

TITLE V.

BUILDINGS

CHAPTERS:

- 5-01. Building Code.
- 5-02. Dangerous Buildings.
- 5-03. Moving Buildings.
- 5-04. Floodplain Management. (Source: Ord. 2024-39, Sec. 1)
- 5-05. International Existing Building Code. (Source: Ord. 2025-43, Sec. 4)
- 5-06. International Energy Conservation Code. (Source: Ord. 2025-43, Sec. 5)
- 5-07. Plumbing Code. (Source: Ord. 2025-43, Sec. 6)
- 5-08. International Property Maintenance Code. (Source: Ord. 2025-43, Sec. 7)

CHAPTER 5-01

INTERNATIONAL BUILDING CODE

Source: Ord. 2025-43, Sec. 2 (2025)

SECTIONS:

- 5-0101. International Building Code Adopted.
- 5-0102. Modifications of International Building Code.

5-0101. **INTERNATIONAL BUILDING CODE ADOPTED.** The erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the city of Harwood, North Dakota, shall meet with the provisions of the rules and regulations of the 2021 Edition of the International Building Code of the International Code Council as the same are now established in said code, a copy of which is on file in the office of the building inspector for the city of Harwood, with the exception of the sections hereinafter set forth affecting local conditions in the city of Harwood, which sections shall be substituted for and in lieu of like sections or paragraphs in said International Building Code; and the City Council of said city of Harwood, by this section hereby approves and adopts such rules and regulations, as so modified, for use and application in the city of Harwood, North Dakota, and within the extra-territorial zoning jurisdiction of the city.

5-0102. **MODIFICATION OF INTERNATIONAL BUILDING CODE.** The International Building Code as adopted herein hereby changed and amended as follows:

Section 101.1 is hereby amended to read as follows:

101.1 Title. These regulations shall be known as the Building Code of the City of Harwood hereinafter referred to as "this code."

Section 101.4.3 is hereby amended to read as follows:

101.4.3 Plumbing. The provisions of the North Dakota State Plumbing Code 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 provisions of the North Dakota State Plumbing Code shall apply to private sewage disposal systems.

Section 103.1 is hereby amended to read as follows:

103.1 Creation of enforcement agency. The Inspections Department is hereby created and the official in charge thereof shall be known as the building official. The function of the agency shall be the implementation, administration and enforcement of the provisions of this code.

Section 104.2.1 is hereby deleted in its entirety.

Section 104.8.1 is hereby amended to read as follows:

104.8.1 Legal Defense. Any suit or criminal complaint instituted against an officer or employee because of an act or omission 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 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.

Section 104.10.1 is hereby deleted in its entirety.

Section 105.2 is hereby amended to read as follows:

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:

* * * *

6. Sidewalks and driveways.

* * * *

11. Swings and other playground equipment.

12. Window awnings.

14. Reroofing.

Section 107.2.6.1 is hereby deleted in its entirety.

Section 107.3.1 is hereby amended to read as follows:

107.3.1 Approval of construction documents. When the building official issues a permit, the construction documents shall be approved, in writing or by stamp. One set of construction documents so reviewed shall be retained by the Building Official.

Section 109.2 is hereby amended to read as follows:

109.2 Schedule of permit fees. Where a permit is required, a fee for each permit and plan review shall be paid as required, in accordance with the schedule as established by the City Council. The plan review fees specified in this subsection are separate from, and in addition to, permit fees. When submittal documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittal items as defined in Section 107.3.4.1, an additional plan review fee shall be charged in an amount not to exceed 10% of the building permit fee established in Section 109.2.

Section 110.3.3 is hereby deleted in its entirety.

Section 110.3.12.1 is hereby deleted in its entirety.

Section 305.2 is hereby amended to read as follows:

305.2 Group E, day care facilities. This group includes buildings and structures or portions thereof occupied by more than twelve children older than 2 ½ years of age who receive educational, supervision or personal care services for fewer than 24 hours per day.

Section 305.2.2 is hereby amended to read as follows:

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.

Section 305.2.3 is hereby amended to read as follows:

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.

Section 308.5 is hereby amended to read in part as follows:

308.5 Institutional Group I-4 Daycare facilities. Institutional Group I-4 occupancy shall include buildings and structures occupied by more than twelve persons of any age who receive custodial care for fewer than 24 hours per day by persons other than parents or guardians; relatives by blood, marriage or adoption; and in a place other than the home of the person cared for. This group shall include, but not be limited to, the following:

Adult day care

Child day care

Section 308.5.1 is hereby amended to read in part as follows:

308.5.1 Classification as a Group E. Every child day care facility that provides care for more than twelve but not more than 100 children 2 ½ years or less of age, where the rooms in which the children are cared for are located on a level of exit discharge serving such rooms and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.

Section 308.5.3 is hereby amended to read as follows:

308.5.3 Twelve or fewer persons receiving care. A facility having twelve or fewer persons receiving custodial care shall be classified as part of the primary occupancy.

Section 308.5.4 is hereby amended to read as follows:

Section 308.5.4 Twelve or fewer persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit 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.

Section 406.3.2.1 The last sentence of this section is hereby deleted as follows:

Section 802.4 is hereby deleted in its entirety.

Section 905.1 is hereby amended to add an exception to read as follows:

Exception: The installation of fire hose on standpipes may be omitted when approved by the local fire code official. Approved standpipe hose valves and connections shall be provided where required.

Section 907.2.11.1 is hereby amended to read as follows:

907.2.11.1 Group R-1. Single- or multiple-station smoke alarms shall be installed in all of the following locations in Group R-1:

* * * *

4. In sleeping units where the ceiling height of a room open to the hallway serving the sleeping rooms exceeds that of the hallway by 24 inches or more, smoke alarms shall be installed in the hallway and in the adjacent room.

Section 907.2.11.2 is hereby amended to read as follows:

907.2.11.2 Groups R-2, R-3, R-4 and I-1. Single- or multiple station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of occupant load at all of the following locations:

* * * *

4. In dwelling units where the ceiling height of a room open to the hallway serving the sleeping room exceeds that of the hallway by 24 inches or more, smoke alarms shall be installed in the hallway and in the adjacent room.

Section 1003.3.1 is hereby amended as follows:

* * * *

An approved barrier shall be provided where the vertical clearance above a circulation path is less than 80 inches (2032 mm) high above the finished floor. A portion of such a barrier shall be located 27 inches (686 mm) maximum above the finished floor.

Section 1009.8.1 is hereby amended to read as follows:

1009.8.1 System requirements. Two-way communication systems shall provide communication between each required location and the fire command center or a central control point location approved by the fire department. Where the central control point is not a constantly attended location, the two-way communication system shall have timed, automatic telephone dial-out capability that provides two-way communication with an approved supervising station. The two-way communication system shall include both audible and visible signals.

Section 1011.1 Exceptions are hereby amended to read as follows.

1. Within rooms or spaces used for assembly purposes, stepped aisles shall comply with Section 1030.
2. A stairway complying with section 1011 except where in a B, F, M, S or U that serves an area of 750 sf or less, and is not open to the public, that has a maximum riser height of 8 inches and a minimum tread depth of 9 inches, has a minimum width of 36 inches and has at least one handrail that terminates at the top and bottom riser and otherwise complies with section 1014.

Section 1011.5.2 Exceptions are hereby amended to read as follows:

Section 1011.5.2 Exceptions:

* * * *

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; the maximum riser height shall be (197 mm) 8 inches; the minimum tread depth shall be 9 inches; and the minimum winder tread depth shall be 6 inches (152mm). A nosing projection not less than $\frac{3}{4}$ inch (19.1mm) but not more than $1\frac{1}{4}$ inches (32mm) shall be provided on stairways with solid risers where the tread depth is less than 11 inches (279mm).

Section 1015.2 is hereby amended to read as follows:

1015.2 Where required. Guards shall be located along open-sided walking surfaces, including mezzanines, equipment platforms, aisles, stairs, ramps and landings, that are located more than 30 inches(762 mm) above the floor or grade below or if within 36 inches (914 mm) horizontally to the edge of the open side of the vertical measurement to the floor or grade below is greater than 48 inches. Guards shall be adequate in strength and attachment in accordance with section 1607.9.

Section 1104.4 Exceptions are hereby amended to read as follows:

Section 1104.4 Exceptions:

1. An accessible route is not required to stories, mezzanines and occupied roofs that have an area of not more than 3,000 square feet (278.7 m²), or are in a building 2 stories or less above grade plane and are located above or below accessible levels. This exception shall not apply to:

* * * *

Section 1202.1 is hereby amended to read as follows:

1202.1 General. Buildings shall be provided with natural ventilation in accordance with Section 1202.5, or mechanical ventilation in accordance with the International Mechanical Code.

Section 1204.4.4 is hereby deleted in its entirety.

Sections 1206 is hereby deleted in its entirety.

Section 1402.6 is hereby deleted in its entirety.

Section 1402.7 is hereby deleted in its entirety.

Section 1601.1 is hereby amended to read as follows:

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 the 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.

Section 1610.1 exception is hereby amended to read as follows:

Exception: Foundation walls extending not more than 9 feet below grade and laterally supported at the top by flexible diaphragms shall be permitted to be designed for active pressure.

Section 1804.4 is hereby deleted in its entirety and the following text enacted:

Section 1804.4 Site Grading. Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection. Lots shall be graded to drain surface water away from foundation walls.

The procedure used to establish the final ground level adjacent to the foundation shall account for additional settlement of the backfill.

Section 1804.5 is hereby deleted in its entirety.

Section 1805.1.2.1 is hereby deleted in its entirety.

Section 1809.5 is hereby amended to add a new exception as follows:

1809.5 Frost protection. Except where otherwise protected from frost...

* * * *

4. Free-standing buildings used as Group U occupancies for the storage of private or pleasure-type motor vehicles constructed in accordance with Sections 406.3.1.

Section 2901.1 is hereby amended to read as follows:

Section 2901.1 Scope. The provisions of this chapter and the North Dakota State 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 1210. Private sewage disposal systems shall conform to the North Dakota State Plumbing Code. The International Fire Code, the International Property Maintenance Code and the North Dakota State Plumbing Code shall govern the use and maintenance of plumbing components, appliances, equipment and systems. The International Existing Building Code and the North Dakota State Plumbing Code shall govern the alteration, repair, relocation, replacement and addition of plumbing components, appliances, equipment and systems.

Table 2902.1 is hereby amended to read as follows:

Minimum Number of Required Plumbing Fixtures							
No.	Classification	Description	Water Closets	Lavatories	Bathtubs/ Showers	Drinking Fountains	Other
5	Institutional	Adult day care and child day care	1 per 15	1 per 15	1 *child day cares are exempt from this requirement.	1 per 100	1 service sink

(Balance of table remains unchanged.)

CHAPTER 5-02

DANGEROUS BUILDINGS

SECTIONS:

- 5-0201. Definitions
- 5-0202. Standards for Repair, Vacation, or Demolition.
- 5-0203. Dangerous Buildings - Nuisances.
- 5-0204. Duties of Building Administrator.
- 5-0205. Duties of City Council.
- 5-0206. Owner Absent from the City.
- 5-0207. Appeal.
- 5-0208. Penalty.

5-0201. **DEFINITIONS.** All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings":

- (a) Those whose interior walls or other vertical structural members lean, list or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (b) Those which, exclusive of the foundation, show thirty-three percent or more of damage or deterioration of the supporting member or members, or fifty percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- (c) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
- (d) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the city.
- (e) Those which have become, or are, so dilapidated, decayed, unsafe or unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause or aggravate sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein.
- (f) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.

- (g) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.
- (h) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- (i) Those which because of their condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of this city.
- (j) Those buildings existing in violation of any provision of the Building Code, zoning ordinances, any provision of the Fire Prevention Code or other ordinances of this city.

5-0202. **STANDARDS FOR REPAIR, VACATION, OR DEMOLITION.** The following standards shall be followed in substance by the Board of City Council in ordering repair, vacation, or demolition:

- (a) If the "dangerous building" can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.
- (b) If the "dangerous building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants it shall be ordered to be vacated.
- (c) In any case where a "dangerous building" is fifty percent damaged, decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer be in violation of the terms of this chapter, it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this chapter or any ordinance of this city or statute of the state of North Dakota, it shall be demolished.

5-0203. **DANGEROUS BUILDINGS - NUISANCES.** All "dangerous buildings" within the terms of Section 5-0201 are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided.

5-0204. **DUTIES OF BUILDING ADMINISTRATOR.** The building administrator shall:

- (a) Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this chapter.
- (b) Inspect any building, wall, or structure reported (as hereinafter provided for) by any agent of the City as probably existing in violation of the terms of this chapter.
- (c) Notify in writing the owner, occupant, lessee, mortgagee, and all other persons having an interest in said building, as shown by the records in the office of the

register of deeds of the county of Cass, of any building found by the building administrator to be a "dangerous building" within the standards set forth in Section 5-0201 of this chapter, that: (1) the owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this chapter; (2) the owner or occupant must vacate said building or may have it repaired in accordance with the notice and remain in possession. Provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding thirty days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.

- (d) Set forth in the notice provided for in subsection (c) hereof a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a "dangerous building," and an order requiring the same to be put in such condition as to comply with the terms of this ordinance within such length of time, not exceeding thirty days, as is reasonable.
- (e) Report to the City Council any noncompliance with the "notice" provided for in subsections (c) and (d) hereof.
- (f) Appear at all hearings conducted by the City Council and testify as to the condition of "dangerous buildings."
- (g) Place a notice on all "dangerous buildings" reading as follows: "This building has been found to be a 'dangerous building' by the building administrator. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with."

5-0205. DUTIES OF CITY COUNCIL. The City Council shall:

- (a) Upon receipt of a report of the building administrator as provided for in Section 5-0204, subsection (e), give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before it on the date specified in the notice to show cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building administrator's notice provided for herein in Section 5-0204, subsection (d).
- (b) Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer relative to the "dangerous building".

- (c) Make written findings of fact from the testimony offered pursuant to subsection (b) as to whether or not the building in question is a "dangerous building" within the terms of Section 5-0201.
- (d) Issue an order based upon findings of fact made pursuant to subsection (c) hereof commanding the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the records of the register of deeds of the County of Cass to repair, vacate, or demolish any building found to be a "dangerous building" within the terms of this chapter and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said "dangerous building".
- (e) If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in subsection (d) hereof, within thirty days, the City Council shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards, hereinbefore provided for in Section 5-0202 of this chapter. The cost to the City of Harwood of demolishing, repairing or removing any building or structure under this chapter shall be determined by the City Council after written notice to the property owner of a hearing thereon; and shall then be certified to the County Auditor as a special assessment levied upon the described property and to be spread upon the taxes against said property.
- (f) Report to the city attorney the names of all persons not complying with the order provided for in subsection (d) of this section.

5-0206. **OWNER ABSENT FROM THE CITY.** All notices or orders provided for herein shall be sent by registered mail to such owner, occupant, lessee or mortgagee, and all other persons having an interest in said building, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the "dangerous building" to which it relates. Such mailing and posting shall be deemed adequate service.

5-0207. **APPEAL.** The owner and the occupant shall have thirty (30) days from the date of the order provided for in Section 5-0205 hereof in which to appeal to the Courts from the action of the City Council. The City Council shall not demolish, repair, or remove the building or structure or cause the same to be done during the period of time herein provided for appeal.

5-0208. **PENALTY.** Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

CHAPTER 5-03

MOVING BUILDINGS

SECTIONS:

- 5-0301. Permit Required.
- 5-0302. Permit Application.
- 5-0303. Information Contained for Permit Application.
- 5-0304. Building Permit Required.
- 5-0305. House-Mover's License - Requirements.
- 5-0306. Removal of Overhead Wires and Cables - Notice.
- 5-0307. Removal of Attached Wires, Cables and Pipes.
- 5-0308. Building in Street - Warning Light Required.
- 5-0309. Equipment in Street - Lights Required.

5-0301. **PERMIT REQUIRED.** No person shall move, remove, raise or support free of its foundation, any building or structure within the limits of the City of Harwood, or cause or hire said work to be done, or assist in said work, unless a permit for said work has been obtained from the City of Harwood in accordance with the provisions of this chapter.

5-0302. **PERMIT APPLICATION.** No permit to move, remove, raise or support free of its foundation, any building or structure within the limits of the City of Harwood shall be issued until written application for permit has been filed with the City Engineer on forms provided by the City of Harwood, and the application for permit has been approved by the City Auditor. The City Auditor in granting a moving permit may condition the permit upon the applicant meeting certain conditions such as having a licensed mover move the building, time limits in which the building must be moved, routes that must be followed, posting a bond, and any other similar conditions as deemed advisable by the City Auditor. Any person denied a moving permit or contesting any conditions placed on the permit, may appeal to the City Council, who shall review the permit and its conditions at its next regularly scheduled meeting.

5-0303. **INFORMATION CONTAINED FOR PERMIT APPLICATION.** Written application for permit to move, remove, raise or support free of its foundation any building or structure within the limits of the City of Harwood shall contain the following information concerning the building or structure to be moved, removed, raised or supported:

1. Date of application.
2. Name and address of applicant for permit.
3. Name and address of owner of building.
4. Name and address of person, firm or corporation the applicant for permit will employ to do the moving.
5. Size of building or structure.
6. Age and general description of building or structure.
7. Location of building or structure at time of making application.

8. Proposed new location for building or structure.
9. Route or road along which it is proposed to move the building or structure from present location to proposed new location.
10. Condition of building or structure at time application is made for permit.
11. How long the moving of building or structure is expected to take and when moving is expected to be completed if permit is granted.
12. What changes in condition of building or structure will be made after building or structure is moved to proposed new location, and when these changes will be completed.

5-0304. **BUILDING PERMIT REQUIRED.** No moving permit shall be granted to a structure being moved into the city limits of the City of Harwood unless and until the applicant also receives a building permit from the Building Administrator.

5-0305. **HOUSE-MOVER'S LICENSE - REQUIREMENTS.** The City Auditor may require as a condition to the approval of application for permit and issuance of permit under this chapter that the moving be done only by one holding a license for the moving of buildings and structures within the City of Harwood. No such license shall be granted until the person applying therefor shall have paid to the City Auditor a license fee of Five Dollars (\$5.00), and shall have given a surety bond payable to the City in the sum of Five Thousand Dollars (\$5,000), on a form satisfactory to the City Auditor, and conditioned, among other things, that said party will pay any and all damages which may be caused to any property, either public or private, within the City, whether said damages or injury be inflicted by said party, his employees, agents or workmen; and conditioned also that said party will save and indemnify and keep harmless the said City against all liabilities, judgments, costs and expenses which may in any way accrue against the City in consequence of the granting of such license, and will in all things strictly comply with the provisions of this chapter and with the conditions of any and all permits which may be issued hereunder to said house-mover or one employing him.

Upon the execution of such bond, and its acceptance by the City Auditor, the "house-mover's" license for the moving of buildings and structures within the City of Harwood shall be issued. All such licenses shall expire one (1) year from date of issue.

5-0306. **REMOVAL OF OVERHEAD WIRES AND CABLES - NOTICE.**

1. In every case in which a permit shall be issued as herein provided for the removal of any house or structure, when such removal requires the displacement of any overhead electrical or other wire or cable, it shall be the duty of the person, association or corporation owning, operating or controlling such wire or cable to remove or displace the same as far as may be necessary to permit the removal of such house, building or structure.
2. The person to whom a removal permit shall have been issued shall notify the person, association or corporation owning, operating or controlling such wire or cable, to remove or displace the same to facilitate the removal of said house, building or structure and shall exhibit to said person, association or corporation the properly issued permit authorizing the removal of said house, building or structure, and it shall thereupon be the duty of said person, association or corporation, within

a reasonable time, not exceeding twenty-four (24) hours thereafter to remove or displace such wires or cables sufficiently to allow the passage of said house, building or structure.

5-0307. **REMOVAL OF ATTACHED WIRES, CABLES AND PIPES.** The person to whom a removal permit has been issued shall, before raising, moving or removing any building or structure to which electric wires are attached, notify the persons, associations or corporations owning or controlling such electric wiring, cables or piping of the proposed moving of said building or structure. The person, association or corporation so notified shall within a reasonable time, not exceeding twenty-four (24) hours, thereafter, disconnect and make safe all such electric wiring, cables or piping.

5-0308. **BUILDING IN STREET - WARNING LIGHT REQUIRED.** When any building or structure is being moved across or through any street or alley, a warning light must be in operation at each corner of such building or structure, from sunset to sunrise.

5-0309. **EQUIPMENT IN STREET - LIGHTS REQUIRED.** All ropes, blocks, winches, windlasses, or other equipment used in the moving of said building or structure must, when obstructing the free use of a street or alley, be protected by suitable warning lights from sunset to sunrise.

CHAPTER 5-04

FLOODPLAIN MANAGEMENT

(Source: Ord. 2024-39, Sec. 1)

SECTIONS:

- 5-0401. Statutory Authorization.
- 5-0402. Findings of Fact.
- 5-0403. Statement of Purpose.
- 5-0404. Methods of Reducing Flood Losses.
- 5-0405. Definitions.
- 5-0406. Lands to Which This Ordinance Applies.
- 5-0407. Basis for Establishing the Special Flood Hazard Areas.
- 5-0408. Compliance.
- 5-0409. Greater Restrictions.
- 5-0410. Interpretation.
- 5-0411. Warning and Disclaimer of Liability.
- 5-0412. Severability.
- 5-0413. Establishment of Development Permit.
- 5-0414. Designation of the Floodplain Administrator.
- 5-0415. Duties and Responsibilities of the Floodplain Administrator.
- 5-0416. Variance Procedure.
- 5-0417. Provisions for Flood Hazard Reduction -- General Standards.
- 5-0418. Provisions for Flood Hazard Reduction -- Specific Standards.
- 5-0419. Shallow Flooding AO and AH Zones.
- 5-0420. Floodways.
- 5-0421. Enclosures.
- 5-0422. Penalties for Violations.

5-0401. **STATUTORY AUTHORIZATION.** The Legislature of the State of North Dakota has in Chapters 40-47, 11-33 and 58-03 of the North Dakota Century Code delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Harwood, North Dakota does ordain as follows:

5-0402. **FINDINGS OF FACT.**

1. The flood hazard areas of Harwood are subject to periodic inundation which can endanger life, result in loss of property, create health and safety hazards, disrupt commerce and governmental services, cause extraordinary public expenditures for flood protection and relief, and impair the tax base, all of which adversely affect the public health, safety and general welfare.
2. Flood losses caused by the cumulative effect of obstructions in the special flood hazard areas cause increases in flood heights and velocities. Inadequately

floodproofed, elevated or otherwise unprotected structures also contribute to the flood loss.

5-0403. **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:

1. To protect human life and health;
2. To minimize expenditure of public money for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
6. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. To ensure that potential buyers are notified that property is in special flood hazard area; and
8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

5-0404. **METHODS OF REDUCING FLOOD LOSSES.** In order to accomplish its purposes, this ordinance includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling filling, grading, dredging, and other development which may increase flood damage;
4. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

5-0405. **DEFINITIONS.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. "Appeal" means a request for a review of the City of Harwood's interpretation of any provisions of this ordinance or a request for a variance.
2. "Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.
3. "Base flood" or "100-year flood" means the flood having a one percent chance of being equaled or exceeded in any given year.
4. "Base Flood Elevation" (BFE) means the height of the base flood or 100-year flood usually in feet, measured in the same datum (either NAVD88 or NGVD29) as the FIRM.
5. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
6. "Best Available Information" (BAI) means water elevation information from any source used to estimate or determine a base flood elevation (i.e. high water mark).

Source: Ord. 2025-44, Sec. 1

7. "Community" means any political subdivision that has the authority to zone, or any Indian tribe or authorized tribal organization, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.
8. "Conveyance or hydraulic conveyance" means a geometric characteristic of a river or watercourse at a given point that determines the flow-carrying capacity at that point.
9. "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 located within the special flood hazard area.
10. "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.
11. "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).

12. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland waters and/or
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
13. "Flood Insurance Rate Map" (FIRM) means the official map issued by the Federal Emergency Management Agency where special flood hazard areas are designated as Zone A, AE, AO, AH, A1-A30 or A-99.
14. "Flood Insurance Study" (FIS) means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.
15. "Floodproofing" (Dry) means protection provided a structure, together with attendant utilities and sanitary facilities, which is watertight two feet above the base flood elevation with walls that are substantially impermeable to the passage of water.
16. "Floodway" or "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 one foot.
17. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
18. "Lowest floor" means lowest floor of a structure including the basement.
19. "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 connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle," but does include "mobile home."
20. "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.
21. "New construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.
22. "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.

23. "Person" means any person, firm, partnership, association, corporation, limited liability company, agency, or any other private or governmental organization, which includes any agency of the United States, a state agency, or any political subdivision of the state.
24. "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
25. "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;
 - d. designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel, or seasonal use; including, but not limited to: travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.
26. "Special Flood Hazard Area" (SFHA) means an area of land that would be inundated by a flood having a one percent chance of being equaled or exceeded in any given year.
27. "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means 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.
28. "Structure" means a walled and roofed building, including manufactured homes, and gas or liquid above-ground storage tanks.

29. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
30. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:
 - a. Before the improvement or repair is started, or
 - b. If the structure has been damaged and is being restored before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
 - b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
31. "Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.
 32. "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 by the community's floodplain management ordinance is presumed to be in violation until such time as that documentation is provided.
 33. "Watercourse" means only the channel and banks of an identifiable watercourse, and not the adjoining floodplain areas. The flood carrying capacity of a watercourse refers to the flood carrying capacity of the channel, except in the case of alluvial fans, where a channel is not typically defined. The definition of watercourse in N.D.C.C. § 61-01-06 is not applicable in this ordinance.

5-0406. LANDS TO WHICH THIS ORDINANCE APPLIES. This ordinance shall apply to all special flood hazard areas within the jurisdiction of the City of Harwood.

5-0407. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS. The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Cass County, North

Dakota, all jurisdictions," dated September 5, 2025," with an accompanying Flood Insurance Rate Map is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the Cass County Planning Office, 1201 Main Avenue West, West Fargo, North Dakota.

Source: Ord. 2025-44, Sec. 2

5-0408. **COMPLIANCE.** 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.

5-0409. **GREATER RESTRICTIONS.** This ordinance is not intended to repeal, remedy, 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.

5-0410. **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.

5-0411. **WARNING AND DISCLAIMER OF LIABILITY.** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. 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 City of Harwood, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

5-0412. **SEVERABILITY.** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

5-0413. **ESTABLISHMENT OF DEVELOPMENT PERMIT.** A development permit shall be obtained before construction or development begins within any special flood hazard area established in Section 5-0407. Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimension, and elevations of the area in question; existing or proposed structures, fill, storage materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

1. Elevation in the same datum (either NAVD88 or NGVD29) as the FIRM, of the lowest floor of all structures;
2. Elevation in the same datum (either NAVD88 or NGVD29) as the FIRM to which any structure has been floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 5-0418-B; and
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Source: Ord. 2025-44, Sec. 3

5-0414. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR. The Floodplain Administrator is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

5-0415. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR. Duties of the Floodplain Administrator shall include, but not be limited to:

A. Permit Review

1. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
2. Approve or deny all applications for development permits required by adoption of this ordinance.
3. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
4. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5-0419(1) are met.

B. Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 5-0407, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available (known as best available data) from any other federal, state or other source, as criteria for requiring that new construction, substantial improvements, or other developments in the floodplain are administered in accordance with Section 5-0418 SPECIFIC STANDARDS.

C. Information to be Obtained and Maintained

1. Obtain and record the actual elevation (in the same datum (either NAVD88 or NGVD29) as the FIRM) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
2. For all new or substantially improved floodproofed structures:
 - a. Obtain and record the actual elevation (in the same datum (either NAVD88 or NGVD29) as the FIRM) to which the structure has been floodproofed; and
 - b. Maintain the floodproofing certifications required in Section 5-0413(7).
3. Maintain for public inspection all records pertaining to the provision of this ordinance.

D. Alteration of Watercourses

1. Notify nearby communities, water resource districts, and the North Dakota State Department of Water Resources and US Army Corps of Engineers, as necessary, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished; and
3. Notify the appropriate water resource district prior to removal or placement of fill within two hundred feet of the bank of a body of water during normal flow or stage.

E. Interpretation of Flood Insurance Rate Map (FIRM) Boundaries

Make interpretation where needed, as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary will be given a reasonable opportunity to appeal the interpretation as provided in Section 5-0416.

F. Encroachment Analysis

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.

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 and receives a Conditional Letter of Map Revision (CLOMR) through FEMA.

5-0416. VARIANCE PROCEDURE.

A. Appeal Board

1. The City Council, as established by the City of Harwood, shall hear and decide appeals and requests for variances from the requirements of this ordinance.
2. The City Council shall hear and decide appeals when it is alleged there is an error in any requirements, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
3. Those aggrieved by the decision of the City Council, or any taxpayer, may appeal such decision to the District Court, as provided in North Dakota law.
4. In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;

- f. The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
5. Generally, 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 items a-k of Section 5-0416(A)(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
 6. Upon consideration of the factors of Section 5-0416(A)(4) and the purposes of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
 7. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

B. Conditions for Variances

1. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
2. Variances shall not be issued within the identified floodplain if any increase in flood levels during the base flood discharge would result.

3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, cause fraud on or victimization of the public as identified in Section 5-0416(A)(4), or conflict with existing local laws or ordinances.
5. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a 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.

5-0417. PROVISIONS FOR FLOOD HAZARD REDUCTION -- GENERAL STANDARDS. In all special flood hazard areas the following standards are required:

- A. Anchoring
 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 2. All 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. Construction Materials and Methods
 1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 3. All new construction and 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.

C. Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

5-0418. **PROVISIONS FOR FLOOD HAZARD REDUCTION--SPECIFIC STANDARDS.** In all areas of special flood hazards where base flood elevation data has been provided as set in Section 5-0407 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 5-0415(B), Use of Other Base Flood Data, the following provisions are required:

A. Residential Construction

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation unless the residential structure meets the provisions of 5-0418-A(2) and 5-0418-A(3).
2. The City of Harwood is approved for Residential Basement Floodproofing as of 12/19/1985. Basements shall be floodproofed in accordance with the Harwood Basement Design Guide, dated July 2025.

3. Basements constructed in accordance with these regulations must not be used for sleeping purposes.
4. New construction and substantial improvement of any residential structure shall be designed so that the lowest foundation opening is at least one foot above the base flood elevation. Any basement area, together with attendant utilities and sanitary facilities, below that level must be designed so that the structure is watertight without human intervention (i.e., the base or sill of all external openings such as windows and doors must be one foot above the 100-year base flood elevation). Basement walls must be built with the capability to resist hydrostatic and hydrodynamic loads and the effects of buoyancy resulting from the 100-year frequency flood and must be designed so that minimal structural damage will occur if this design is exceeded.
5. New construction and substantial improvement of any residential structure shall be certified by a registered professional engineer that the floodproofing measures used in the structure satisfy the Flood Proofing Code of Harwood, and a residential floodproofing certificate must be provided.
6. The Floodplain Administrator will verify that the structure has been built in accordance with the floodproofing code approved by the Federal Emergency Management Agency.

B. Nonresidential Construction

Construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated on fill to at least one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed to at least two feet above the base flood elevation, so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
3. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 5-0415-C.2.

C. Manufactured Homes

1. Require all manufactured homes placed within Zone A 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 floatation, 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.

2. Require all manufactured homes placed or substantially improved within Zones A 1-30, AH, or AE 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 which has incurred substantial damage, be elevated on a permanent foundation so the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.
3. Require that manufacture homes placed or substantially improved on sites in an existing manufacture home park or subdivision within Zones A 1-30, AH, or AE not subject to other requirements of this section be elevated so that either:
 - (i) the lowest floor of the manufacture home is one foot above the base flood elevation, or
 - (ii) the manufacture home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36” in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

D. Recreational Vehicles

In A-140, AH, and AE Zones, all recreational vehicles to be placed on a site must:

- i. be elevated and anchored to meet the requirements in 5-0418-C; OR
- ii. be on the site for less than 180 consecutive days; AND
- iii. be fully licensed and highway ready.

Source: Ord. 2025-44, Sec. 4

5-0419. SHALLOW FLOODING AO AND AH ZONES. Located within the areas of special flood hazard established in Section 5-0507, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of residential structures:

- (i) Have the lowest floor, including basement, elevated to at least one foot above the base flood elevation (at least two feet if no depth number is specified) unless the residential structure meets the provisions of 5-0419.1(ii) and 5-0419-1(iii).
 - (ii) The City of Harwood is approved for Residential Basement Floodproofing as of 12/19/1985. Basements shall be floodproofed in accordance with the Harwood Basement Design Guide, dated July 2025.
 - (iii) Basements constructed in accordance with these regulations must not be used for sleeping purposes.
- (2) All new construction and substantial improvements of non-residential structures;
- (i) have the lowest floor (including basement) elevated one foot above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;
 - (ii) together with attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standard as specified in Section 5-0418-B.2.
- (3) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

Source: Ord. 2025-44, Sec. 5

5-0420. FLOODWAYS. Located within the special flood hazard areas established in Section 5-0407 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachment, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. Any increase, as used in this section, means any modeled impact greater than 0.00 feet.
2. If Section 5-0420(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction requirements of this ordinance.
3. Under the provisions of 44 CFR Section 65.12 of the NFIP Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in BFEs, provided that the community first applies for and receives a Conditional Letter of Map Revision (CLOMR) through FEMA.

5-0421. **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:

- (1) 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.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they allow the automatic entry and exit of floodwaters.

5-0422. **PENALTIES FOR VIOLATIONS.**

1. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violations on conditions and safeguards established in connection with grants or variances or conditional uses, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be punished by a fine not exceeding \$1,500, or by imprisonment not to exceed 30 days, or by both such fine and imprisonment for each such offense, and in addition shall pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
2. Nothing herein contained shall prevent the Harwood City Council from taking such other lawful action as is necessary to prevent or remedy any violation.

CHAPTER 5-05

INTERNATIONAL EXISTING BUILDING CODE

Source: Ord. 2025-43, Sec. 4

SECTIONS:

- 5-0501. Adoption of International Existing Building Code by Reference.
- 5-0502. Amendment to International Existing Building Code.

5-0501. ADOPTION OF INTERNATIONAL EXISTING BUILDING CODE BY REFERENCE. There is hereby adopted by reference by the City Council, for the purpose of prescribing regulations governing standards, relative to existing buildings in the city of Harwood, that certain code known as the International Existing Building Code recommended and compiled by the International Code Council, 2021 Edition, a copy of which is on file in the office of the City Auditor, and the same is hereby adopted and incorporated as fully as if set out in length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city, and within the extra-territorial zoning jurisdiction of the city.

5-0502. AMENDMENT TO INTERNATIONAL EXISTING BUILDING CODE. The International Existing Building Code as adopted herein is hereby changed and amended as follows:

Section 101.1 is hereby amended to read as follows:

101.1 Title. These regulations shall be known as the Existing Building Code of the City of Harwood, hereinafter referred to as "this code."

Section 103.1 is hereby amended to read as follows:

103.1 Creation of agency. The city of Harwood Inspections Department is hereby created, and the official in charge thereof shall be known as the code official. The function of the agency shall be the implementation, administration and enforcement of the provisions of this code.

Section 104.2.1 is hereby deleted in its entirety.

Section 104.2.2.1 is hereby amended to read as follows:

104.2.2.1 Building evaluation. The code official is authorized to require an existing building to be investigated and evaluated at the owner's expense by a registered design professional based on the circumstances agreed upon at the preliminary meeting. The design professional shall notify the code official if any potential nonconformance with the provisions of this code is identified.

Section 104.8 is hereby amended to read as follows:

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 and 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.

Section 104.10.1 is hereby deleted in its entirety.

Section 105.2 is hereby amended to read as follows:

Section 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:

* * * *

7. Reroofing.
8. Window Replacement.

Section 109.3.3 is hereby deleted in its entirety.

Section 109.3.10 is hereby deleted in its entirety.

Section 201.3 is hereby amended to read as follows:

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the other International Codes, such terms shall have the meanings ascribed to them in those codes.

Wherever the term "International Plumbing Code" and/or the "International Private Sewage Disposal Code" is used it shall mean the North Dakota State Plumbing Code. Wherever the term "ICC Electrical Code" is used it shall mean the National Electric Code together with the North Dakota State Wiring Standards. Wherever the term "Flood Hazard Area" is used, it shall mean the Harwood Flood Plain Management ordinance together with the Flood Proofing Code of the city of Harwood, North Dakota.

Section 401.3 is hereby deleted in its entirety.

Section 405.2.6 is hereby deleted in its entirety.

Section 502.3 is hereby deleted in its entirety.

Section 503.2 is hereby deleted in its entirety.

Section 507.3 is hereby deleted in its entirety.

Section 701.3 is hereby deleted in its entirety.

Section 1103.3 is hereby deleted in its entirety.

Section 1201.4 is hereby deleted in its entirety.

Section 1301.3.3 is hereby deleted in its entirety.

Section 1401.2 is hereby amended to read as follows:

1401.2 Conformance. Buildings to be moved within this jurisdiction shall comply with provisions of the City's ordinances. Buildings to be moved into this jurisdiction shall comply with the provisions of the International Codes for new buildings and shall be certified as to meet compliance by an agency approved by the code official.

Section 1402.6 is hereby deleted in its entirety.

CHAPTER 5-06

INTERNATIONAL ENERGY CONSERVATION CODE

Source: Ord. 2025-43, Sec. 5

SECTIONS:

- 5-0601. Adoption of International Energy Conservation Code by Reference.
- 5-0602. Amendment to International Energy Conservation Code.

5-0601. **ADOPTION OF INTERNATIONAL ENERGY CONSERVATION CODE BY REFERENCE.** There is hereby adopted by reference by the City Council, for the purpose of prescribing regulations governing standards, relative to housing in the city of Harwood, that certain code known as the International Energy Conservation Code recommended and compiled by the International Code Council, being particularly the 2021 Edition thereof, a copy of which is on file in the office of the City Auditor, and the same is hereby adopted and incorporated as fully as if set out in length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city, and within the extra-territorial zoning jurisdiction of the city.

5-0602. **AMENDMENT TO INTERNATIONAL ENERGY CONSERVATION CODE.** The International Energy Conservation as adopted herein is hereby changed and amended as follows:

Section C101.1 is hereby amended to read as follows:

C101.1 Title. This code shall be known as the Energy Conservation Code of the city of Harwood, and shall be cited as such. It is referred to herein as "this code".

Section C405.11 is hereby deleted in its entirety.

Section C405.12 is hereby deleted in its entirety.

Section R101.1 is hereby amended to read as follows:

R101.1 Title. This code shall be known as the Energy Conservation Code of the city of Harwood, and shall be cited as such. It is referred to herein as "this code".

Table R402.1.2 is hereby amended to read as follows:

Maximum Assembly <i>U</i> -Factors and Fenestration Requirements						
Climate Zone	Fenestration <i>U</i> -Factor ^f	****	Ceiling <i>U</i> -Factor	Wood Frame Wall <i>U</i> -Factor	****	Basement Wall <i>U</i> -Factor
6	0.32	****	0.026	0.057	****	0.059

(balance of table remains unchanged.)

Table R402.1.3 is hereby amended to read as follows:

Insulation Minimum <i>R</i> -Values and Fenestration Requirements by Component						
Climate Zone	Fenestration <i>U</i> -Factor ^{b,i}	****	Ceiling <i>R</i> -Value	Wood Frame Wall <i>R</i> -Value ^g	****	Basement ^{c, g} Wall <i>R</i> -Value
6	0.32	****	49	21 or 13 + 5ci	****	10ci or 15

(balance of table remains unchanged.)

Table R402.4.1.1 is hereby amended to read as follows:

Air Barrier, Air Sealing and Insulation Installation		
Component	Air Barrier Criteria	Insulation Installation Criteria
Basement, Crawl Space and Slab Foundations	(Text unchanged.)	<p>Crawl space insulation, where provided instead of floor insulation, shall be installed in accordance with Section R402.2.10.</p> <p>Conditioned basement foundation wall insulation shall be installed in accordance with Section R402.2.8.1.</p> <p>Slab-on-grade floor insulation shall be installed in accordance with Section R402.2.10.</p> <p>Exterior foundation insulation shall be covered and flashed to protect it from exposure to light and weather to a minimum of 6 inches (152 mm) below grade and be covered by a minimum 6-mil polyethylene slip sheet over the entire surface.</p>

(balance of table remains unchanged.)

Section R403.3.6 Subsection 3 is hereby amended to read as follows:

Section R403.3.6 Duct Leakage. The total leakage of the ducts, where measured in accordance with Section R403.3.5, shall be as follows:

* * * *

3. A total leakage test shall not be required for ducts or air handlers that comply with Sections R403.3.2, Subsection 1.

Section R403.3.7 is hereby amended to read as follows:

R403.3.7 Building Cavities. Building framing cavities shall not be used as supply ducts.

Section R403.6.3 is hereby deleted in its entirety.

Section R404.2 is hereby deleted in its entirety.

Section R404.3 is hereby deleted in its entirety.

Table R406.5 is hereby amended to read as follows:

Maximum Energy Rating Index	
Climate Zone	Energy Rating Index
* * * *	* * * *
6	58

(balance of table remains unchanged.)

CHAPTER 5-07

PLUMBING CODE
Source: Ord. 2025-43, Sec. 6

SECTIONS:

- 5-0701. North Dakota State Plumbing Code Adopted.
- 5-0702. Master Plumber – License Required.
- 5-0703. Journeyman Plumber's License Required.
- 5-0704. Plumbing Permit – Application by Plumber.
- 5-0705. Plumbing Permit – Fees.
- 5-0706. Permits to Install Water Heaters, Water Softeners, and Air-Conditioning Units – Fees.
- 5-0707. City Engineer to Locate Wye in Sewer on Request.
- 5-0708. Plumbing Inspector.

5-0701. **NORTH DAKOTA STATE PLUMBING CODE ADOPTED.** The North Dakota State Plumbing Code is hereby adopted and all installations, repairs, and alterations of plumbing shall, from the effective date of this ordinance, be performed in accordance with its provisions. The installation in buildings of the pipes, fixtures, and other facilitating apparatus for bringing water into, and using the same in buildings, and for removing liquids and water-carried wastes therefrom and including the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system, and the public or private water-supply systems, within or adjacent to any building or other structure, or conveyance, also the practice and materials used in the installation, maintenance, extension, or alteration of the stormwater or sewage system of any premises to their connection with any point of public disposal or other terminal in the City of Harwood, North Dakota, shall meet with the provisions of the North Dakota State Plumbing Code as the same are now established in said code, copies of which said code are on file with the city auditor and are hereby a part of the chapter by reference, with the exception of the sections hereinafter set forth affecting local conditions in the City, which sections shall be substituted for and in lieu of any like sections or paragraphs in the North Dakota State Plumbing Code; and the City Council, by this section, hereby approves and adopts such rules and regulations, as so modified, for use and application in the City of Harwood.

5-0702. **MASTER PLUMBER – LICENSE REQUIRED.** No person shall be permitted to conduct the business of master plumber without a license or by virtue of a license issued to any other persons; provided, however, that in the case of a partnership or corporation, such license may be taken for and on behalf of such partnership or corporation in the name of a partner, employee, or officer and may be transferred from one such partner, employee, or officer to another, without the payment of an additional license fee during the year for which license was granted, on application to the city auditor and compliance with other provisions of this chapter, including those with respect to the qualifications of the persons to whom such license may be issued or transferred.

No owner or lessee, nor any representative or agent of any owner or lessee, shall knowingly hire or otherwise engage any unlicensed person to do any plumbing work in any building in the City of Harwood.

5-0703. **JOURNEYMAN PLUMBER'S LICENSE REQUIRED.** No person shall construct, alter, extend, or repair any plumbing or building drainage or connect any building drain or building sewer with the sewer system of the City of Harwood until such person shall have received a journeyman plumber's license.

5-0704. **PLUMBING PERMIT – APPLICATION BY PLUMBER.** Every licensed plumber, before engaging in the installation, alteration, repair or extending of any plumbing or the connecting of any building sewer or water connection with the sewer or water system of the city, shall make application to the city engineer on appropriate blanks furnished by him for a permit therefor.

5-0705. **PLUMBING PERMIT – FEES.** The fee for a plumbing permit as required by Section 5-0704 of the Revised Ordinances of 2006 of the City of Harwood shall be an amount which shall be established by resolution of the City Council; said resolution shall establish one fee for a residential or commercial building sewer permit and another fee for an industrial building sewer permit.

5-0706. **PERMITS TO INSTALL WATER HEATERS, WATER SOFTENERS, AND AIR-CONDITIONING UNITS – FEES.** No person, firm or corporation shall hereafter install or connect any hot-water storage tank, gas, oil, coal, electric water heater, water softener, water filter, or air-conditioning unit without first having obtained a permit to do so from the city engineer. Such permit and inspection fee shall be in an amount to be established by resolution of the City Council, and the work shall be inspected by the plumbing inspector to determine whether the same is in conformity with the city ordinances.

5-0707. **CITY ENGINEER TO LOCATE WYE IN SEWER ON REQUEST.** When a permit has been issued for the plumbing of any premises, the city engineer shall, when requested by the plumber to whom such permit has been issued, locate the wye in sewer.

When the city records are in error and the wye is not found within one pipe length in either direction, the City shall pay the plumber a reasonable amount up to a maximum to be established by resolution of the City Council for springing in a wye on all sewers 15 inches in diameter and smaller. In similar instances sewers 18 inches in diameter or larger may be tapped, under specifications from the engineering department. When a connection is desired and where permitted at locations or on sewers where wyes do not exist, wyes may be sprung in or sewers tapped as above but at no cost to the city. All sewer and water connections shall be made and laid under the supervision of the city engineer.

5-0708. **PLUMBING INSPECTOR.** "Plumbing inspector" shall mean a person duly appointed by the city engineer and duly authorized under this chapter to make inspections of plumbing installations in the City of Harwood. Such person shall be registered and a holder of a plumber's license issued by the North Dakota State Plumbing Board. He shall also have a City of Harwood plumber's license.

CHAPTER 5-08

INTERNATIONAL PROPERTY MAINTENANCE CODE

Source: Ord. 2025-43, Sec. 7

SECTIONS:

- 5-0801. Adoption of International Property Maintenance Code by Reference.
- 5-0802. Amendment to International Property Maintenance Code.

5-0801. ADOPTION OF INTERNATIONAL PROPERTY MAINTENANCE CODE BY REFERENCE. There is hereby adopted by reference by the City Council, for the purpose of prescribing regulations governing standards, relative to housing in the City of Harwood, that certain code known as the International Property Maintenance Code recommended and compiled by the International Code Council, being particularly the 2021 Edition thereof, a copy of which is on file in the office of the City Auditor, and the same is hereby adopted and incorporated as if fully set forth herein, and from the provisions thereof shall be controlling within the limits of the City and within the extra-territorial zoning jurisdiction of the City.

5-0802. AMENDMENT TO INTERNATIONAL PROPERTY MAINTENANCE CODE. The International Property Maintenance Code as adopted herein §31-0101 is hereby changed and amended as follows:

Section 101.1 is hereby amended to read as follows:

Section 101.1 Title. These Regulations shall be known as the International Property Maintenance Code of the City of Harwood, hereinafter referred to as "this code."

Section 102.3 is hereby amended to read as follows:

Section 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 all applicable ordinances adopted by the City of Harwood.

Section 103.1 is hereby amended to read as follows:

Section 103.1 Creation of agency. The City of Harwood Inspections Department is hereby created and the official in charge thereof shall be known as the code official.

Section 104.1 is hereby amended to read as follows:

Section 104.1 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code are established in the following schedule:

- A. Initial Inspection – No charge.
- B. First Re-inspection – No charge.

- C. Second Re-inspection – As to the second re-inspection, a fee of \$100.
- D. Third Re-inspection – As to the third re-inspection, a fee of \$100.
- E. Fourth and continuing Re-inspection – As to the fourth and any subsequent re-inspection, a fee of \$100.

Section 108.1 is hereby amended to read as follows:

Section 108.1 Membership of the board. The board of appeals shall consist of five members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The code official shall be an ex-officio member but shall not vote on any matter before the board. The board shall be pointed by the board of city commissioners, and shall serve staggered and overlapping terms.

Section 201.3 is hereby amended to read as follows:

Section 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, International Residential Code, or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes. Throughout this code, wherever reference is made to the International Plumbing Code, it shall be taken to mean the North Dakota State Plumbing Code and N.D. Admin. Code Section 62-03.1-01. Throughout this code, wherever reference is made to the NFPA 70, it shall be taken to mean the National Electric Code and Chapter 43-09 of the North Dakota State Wiring Standards.

Section 302.4 is hereby amended to read as follows:

Section 302.4 Weeds. Premises and exterior property shall be maintained free from weeds or plant growth.

[Section 303.2]

303.2.1 Fence or Barrier height and clearances. Barrier heights and clearances shall be in accordance with all the following:

1. The top of the barrier shall be not less than 48 inches above grade where measured on the side of the barrier that faces away from the pool or spa. Such height shall exist around the entire perimeter of the barrier and for a distance of 4 feet measured horizontally from the outside of the pool or spa to the inside of the required barrier.
2. The vertical clearance between grade and the bottom of the barrier shall not exceed 2 inches (51 mm) for grade surfaces that are not solid, such as grass or gravel, where measured on the side of the barrier that faces away from the pool or spa.
3. The vertical clearance between a surface below the barrier to a solid surface, such as concrete, and the bottom of the required barrier shall not exceed 4 inches

(102 mm) where measured on the side of the required barrier that faces away from the pool or spa.

4. Where the top of the pool or spa structure is above grade, the barrier shall be installed on grade or shall be mounted on top of the pool or spa structure. Where the barrier is mounted on the top of the pool or spa, the vertical clearance between the top of the pool or spa and the bottom of the barrier shall not exceed 4 inches (102 mm).

303.2.2 Openings. Openings in the barrier shall not allow passage of a 4-inch-diameter (102 mm) sphere.

303.2.3 Solid barrier surfaces. Solid barriers that do not have openings shall not contain indentations or protrusions that form handholds and footholds, except for normal construction tolerances and tooled masonry joints.

303.2.4 Mesh fence as a barrier. Mesh fences, other than chain link fences in accordance with Section 303.2.7, shall be installed in accordance with the manufacturer's instructions and shall comply with the following:

1. The bottom of the mesh fence shall be not more than 1 inch (25 mm) above the deck or installed surface or grade.
2. The maximum vertical clearance from the bottom of the mesh fence and the solid surface shall not permit the fence to be lifted more than 4 inches (102 mm) from grade or decking.
3. The fence shall be designed and constructed so that it does not allow passage of a 4-inch (102 mm) sphere under any mesh panel. The maximum vertical clearance from the bottom of the mesh fence and the solid surface shall not be more than 4 inches (102 mm) from grade or decking.
4. An attachment device shall attach each barrier section at a height not lower than 45 inches (1143 mm) above grade. Common attachment devices include, but are not limited to, devices that provide the security equal to or greater than that of a hook-and-eye-type latch incorporating a spring-actuated retaining lever such as a safety gate hook.
5. Where a hinged gate is used with a mesh fence, the gate shall comply with Section 303.2.10.
6. Patio deck sleeves such as vertical post receptacles that are placed inside the patio surface shall be of a nonconductive material.
7. Mesh fences shall not be installed on top of on-ground residential pools.

303.2.4.1 Setback for mesh fences. The inside of a mesh fence shall be not closer than 48 inches (1219 mm) to the nearest edge of the water of a pool or spa.

303.2.5 Closely spaced horizontal members. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the pool or spa side of the fence. Spacing between vertical members shall not exceed 1¾ inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1¾ inches (44 mm) in width.

303.2.6 Widely spaced horizontal members. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, the interior width of the cutouts shall not exceed 1¾ inches (44 mm).

303.2.7 Chain link dimensions. The maximum opening formed by a chain link fence shall be not more than 2 inches (50.8 mm). Where the fence is provided with slats fastened at the top and bottom which reduce the openings, such openings shall be not more than 2 inches (50.8 mm).

303.2.8 Diagonal members. Where the barrier is composed of diagonal members, the maximum opening formed by the diagonal members shall be not more than 1¾ inches (44 mm). The angle of diagonal members shall be not greater than 45 degrees (0.79 rad) from vertical.

303.2.9 Clear zone. Where equipment, including pool equipment such as pumps, filters and heaters, is on the same lot as a pool or spa and such equipment is located outside of the barrier protecting the pool or spa, such equipment shall be located not less than 36 inches (914 mm) from the outside of the barrier.

303.2.10 Doors and gates. Doors and gates in barriers shall comply with the requirements of Sections 303.3.11 through 303.2.13 and shall be equipped to accommodate a locking device. Pedestrian access doors and gates shall open outward away from the pool or spa, shall be self-closing and shall have a self-latching device.

303.2.11 Utility or service doors and gates. Doors and gates not intended for pedestrian use, such as utility or service doors and gates, shall remain locked when not in use.

303.2.12 Double or multiple doors and gates. Double doors and gates or multiple doors and gates shall have not fewer than one leaf secured in place and the adjacent leaf shall be secured with a self-latching device.

303.2.13 Latch release. For doors and gates in barriers, the door and gate latch release mechanisms shall be in accordance with the following:

1. Where door and gate latch release mechanisms are accessed from the outside of the barrier and are not of the self-locking type, such mechanism shall be located above the finished floor or ground surface at residential pools and spas, not less 54 inches (1372 mm).

2. Where door and gate latch release mechanisms are of the self-locking type such as where the lock is operated by means of a key, an electronic opener or the entry of a combination into an integral combination lock, the lock operation control and the latch release mechanism shall be located above the finished floor or ground surface at residential pools and spas, at not greater than 54 inches (1372 mm).
3. Where the only latch release mechanism of a self-latching device for a gate is located on the pool and spa side of the barrier, the release mechanism shall be located at a point that is at least 3 inches (76 mm) below the top of the gate.

303.2.14 Barriers adjacent to latch release mechanisms. Where a latch release mechanism is located on the inside of a barrier, openings in the door, gate and barrier within 18 inches (457 mm) of the latch shall not be greater than ½ inch (12.7 mm) in any dimension.

303.2.15 Structure wall as a barrier. Where a wall of a dwelling or structure serves as part of the barrier and where windows having a sill height of less than 48 inches (1219 mm) above the indoor finished floor, doors and gates shall have an alarm that produces an audible warning when the window, door or their screens are opened. The alarm shall be listed and labeled as a water hazard entrance alarm in accordance with UL 2017.

Exception: An approved means of protection, such as self-closing doors with self-latching devices, is provided. Such means of protection shall provide a degree of protection that is not less than the protection afforded by an alarm that produces an audible warning when the window, door or their screens are opened.

303.2.16 On-ground residential pool structure as a barrier. An on-ground residential pool wall structure or a barrier mounted on top of an on-ground residential pool wall structure shall serve as a barrier where all the following conditions are present:

1. Where only the pool wall serves as the barrier, the bottom of the wall is on grade, the top of the wall is not less than 48 inches (1219 mm) above grade for the entire perimeter of the pool, the wall complies with the requirements of Section 303.2 and the pool manufacturer allows the wall to serve as a barrier.
2. Where a barrier is mounted on top of the pool wall, the top of the barrier is not less than 48 inches (1219 mm) above grade for the entire perimeter of the pool, and the wall and the barrier on top of the wall comply with the requirements of Section 303.2.
3. Ladders or steps used as means of access to the pool are capable of being secured, locked or removed to prevent access except where the ladder or steps are surrounded by a barrier that meets the requirements of Section 303.
4. Openings created by the securing, locking or removal of ladders and steps do not allow the passage of a 4-inch (102 mm) diameter sphere.

5. Barriers that are mounted on top of on-ground residential pool walls are installed in accordance with the pool manufacturer's instructions.

303.2.17 Natural barriers. In the case where the pool or spa area abuts the edge of a lake or other natural body of water, public access is not permitted or allowed along the shoreline, and required barriers extend to and beyond the water's edge not less than 18 inches (457 mm), a barrier is not required between the natural body of water shoreline and the pool or spa.

303.2.18 Natural topography. Natural topography that prevents direct access to the pool or spa area shall include but not be limited to mountains and natural rock formations. A natural barrier approved by the governing body shall be acceptable provided that the degree of protection is not less than the protection afforded by the requirements of Sections 303.2 through 303.2.16.

Section 304.14 is hereby amended to read as follows:

Section 304.14 Insect screens. During the period from April 1 to October 31 of each year, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), every screen door used for insect control shall have a self-closing device in good working condition.

* * * *

Section 602.3 is hereby amended to read as follows:

Section 602.4 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 15th to June 1st to maintain a minimum temperature of 68°F (20° C) in all habitable rooms, bathrooms and toilet rooms.

* * * *

Section 602.4 is hereby amended to read as follows:

Section 602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from September 15th to June 1st to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied.

* * * *

Section 703.7 is hereby deleted in its entirety.