATV” shall mean a system utilizing coaxial cable and certain electronic and other components which deliver to subscribing members of the public various communications services.
  - B. “FCC” shall mean Federal Communications Commission.
  - C. “Grantee” shall mean Midcontinent Communications, or an affiliate or successor in accordance with the provisions of this Franchise.
  - D. “Subscribers” are those persons contracting to receive cable television reception services furnished under this Franchise by Grantee.

- E. “Cable Television Reception Service” shall mean the simultaneous delivery by the Grantee to television receivers or any other suitable type of audio-video communications receivers of the signals of over-the-air television broadcast stations licensed by the Federal Communications Commission and authorized to be carried over said system; and such additional closed-circuit channels at the option of Grantee.
- F. “Affiliate” or “Affiliated Company” shall mean a corporation, partnership or other business entity which is wholly owned by the same person or persons who own Midcontinent Communications.
- G. “City” means the City of Hartford, South Dakota, a municipal corporation.

*(Amended: Ordinance No. 719, 11-2-2021)*

10.0402 Qualifications of Grantee and Grant of Nonexclusive Authority. Whereas the City has approved of the legal, character, financial, technical and other qualifications of the Grantee and the adequacy and feasibility of the Grantee’s construction arrangements as part of a full public proceeding affording due process, including notice to all interested persons and members of the public, there is hereby granted by the City to the Grantee a nonexclusive franchise, right and privilege to construct, erect, operate, modify and maintain in, upon, along, across, above and over and under the highways, streets, alleys, sidewalks, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a Cable Television System for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purposes herein set forth.

*(Amended: Ordinance No. 719, 11-2-2021)*

10.0403 Duration and Acceptance of Franchise. The Franchise granted the Grantee herein shall be deemed effective June 1, 2021 and shall be reviewed every three years and terminate May 31, 2031, subject to renewal for periods of reasonable duration on the same terms and conditions as contained herein, or on such different or additional terms and conditions as may be lawfully specified by the City and as are consistent with the requirements of Rule 76.31 of the Federal Communications Commission. No renewal hereof shall be granted unless authorized by the City following a public hearing. Grantee shall be awarded a franchise renewal provided its applications shows that its CATV service during the preceding franchise period has reflected material compliance with the terms of this Franchise Ordinance and a good faith effort to serve the needs and interests of the service area.

*(Amended: Ordinance No. 719, 11-2-2021)*

10.0404 Compliance with Applicable Laws, Regulations, Ordinances and Codes.

- A. The Grantee shall at all times, operate and maintain its Cable Television System in full compliance with the rules, regulations and standards of the FCC and any applicable rules, regulations and standards of the State of South Dakota.



- B. The Grantee shall at all times during the life of this Franchise, be subject to all lawful exercise of the police power by the City and to any such reasonable regulations as the City shall hereafter provide.

*(Amended: Ordinance No. 719, 11-2-2021)*

- 10.0405 Territorial Area Involved. This Franchise relates to the present territorial limits of the City and to any area henceforth added thereto during the term of this Franchise.

*(Amended: Ordinance No. 719, 11-2-2021)*

- 10.0406 Liability and Indemnification. Grantee shall at all times keep in effect the following types of insurance coverage:

- A. Workers Compensation upon its employees engaged in any manner in the installation or servicing of its plant and equipment within the City of Hartford.
- B. Property Damage Liability insurance to the extent of One Hundred Thousand Dollars (\$100,000.00) as to any person and Three Hundred Thousand Dollars (\$300,000.00) as to any one accident and personal injury liability insurance to the extent of Three Hundred Thousand Dollars (\$300,000.00) as to any one person and Five Hundred Thousand Dollars (\$500,000) as to any one accident.

Grantee shall indemnify, protect, and save harmless the City from and against losses and physical damage to property and bodily injury or death to persons, including payments made under any Workers Compensation law which may be caused by the erection, maintenance, use or removal of any of their attachments, poles or other undertakings within the City, or by any action of Grantee, its agents or employees.

Grantee shall carry insurance in the above described amounts to protect the parties hereto from and against all claims, demands, actions, suits, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. Grantee shall also carry such insurance as it deems necessary to protect it from all claims under the Workers Compensation laws in effect that may be applicable to Grantee. The City shall give the Grantee prompt written notice of any such claims, demands, actions, suits, judgments, costs, expenses or liabilities. All insurance required shall be and remain in full force and effect for the entire life of the rights granted hereunder. The City retains the right to change the insurance requirements herein by proper resolution after prior notice to Grantee and a hearing thereon.

*(Amended: Ordinance No. 719, 11-2-2021)*

- 10.0407 Operation and Maintenance of System.

- A. The Grantee shall maintain an office which shall be open during all usual business hours for the receipt of sums due by its subscribers and shall provide for regular billing of accounts, have a locally listed telephone and be so operated that complaints and requests for repairs for adjustments may be received at any time.
- B. The Grantee shall render safe and efficient service, make repairs promptly and interrupt service only for good cause and for the shortest possible time. Such interruptions insofar as possible shall be preceded by notice and shall occur during periods of minimum use of the system.
- C. The Grantee shall provide for safe, adequate and prompt service for its facilities.

*(Amended: Ordinance No. 719, 11-2-2021)*

- 10.0408 Service to Schools and City. The Grantee shall provide service to elementary or secondary school locations within the City with one terminal junction for educational purposes upon request by the City or the school system and at no cost to the City or to the school system. This shall mean only an energized cable to such buildings.

The cost of any internal wiring shall be borne by the institution. The Grantee shall also provide service, within city limits, with one terminal junction to any city owned facility and the fire station upon request at no cost to the City or the Hartford Area Fire and Rescue, Inc.,

*(Amended: Ordinance No. 719, 11-2-2021)*

- 10.0409 Emergency Use of Facilities. In the case of any emergency or disaster the Grantee shall, upon request of the City Council, make available its facilities to the City for emergency use during the emergency or disaster.

*(Amended: Ordinance No. 719, 11-2-2021)*

- 10.0410 Safety Requirements. The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries or nuisances to the public.

*(Amended: Ordinance No. 719, 11-2-2021)*

- 10.0411 New Developments. It shall be the policy of the City to consider the amendment of this Franchise, upon application of the Grantee, when necessary to enable the Grantee to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity more effectively, efficiently or economically to serve its customers; provided, however, that this section shall not be construed to require the City to make any amendment or to prohibit it from unilaterally changing its policy stated herein.

*(Amended: Ordinance No. 719, 11-2-2021)*

- 10.0412 Limitations of Rights Granted.

- A. All transmission and distribution structures, lines, and equipment erected by the Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said streets, alleys, or other public ways and places, and said poles or fixtures shall be removed by Grantee whenever in the opinion of the City Council of the City of Hartford the same restrict or obstruct the operation, maintenance, construction or reconstruction of any streets or public places in the City of Hartford.
- B. All transmission and distribution structures lines and equipment erected by the Grantee within the City shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with any installations of the City or of a public utility serving the City, or to interfere with improvements the City may deem proper to make.
- C. In the maintenance and operation of their television transmission and distribution system in the streets, alleys, and other public places, and in the course of any new construction or addition to their facilities Grantees shall proceed so as to cause the least possible inconvenience to the general public. Any opening or obstruction in the streets or other public places made by Grantees in the course of their operations shall be guarded and protected at all times by the placement of adequate barriers, fences, or boardings, the bounds of which, during periods of dusk and darkness shall be clearly designated by warning lights.
- D. In case of disturbance of any street, sidewalk, alley, public way, or paved areas the Grantee shall, at its own cost and expense and in manner approved by the City Council, replace and restore such street, sidewalk, alley, public ways or paved area in as good a condition as before the work involving such disturbance was done.
- E. If at any time during the period of this Franchise the City shall lawfully elect to alter or change the grade of any street, sidewalk, alley, or other public way, the Grantee, upon reasonable notice by the City, shall remove, relate, and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.
- F. All installations of equipment shall be of a permanent nature-durable and installed in accordance with good engineering practices, and of sufficient height to comply with all existing City regulations ordinances and state laws so as not to interfere in any manner with the right of the public or individual property owners and any equipment installed in a public way or place shall not interfere with the usual travel on such public way or usual use of such public place by the public and during the construction, repair, or removal thereof, shall not obstruct or impede traffic.
- G. The Grantee shall, on the request of any person holding a building-moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The reasonable expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire

changes.

- H. The Grantee shall have the authority to trim trees overhanging upon the streets, sidewalks and public ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee, except that at the option of the City, such trimming may be done by it or under its supervision and direction at the expense of the Grantee.
- I. In all sections of the City where the cables, wires or other like facilities of public utilities are placed underground the Grantee shall in the future place its wires, cables or other like facilities underground to the maximum extent that existing technology reasonably permits the Grantee to do so.
- J. Grantee shall, at its expense, protect, support, temporarily disconnect, relocate on the same street, alley or public place, or remove from the street or public place, any property of Grantee when required by the City by reason of traffic conditions, safety, street vacation, vacation of right of way, and street construction change or establishments of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other types of structures or improvements by governmental agencies when acting in a governmental or proprietary capacity or other structure of public improvement; provided, however, that Grantee shall in all such cases have the privilege to abandon any property of Grantee in place as hereinafter provided.
- K. In the event that the use of any part of the system is discontinued for any reason for a continuous period of twelve (12) months, or in the event such systems or property have been installed in any street or public place without complying with the requirements of this ordinance or the rights granted hereunder have been terminated canceled or have expired, Grantee shall promptly remove from the Streets, or public places all such property and poles of such system other than any which the City may permit to be abandoned in place. In the event of such removal, Grantee shall promptly restore the street or other area from which such property has been removed to a condition satisfactory to the City.
- L. Any property of Grantee to be abandoned in place shall be abandoned in such a manner as the City may prescribe. Upon permanent abandonment of the property of Grantee in place, it shall submit to the City an instrument to be approved by the City, transferring to the City the ownership of such property.

*(Amended: Ordinance No. 719, 11-2-2021)*

10.0413 Removal of Facilities Upon Request. Upon termination of service to any subscriber the Grantee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his request.

*(Amended: Ordinance No. 719, 11-2-2021)*

10.0414 Transfer of Franchise. The rights granted under this ordinance may be assigned or transferred by the Grantee, provided, however, that the proposed assignee or transferee must show financial responsibility to the satisfaction of the City and must agree to comply with the provisions of this ordinance. The City’s acceptance of the financial responsibility of the assignee or transferee shall not be unreasonably withheld.

*(Amended: Ordinance No. 719, 11-2-2021)*

10.0415 Payment to the City. During the term of the franchise granted hereunder and so long as Grantee or its successors or assigns operate the Cable Television System, commencing from the date of institution of service to subscribers, Grantee shall pay to the City annually the maximum percent allowed by FCC regulations or law of the annual “gross subscriber revenue“, as defined herein, of said Cable Television System as compensation for the said franchise.

“Gross subscriber revenues”. Gross subscriber revenues shall include, but are not limited to, all revenue received from basic cable and expanded basic cable, pay cable, digital services, high definition services, digital video recorder services, video on demand services, and any services added that are classified as cable services under federal law.

Such payments by Grantee to City shall be in lieu of any occupation tax, license tax, or similar levy, and shall be paid annually. Nothing herein contained, however, shall in any way relieve Grantee or its assigns or successors from the obligation of paying property taxes to the City of Hartford or any other governmental subdivision of the State of South Dakota or any other taxes lawfully levied by the State of South Dakota on the operation of the Grantee. Such payment also does not affect the responsibility of Grantee to collect state and local sales tax on the service provided.

Grantee shall file with the City, within ninety (90) days after the expiration of any fiscal year of Grantee during the term of the rights granted hereunder, a statement prepared by a an Officer of Grantee showing the gross subscriber revenue as defined herein. It shall be the duty of Grantee to pay to the City within fifteen (15) days after the time for filing such statement.

*(Amended: Ordinance No. 719, 11-2-2021)*

10.0416 Erection, Removal, and Common Use of Poles.

A. No poles or other wire-holding structures shall be erected by the Grantee without prior approval from the City Engineer with regard to locations, heights, type or any other pertinent aspect. However, no locations of any pole or wire-holding structure of the Grantee shall be a vested interest and such poles or structures shall be removed or modified by the Grantee at its own expense whenever the City Council determines that the public convenience would be enhanced thereby.

B. There is hereby granted to the extent that the City is authorized to so do, the right and authority to Grantee to lease, rent, or in another manner obtain the use of towers, poles, lines, cables, and other equipments and facilities from any and all holders of

public licenses and franchises within the corporate limits of the City of Hartford to use such towers, poles, lines, cables, and other equipment and facilities subject to all existing and future ordinances and regulations of the City. It is the stated intention of the City of Hartford that all other holders of public licenses and franchises within the corporate limits of the City shall cooperate with Grantee to allow Grantee's joint usage of their poles and pole-line facilities whenever possible or wherever such usage does not interfere with the normal operation of said poles and pole-lines so that the number of new or additional poles constructed by Grantee within the City may be minimized.

- C. Grantee shall grant to the City, free of expense, joint use of any and all poles owned by them for any proper municipal purpose acceptable to Grantee, insofar as it may be done without interfering with the free use and enjoyment of Grantee's own wires and fixtures, and the City shall hold Grantee harmless from any and all claims, actions, causes of actions or damages caused by the placing of the City's wires or appurtenances upon the poles of Grantee. Proper regard shall be given to all existing safety rules covering construction and maintenance in effect at the time of construction. If, in accommodating the City's joint use of its poles Grantee is required to change or replace poles or install new poles, the City shall compensate Grantee for such additional expense.

*(Amended: Ordinance No. 719, 11-2-2021)*

10.0417 Rates.

- A. Grantee shall at all times maintain on file with the City Finance Officer a schedule setting forth all rates and charges to be made to subscribers for any service, including installation charge.
- B. This provision does not limit the right of Grantee to pass along to the subscriber state and local sales tax or any specific copyright fees.

*(Amended: Ordinance No. 719, 11-2-2021)*

10.0418 Complaint Procedures. Complaints regarding the quality of service, equipment malfunctions and similar matters shall first be directed to Grantee's office. Should Grantee fail to satisfy a complaint, it may then be directed to the City Administrator for investigation. In response to a complaint, Grantee shall be afforded a reasonable opportunity to present written statements of its position. The City Administrator shall attempt to resolve the complaints, but if this cannot be achieved, the City Administrator shall submit a recommendation to the City Council recommending: (1) the complaint be dismissed, or (2) corrective action be taken by Grantee. Appeal from the City Council's action may be made to the appropriate judicial or administrative forum.

*(Amended: Ordinance No. 719, 11-2-2021)*

10.0419 Compliance with FCC Franchise Standards. Pursuant to applicable FCC standards the following recitations and provisions are set forth:

- A. Grantee's legal, character, financial, technical and other qualifications and the adequacy and feasibility of its construction arrangements, have been approved by the City Council of the City of Hartford after consideration in a full public proceeding, affording due process to all interested parties.
- B. The initial franchise period of this agreement shall be ten (10) years in duration and the renewal franchise periods shall be for a length of time agreed upon by both parties. The franchise granted by this agreement shall be reviewed every three years.
- C. The City Council has specified guidelines in charging rates. No changes in rates charged to subscribers shall be made except as they shall be deemed approved by the City Council as provided herein as governed by FCC Regulations.
- D. The franchise fee shall be the maximum percent allowed by FCC regulations or law of Grantee's "gross subscriber revenues" per year from cable television operations in the City.

*(Amended: Ordinance No. 719, 11-2-2021)*

10.0420 Grantee Rules.

- A. The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions covering the conduct to this business as shall be reasonably necessary to enable the Grantee to exercise its rights and perform its obligations under this Ordinance.
- B. All such rules, regulations, terms and conditions promulgated under 10.0120 (A), shall not be in conflict with the provisions hereof, or applicable federal or state law or rules promulgated by the City in the exercise of its regulatory authority granted hereunder.
- C. One copy of all such rules, regulations, terms and conditions promulgated under 10.0120 (A) together with any amendments, additions or deletions thereof, shall be kept currently on file with the City Finance Officer, and another copy thereof shall be maintained for public inspection during normal business hours at Grantee's office in the City; no such rules, regulations, terms, conditions or amendments, additions or deletions thereto shall take effect unless and until so filed and

*(Amended: Ordinance No. 719, 11-2-2021)*

10.0421 Unauthorized Cable Tapping. It shall be unlawful for any person or persons to obtain any Cable Television services from any cable television company or any firm or private person by installing, rearranging or tampering with any facilities or equipment of said Cable Television Company unless the same is done with the knowledge of and with the

permission of the Cable Television Company. Any person or persons found guilty of a violation of any of the provisions of this Section shall be deemed guilty of a misdemeanor.

*(Amended: Ordinance No. 719, 11-2-2021)*

10.0422 Separability.

A. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

B. Should any provision of this Franchise be inconsistent or at variance with any rule, regulation or policy, in whole or in part, of the Federal Communications Commission or any other agency having jurisdiction such provision shall be invalid, but the remaining provisions hereof shall not be affected thereby.

*(Amended: Ordinance No. 719, 11-2-2021)*

10.0423 Publication. Grantee shall pay to the City a sum of money sufficient to reimburse it for all expenses incurred by it in connection with the publication and passage of this ordinance and the rights granted to Grantee hereunder. Such payment shall be made by Grantee to City within thirty (30) days after City shall furnish Grantee with a written statement of such expense.

The Grantee shall assume the cost of publication of this Franchise as such publication is required by law and such is payable upon the Grantee's filing of acceptance of this Franchise.

*(Amended: Ordinance No. 719, 11-2-2021)*

10.0424 Ordinances Repealed. All ordinances or parts of ordinances in conflict herewith are hereby repealed.



**TITLE 11 – TAXATION**

[UNIFORM MUNICIPAL NON-AD VALOREM TAX LAW SDCL 10-52]  
[USE TAX SDCL 10-46]

- Chapter 11.01 – Municipal Sales and Service Tax and Use Tax
- Chapter 11.02 – Special Property Tax Classifications
- Chapter 11.03 – Retail Sales and Service Tax and Use Tax
- Refund

**CHAPTER 11.01 – MUNICIPAL SALES AND SERVICE TAX AND USE TAX**

11.0101 Purpose. The purpose of this ordinance is to provide additional needed revenue for the Municipality of Hartford, Minnehaha County, South Dakota, by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.

*(Amended: Ordinance No. 443, 7-15-2003; Ordinance No. 444, 8-5-2003)*

11.0102 Effective Date and Enactment of Tax. From and after the 1st day of January, 2004, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax of one percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Hartford, Minnehaha County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

*(Amended: Ordinance No. 443, 7-15-2003; Ordinance No. 444, 8-5-2003)*

11.0103 RESERVED.

*(Amended: Ordinance No. 444, 8-5-2003)*

11.0104 Special Tax Rate.

- A. Purpose. The purpose of this ordinance is to provide additional needed revenue for the Municipality of Hartford, Minnehaha County, South Dakota, by imposing a municipal gross receipts tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52A, and acts amendatory thereto.
- B. Effective Date and Enactment of Tax. From and after the first day of January, 2004, there is hereby imposed a municipal gross receipts tax of One Percent (1%) upon the gross receipts from the sale of leases or rentals of hotel, motel, campsites or other lodging accommodations within the municipality for periods of less than twenty-eight (28) consecutive days, the sale of alcoholic beverages as defined in SDCL 35-1-1, establishments where the public is invited to eat, dine or purchase and carry out prepared food for immediate consumption, and ticket sales or admissions to places of amusement, athletic and cultural events. The tax applies to the gross receipts of all persons engaged in

business within the jurisdiction of the Municipality of Hartford, Minnehaha County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

- C. Collection. Such tax is levied pursuant to authorization granted by SDCL 10-52A and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue of the State of South Dakota shall lawfully prescribe.
- D. Interpretation. It is declared to be the intention of this ordinance and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.
- E. Use of Revenue. Any revenues received under this ordinance may be used only for the purpose of land acquisition, architectural fees, construction costs, payment for civic center, auditoriums or athletic facility buildings, including the maintenance, staffing and operations of such facilities, and the promotion and advertising of the municipality, its facilities, attractions and activities.
- F. Penalty. Any person failing or refusing to make reports or payments prescribed by this ordinance and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$200 or imprisoned in the municipal jail for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the Department of Revenue.
- G. Separability. If any provision of this ordinance is declared unconstitutional or the application thereof to any person or circumstances held invalid the constitutionality of the remainder of the ordinance and applicability thereof to other persons or circumstances shall not be affected thereby.

*(Amended: Ordinance No. 445, 8-5-2003)*

11.0105 Exemptions from Taxation. Removed in its entirety effective January 1, 2006.

*(Amended: Ordinance No. 444, 8-5-2003; Ordinance No. 488, 8-2-2005)*

11.0106 Use Tax. In addition, there is hereby imposed an excise tax on the privilege of the use, storage and consumption within the jurisdiction of the municipality of tangible personal property or services purchased from and after the first of January, 2004, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.

*(Amended: Ordinance No. 443, 7-15-2003; Ordinance No. 444, 8-5-2003)*

11.0107 Collection. Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue in

accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue of the State of South Dakota shall lawfully prescribe.

*(Amended: Ordinance No. 443, 7-15-2003; Ordinance No. 444, 8-5-2003)*

11.0108 RESERVED.

*(Amended: Ordinance No. 443, 7-15-2003; Ordinance No. 444, 8-5-2003)*

11.0109 Interpretation. It is declared to be the intention of this chapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

*(Amended: Ordinance No. 443, 7-15-2003; Ordinance No. 444, 8-5-2003)*

11.0110 Penalty. Any person failing or refusing to make reports or payments prescribed by this ordinance and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$200 or imprisoned in the municipal jail for thirty (30) days or both such fine and imprisonment.. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

*(Amended: Ordinance No. 443, 7-15-2003; Ordinance No. 444, 8-5-2003)*

11.0111 Separability. If any provision of this ordinance is declared unconstitutional or the application thereof to any person or circumstances held invalid the constitutionality of the remainder of the ordinance and applicability thereof to other persons or circumstances shall not be affected thereby.

*(Amended: Ordinance No. 443, 7-15-2003; Ordinance No. 444, 8-5-2003)*

## **CHAPTER 11.02 – SPECIAL PROPERTY TAX CLASSIFICATIONS**

11.0201 New Construction. It is deemed in the best interest of the City of Hartford to grant a special tax classification to all new industrial and commercial structures, or additions to existing structures, which new structures or additions have a true and full value of Thirty Thousand (\$30,000) Dollars or more, added to real property.

11.0202 Classification of Property. All real property qualifying under SDCL 10-6-35.1 and SDCL 10-6-35.24 shall be valued for taxation purposes as follows:

- A. For the first tax year following construction, zero (0%) percent of the assessed valuation shall be used for tax purposes on such property;
- B. For the second tax year following construction, not more than twenty-five (25%) percent of the usual assessed valuation shall be used for tax purposes on such property;

- C. For the third year following construction, not more than fifty (50%) percent of the usual assessed valuation shall be used for tax purposes on such property; and
- D. For the fourth and fifth years following construction, not more than seventy-five (75%) percent of the usual assessed valuation shall be used for tax purposes on such property.

11.0203 Restrictions. Pursuant to SDCL 10-6-35.3, no real property shall qualify for the foregoing new construction tax incentive under these ordinances if the structure fails to comply with all air and water pollution laws and standards which are enacted and may be enacted from time to time by the State of South Dakota.

### **CHAPTER 11.03 – RETAIL SALES AND SERVICE TAX AND USE TAX REFUND**

11.0301. Definitions.

Terms used in this article mean:

1. *Capital assets* means tangible and intangible personal property which is subject to depreciation or amortization under § 167 and 168 of the Internal Revenue Code of 1986, as amended to the date of adoption of this ordinance.
2. *Construction commencement* means the date earth is first excavated for the purpose of constructing a new business facility.
3. *Department* means the office of the finance office of the city.
4. *Finance Officer* means the finance officer of the city.
5. *New business facility* means a new building or structure that is part of a project that satisfies the requirements of section 11.0303 and is not ineligible under the provisions of section 11.0304.
6. *Person* means any individual, firm, partnership, joint venture, association, limited liability company, limited liability partnership, corporation, trust, or any group or combination thereof acting as a unit.
7. *Project* means the construction, equipping, and furnishing of a new business facility at a single site, and for which the commencement of construction or the ordering of equipment to be used in a new business facility occurred on or after January 1, 2013.
8. *Sales tax* means the sale and service and use taxes imposed by the city pursuant to Sections 11.0101, 11.0102, 11.0103, 11.0105, 11.0106, 11.0107, 11.0108, 11.0109, 11.0110 and 11.0111.

11.0302. Refund of retail sale and service tax and use tax on capital assets.

As provided in this ordinance, any person may apply for and obtain a refund or credit for sales tax paid by such person on the costs incurred in the furnishing and equipping of a new business facility that satisfies all requirements of this article. Except as provided in the last sentence of this paragraph, the refund allowed under this section pertains only to the project costs incurred and paid within 36 months of the approval of the application required by section 11.0305. Upon

a showing of good cause, the time limits prescribed by this section may be extended by the City Council for a period not to exceed 24 months. The refund shall not apply to capital assets purchased to replace capital assets for which a refund has been claimed during such 36-month period or extended period. There is no refund if the person fails to make application with the finance officer as set forth in section 11.0305.

The 30-day advance application requirement found in section 11.0305 shall not apply to any project for which the commencement of construction or the ordering of equipment occurred prior to January 1, 2013.

11.0303. Eligible Projects.

No refund may be made unless:

1. The project includes new construction that adds at least \$500,000 in taxable value to the city's property tax base, or an investment in non-realty capital assets of not less than \$250,000, or if the combination of new construction and non-realty capital assets exceeds \$500,000.
2. The facility is used directly in (a) the manufacture or processing or fabrication or compounding of personal property which is intended to be sold or leased for final use consumption, or (b) data processing, hosting and related services including payroll services, financial transactions processing as those terms are defined by 2002 North American Industry Classification System, or (c) research and development in the (i) social sciences, (ii) humanities, and (iii) physical, engineering, and life sciences as those terms are defined by 2002 North American Industry Classification System; and
3. The person makes application for the refund from the finance officer as set forth in section 11.0305.
4. The project is not ineligible under section 11.0304.

11.0304. Ineligible projects.

A project shall not be eligible for tax refunds under this article if it is:

1. Used predominantly for the sale of products at retail to individual consumers;
2. Used predominately for residential housing or transient lodging;
3. Used predominately to provide health care services; or
4. Not subject to ad valorem real property taxation or equivalent taxes measured by gross receipts.

11.0305. Application for refund.

Any person desiring to claim a refund pursuant to this article shall make application to the finance officer at least 30 days prior to the earlier of the construction commencement or the ordering of equipment to be used in a new business facility. The application shall be submitted on a form prescribed by the finance officer. A separate application shall be submitted for each

project. Upon the finance officer's approval of the application, the finance officer shall notify the applicant that he is eligible to submit refund claims and to receive refunds as provided in this article. Such refund claims are not assignable or transferable except as collateral or security pursuant to SDCL Chapter 57A-9. A person is not eligible to receive a refund until that person has qualified as an eligible project and exceeded the amounts specified in Section 11.0303.

11.0306. Amount of Refund.

The refund shall be 100 percent of the sale taxes paid to the city with respect to the project. The person receiving a refund shall be entitled to retain 100 percent of the amount refunded if the project remains in operation in the city for at least five years. If the project ceases operation in the city before the end of such five-year period, the city shall be entitled to repayment of all or a portion of the amount refunded, such refund being prorated based upon the time remaining in the five-year term. Any amount the city is entitled to recover under this section shall constitute a debt to the city and a lien in favor of the city upon all property and rights to property whether real or personal belonging to the claimant and may be recovered in an action of the debt.

11.0307. Submission of returns and payments.

Any person who is eligible for a refund pursuant to this article shall submit a return to the department no more frequently than on or before the last day of each month and no less frequently than on or before the last day of each month following each calendar quarter. The finance officer shall determine and pay 95 percent of the amount of the tax refund within 30 days of receipt of the return. Five percent of the refund shall be withheld by the department. No interest shall be paid in the refund amount.

11.0308. Payment of amount withheld.

The amounts withheld by the department in accordance with section 11.0307 shall be retained until the project has been completed and the claimant has met all the conditions of this article, at which time all sums retained shall be paid to claimant.

11.0309. Improper Claims.

If any claim has been fraudulently presented or supported as to any item in the claim, or if the claimant fails to meet all the conditions of this article, then the claim may be rejected in its entirety and all sums previously refunded to the claimant shall constitute a debt to the city and a lien in favor of the city upon all property and rights to property whether real or personal belonging to the claimant and may be recovered in an action of debt.

11.0310. Appeals.

Any person aggrieved by a decision of the finance officer under this ordinance may file an appeal to the City Council within 30 days of the decision by the finance officer.

*(Amended: Ordinance No. 583, 12-4-2012)*

**TITLE 12 – GENERAL PROVISIONS**  
[ORDINANCES AND RESOLUTIONS SDCL 9-19]

Chapter 12.01 – Penalties and Repealing Clause

**CHAPTER 12.01 – PENALTIES AND REPEALING CLAUSE**

12.0101 Penalty in General. Except in cases where a different or additional penalty is imposed by this ordinance or by some existing provision of law, every violation of any of the provisions of this ordinance shall be punishable by a fine not exceeding two hundred dollars (\$200.00) or by imprisonment for a period not exceeding thirty (30) days or both such fine and imprisonment.

Penalty for violations of Title 7. Every violation of Title 7 – TRAFFIC REGULATIONS, other than a violation of 7.908, shall be punishable by a fine pursuant to the then in effect Fine and Bond Schedule for Use by Clerk Magistrate, in the Circuit Court, Second Judicial Circuit, State of South Dakota, or by imprisonment for a period not exceeding thirty (30) days, or both such fine and imprisonment. In the event the fine for the offense is not covered by the above indicated fine and bond schedule, the violation shall be enforced under the Penalty In General provision of 12.0101.

*(Amended: Ordinance No. 688, 6-16-2020)*

12.0102 Conflicting Ordinances Repealed. All ordinances and parts of ordinances in conflict with the provisions of this ordinance, or relating to the subject matter of this ordinance and not reenacted as part of this ordinance, are hereby repealed; provided however, that nothing herein shall be construed as repealing any special ordinances, appropriation ordinances, levying ordinances for the issuance of bonds, or other special ordinances of like character, nor shall this ordinance repeal or modify the provisions of any ordinance heretofore adopted by the City unless provisions of this ordinance in effect, either modify, repeal or amend such ordinances.

12.0103 Unconstitutionality. Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason the remainder of this ordinance shall not be affected thereby.

## **APPENDICES**

Appendix I – City Ward Map

Appendix II – Urban and Rural Service Districts

Appendix III – Goldenwest Cablevision Inc. Franchise Agreement

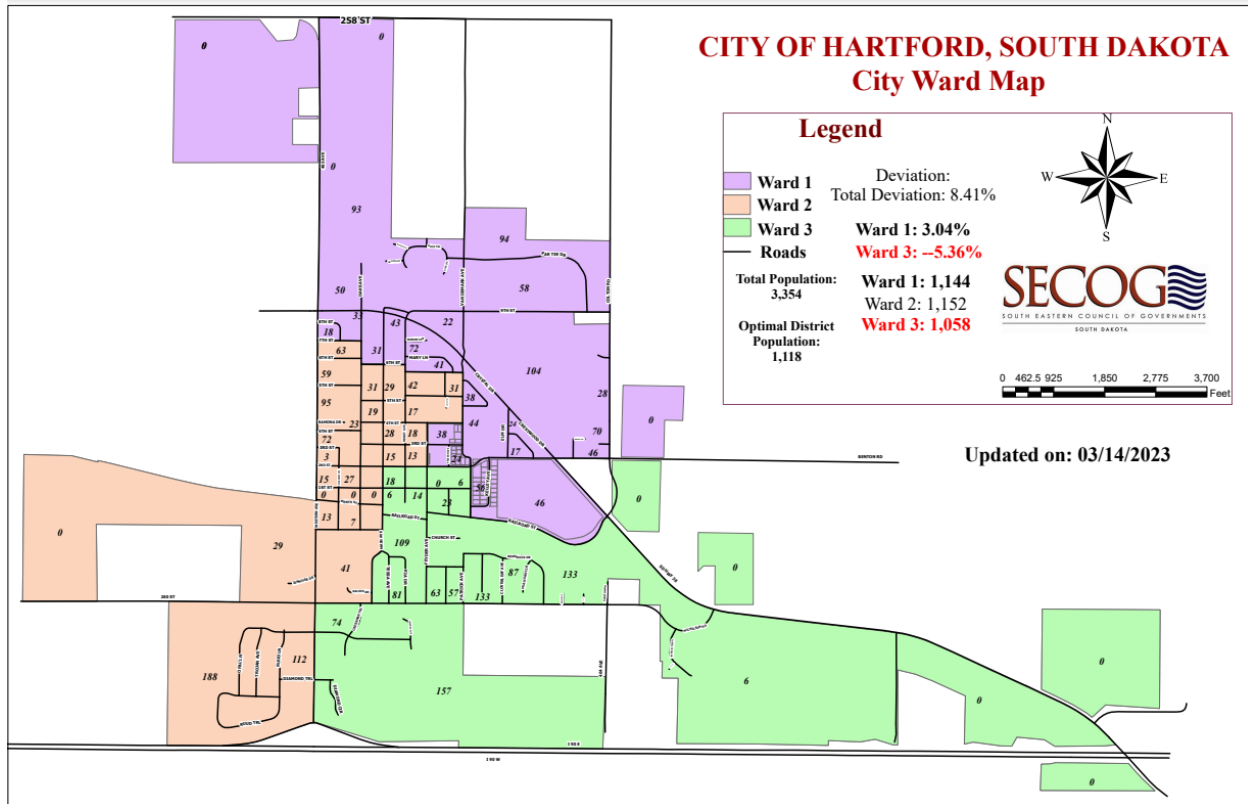
Appendix IV – Zoning Regulations

Appendix V – Subdivision Regulations

Appendix VI - Midcontinent Communications Franchise Agreement



## APPENDIX I – WARD MAP



## APPENDIX II – URBAN AND RURAL SERVICE DISTRICTS

This is the Exhibit A referenced in Section 9.1003.

### Exhibit A

Lands Included in the Rural Service District

- (1) The Northeast Quarter (NE  $\frac{1}{4}$ ) of Section 28, Township 102 N, Range 51W of the 5<sup>th</sup> P.M., Minnehaha County, South Dakota; Except Lots H-1 and H-2 and Except 2.06 Acre Tract and Except Ruud Tract 1 and Except Western Meadows Addition. (Parcel #16044)
- (2) The West 660 Feet of the North 1/2 of the Northeast Quarter (NE  $\frac{1}{4}$ ) of Section 27, Township 102N, Range 51 West, Minnehaha County, South Dakota, Except the West 33', consisting of 20 acres, more or less. (Parcel #71116)
- (3) W1234 S736 N1/2, SE  $\frac{1}{4}$  of Section 15, Township 102N, Range 51W of the 5<sup>th</sup> P.M., Minnehaha County, South Dakota. (Parcel #88477)
- (4) The North 814 Feet of the Northwest Quarter (NW  $\frac{1}{4}$ ) of Section 27, Township 102N, Range 51W of the 5<sup>th</sup> P.M., Minnehaha County, South Dakota, Except the East 294 Feet of the West 1,350 Feet of the

North 440 Feet thereof, and Except lots H-1, H-2, and H-3, and Except Interstate Inns Second Addition, and Except Cresswood Addition. (Parcel #16035)

(5) The Northwest Quarter (NW ¼) of Section 27, Township 102N, Range 51W of the 5<sup>th</sup> P.M., Minnehaha County, South Dakota, Except the North 814 feet, and Except Cresswood Addition, and Except Interstate Inns 2<sup>nd</sup> Addition, and Except Interstate Inns 3<sup>rd</sup> Addition, and Except H-1 & H-2. (Parcel #79562)

(6) Tract 1, Block 1; Tract 1, Block 2; and Lots 2&3, Block 3 of North Community Second Addition to the City of Hartford, and the West 199.58 feet of Lot 5 of North Community Addition to the City of Hartford. (Parcel #83034)

(7) The Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4) South of the Highway and the Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4) (except Lot H-1) Section 26, Township 102 North, Range 51, West of the 5 P.M., Minnehaha County, South Dakota.

(8) The Chicago, Northwestern Railroad right of way over and across the Northwest Quarter (NW1/4), including Lot PE-1, in Section 25, Township 102, Range 51 West of the 5<sup>th</sup> P.M., Minnehaha County, South Dakota, except Lot H1 contained therein.

(9) The North 500 feet of Stockwell Tract 1 in the Northwest Quarter (NW1/4), Section 25, Township 102 North, Range 51 West of the 5<sup>th</sup> P.M., Minnehaha County, South Dakota.

(10) That Part of the Northwest Quarter (NW1/4) lying South of Railroad Right of Way of the Chicago, St. Paul, Minneapolis and Omaha Railroad, except Lot H-3 and except Stockwell Tract 1, all in Section 25, Township 102 North, Range 51 West of the 5<sup>th</sup> P.M., Minnehaha County, South Dakota.

(11) Tract 1 of Hartford Hills Addition in the East ½ of Section 25, Township 102 North Range 51 West of the 5<sup>th</sup> P.M., Minnehaha County, South Dakota.

(12) THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 102 NORTH, RANGE 51 WEST OF THE 5<sup>TH</sup> PRINCIPAL MERIDIAN, MINNEHAHA COUNTY, SOUTH DAKOTA (EXCEPTING THEREFROM LOT H-1, H-2, H-3, H-4, H-5, AND H-6 IN THE S1/2 OF THE NE1/4 25-102-51, AND EXCEPT TRACT 2 OF THE HARTFORD HILLS ADDITION IN THE NORTHEAST QUARTER OF SECTION 25-102-51, AND EXCEPT THE EAST OF 481 FEET OF THE NORTHEAST QUARTER LYING NORHT OF LOT H-4 ALL IN TOWNSHIP 102 NORTH, RANGE 51 WEST OF THE 5<sup>TH</sup> PRINCIPAL MERIDIAN, MINNEHAHA COUNTY, SOUTH DAKOTA.)

(13) Tract 2 of the Hartford Hills Addition in the East ½ of Section 25, Township 102 North Range 51 West of the 5<sup>th</sup> P.M., Minnehaha County, South Dakota.

(14) The Southeast Quarter (SE1/4), except Tracts 1, 3 and 4, of Section 23, Township 102 North, Range 51 West of the Fifth Principal Meridian, Sioux Falls, Minnehaha County, South Dakota. (Parcel #16009)

(15) The East Half of the Southeast Quarter (E1/2 SE 1/4), except the North 2 Rods and Lot H-1, Section Twenty-Eight (28), Township One Hundred Two (102), Range Fifty-One (51) West of the Fifth Principal Meridian. (Parcel #64705)

*(Amended: Ordinance No. 629, 6-8-2016)*

*(Amended: Ordinance No. 700, 9-20-2020)*

*(Amended: Ordinance No. 742, 6-6-2023)*

(Amended: Ordinance No. 746, 8-15-2023)

### APPENDIX III – MIDAMERICAN ENERGY COMPANY FRANCISE AGREEMENT

This is the Exhibit 1 referenced in Section 10.03.

**Exhibit 1:**

Memorandum of Understanding Regarding Sidewalk Repair/Ramp Compliance

June 1, 2012

1. When MidAmerican Energy Company is working in the public ROW and removes an existing sidewalk crossing ramp, the company will replace the ramp with a compliant ramp.
2. When MidAmerican is working in the public ROW and removes the curb and sidewalk panel at a crossing where there is currently not a ramp, the company will replace the curb and sidewalk with a compliant ramp, if the City's ordinances or practices require one at that location. If the City does not require a ramp at that location, MidAmerican will replace the curb and sidewalk only.
3. When MidAmerican is working in the public ROW and removes a sidewalk panel adjacent to the curb at a crossing, but does not disturb the curb, the company will replace the sidewalk panel only. To provide for maximum efficiency with minimum disturbance to citizens, if the City requires a ramp be placed at that location, MidAmerican will install a compliant ramp on a cost sharing basis with the City. The City would pay the difference between the sidewalk panel replacement cost and the cost of the compliant ramp.
4. When MidAmerican is relocating or installing facilities in the public ROW, because the work is required due to a City project, and removes the curb and sidewalk panel at a crossing, two outcomes are possible:
  - o If the sidewalk crossing will be replaced as part of the City project, the City is responsible for the replacement.
  - o If replacement of the sidewalk crossing is outside the scope of the City project, MidAmerican will handle the replacement as in items No. 1 and 3.
5. If the City ordinances or practices require MidAmerican to install a compliant ramp at a specific location, and if the cost of installation becomes unreasonable due to the elevation and grade of the existing terrain, the City and MidAmerican agree to meet and work out a solution that divides costs.

MIDAMERICAN ENERGY COMPANY

By \_\_\_\_\_

Vice President, Delivery

CITY OF *Hartford*

By *[Signature]*

Mayor



MidAmerican Energy Company  
666 Grand Avenue  
P.O. Box 657  
Des Moines, Iowa 50303-0657

Honorable Mayor Paul Zimmer  
Mayor and City Council Members  
125 N. Main Ave.  
Hartford, S.D., 57033

Dear Mayor & City Council:

MidAmerican Energy Company, hereby accepts City of Hartford, Ordinance No. 577, granting to MidAmerican Energy Company, its successors and assigns, a natural gas franchise for a period of twenty (20) years, which franchise ordinance was adopted by the City Council of Hartford, South Dakota, on the 19th day of June 2012.

Dated this 22<sup>th</sup> day of June 2012.

Sincerely,

MIDAMERICAN ENERGY COMPANY

By

Vice President, Gas Delivery

**CLERK'S CERTIFICATE**

I, Teresa Sidel, do hereby certify that the foregoing is a true and correct copy of the Instrument filed by MidAmerican Energy Company, on June 22, 2012, accepting Franchise Ordinance No. 577.

City Clerk

**APPENDIX IV – ZONING REGULATIONS**

Copies of the City of Hartford's Zoning Regulations are available from the City Administrator or on Hartford's official website: <http://www.hartfordsd.us/>.

## **APPENDIX V – SUBDIVISION REGULATIONS**

The City of Hartford's Subdivision Regulations are available from the City Administrator or on Hartford's official website: <http://www.hartfordsd.us/>.