

**CHAPTER 98: MINIMUM MAINTENANCE STANDARDS FOR ALL
STRUCTURES AND PREMISES**

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§ 98.01 FINDINGS OF COUNCIL.

There exists in the city structures which are now or which may in the future become substandard with respect to structure, equipment, maintenance or energy efficiency. That such conditions, together with inadequate provision for light and air, insufficient protection against fire hazards, lack of proper heating, unsanitary conditions and overcrowding, constitute a menace to public health, safety and welfare of its citizens. It is further found and declared that the existence of such conditions, factors or characteristics adversely affects public health and safety and leads to the continuation, extension and aggravation of urban blight with attendant depreciation of property values. It is further found that adequate protection of public health, safety and welfare, therefore, requires the establishment and enforcement of minimum property standards.

(Ord. 962, passed 4-12-04)

§ 98.02 APPLICABILITY AND SCOPE.

All alterations, reconstruction or repair of an existing building shall be done in accordance with applicable sections of the Minnesota State Building Code and Chapters 150 and 155 of this code. Nothing in this chapter shall be applicable to rest homes, convalescent homes, nursing homes or hotels, except that all such structures shall meet the requirements herein which contain provisions pertaining to such structures. All existing structures which were legally altered or repaired under previous editions of the State Building Code may be allowed to exist if they are not determined hazardous by the enforcement officer.

(Ord. 962, passed 4-12-04)

§ 98.03 PRE-EXISTING STRUCTURES AND BUILDINGS.

This chapter establishes minimum standards for the occupancy of all structures and buildings and does not replace or modify standards otherwise established for the construction, repair, alteration or use of building equipment or facilities.

(Ord. 962, passed 4-12-04)

§ 98.04 EXISTING REMEDIES.

Nothing in this chapter shall be deemed to abolish or impair existing remedies of the city under any of the provisions of this code in existence on the date of enactment of this chapter. Any conflicts between this chapter and other provisions of the code will be resolved by enforcement of the provision most favorable to the expressed intent of this chapter as set forth in § 98.01.

(Ord. 962, passed 4-12-04)

§ 98.05 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense include the future, the singular number includes the plural and the plural the singular, the masculine includes the feminine and the feminine the masculine. Where terms are not defined in this section and are defined in the State Building Code (as adopted by the city under Chapter 150), such terms shall have the meanings ascribed to them in the Building Code. Where terms are not defined under the provisions of this chapter or under the provisions of the Building Code, such terms shall have ascribed to them their ordinarily accepted meanings considering the context in which used in this chapter. Whenever the words "dwelling," "dwelling unit," "rooming units," "premises" and "structures" are used in this chapter, such words shall be construed as though followed by the words "or any part thereof." If a term is defined in this chapter and in some other section of the code, the definition which is most favorable to enforcement of this chapter shall apply.

ACCESSORY BUILDING or STRUCTURE. A building or structure in a secondary or subordinate capacity from the main or principal building or structure on the same premises.

APPROPRIATE AUTHORITY. The person within the governmental structure of the corporate unit who is charged with the administration of the appropriate code or that agency which is specifically designated to deal with situations related to a specific issue pertaining to this chapter.

APPROVED. As applied to a material, device or method of construction, shall mean approved by the enforcement officer under the provisions of this chapter or approved by other authority designated by law to give approval in the matter in question.

BASEMENT. The portion of a building partly below grade but so located that the vertical distance from grade to floor is not greater than the vertical distance from the grade to the ceiling.

BOARDING CARE HOME. This type of use is licensed and regulated by other city and state laws. A **BOARDING CARE HOME** shall be defined the same as contained in the regulations of the Minnesota State Board of Health or by such other state agency that licenses and regulates boarding care homes.

BUILDING. Any temporary or permanent structure which is constructed for the shelter, support or enclosure of persons, animals or property of any kind.

BUILDING CODE. The Minnesota State Building Code as adopted under Chapter 150.

BULK CONTAINER. Any metal garbage, rubbish and/or refuse container having a capacity of two cubic yards or greater and which is equipped with fittings for hydraulic and/or mechanical emptying, unloading and/or removal.

CELLAR. A room or group of rooms totally below the ground level and usually under a building.

CENTRAL HEATING SYSTEM. A single system supplying heat to one or more dwelling unit(s) or more than one rooming unit.

CHIMNEY. A vertical masonry shaft of reinforced concrete or other approved non-combustible, heat-resisting material enclosing one or more flues for the purpose of removing products of combustion from solid, liquid or gaseous fuel.

DILAPIDATED. No longer adequate for the purpose or use for which it was originally intended.

DWELLING. Any enclosed space wholly or partially used or intended to be used for living, sleeping, cooking and eating, provided that "temporary housing," as hereinafter defined, shall not be classified as a dwelling. Industrialized housing and modular construction which conform to nationally accepted industry standards and are used or intended for use for living, sleeping, cooking and eating purposes shall be classified as **DWELLINGS**. Mobile homes are included in this definition.

DWELLING, MULTI-FAMILY. Any building or portion thereof designed for or used by three or more families living independently of each other.

DWELLING, SINGLE-FAMILY. A building for and exclusively used for residence purposes by one family only.

DWELLING, TOWNHOUSE. A dwelling joined to other dwellings by a party wall or walls.

DWELLING, TWO-FAMILY. A building designed for and exclusively used for residence purposes by two families living independently of each other.

DWELLING UNIT. One room or suite of private or interconnecting rooms, designed for occupancy by one or more persons for living and sleeping purposes and having cooking, toilet and bathing facilities or any structure or portion of a structure or other shelter designed as short or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motels, hotels and resort rooms and cabins.

EGRESS. An arrangement of exit facilities to assure a safe means of exit from buildings.

EGRESS WINDOW. A window meeting the specifications in I.R.C. § 310.

ENFORCEMENT OFFICER. The Neighborhood Services Officer as appointed in accordance with the provisions of Title IX or such other or additional agent(s) or employee(s) of the city as may be appointed by authorization of the City Council.

EXTERIOR PROPERTY AREAS. Open space on the premises, on adjoining property and all sidewalks, walkways and exterior stairs under the control of the owners or operators of such premises.

EXTERMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating or trapping or by any other recognized and legal pest elimination methods approved by the local or state authority having such administrative authority.

FAMILY. For the purpose of a rental unit, shall mean a person living alone or two or more persons living together as a single housekeeping unit, in a dwelling unit, distinguished from a group occupying a boarding house, motel or hotel, fraternity or sorority house, provided that unless all members are related by blood, adoption or marriage no such family shall contain over five persons. A person for whom foster care is being given by another member of the family in accordance with the provisions of an officially recognized care program shall be considered related to the family member or members providing such care.

FLUSH WATER CLOSET. A toilet bowl which is flushed with water which has been supplied under pressure and equipped with a water-sealed trap above the floor level.

GARBAGE. Discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

GLAZED AREA. The area composed of glass or other suitable materials required under the provisions of the Minnesota State Building Code as adopted pursuant to Chapter 98.

GRADE. The elevation established for the purpose of regulating the number of stories and the height of buildings. **GRADE** shall be the mean level of the finished surface of the ground adjacent to the exterior walls of the buildings.

GROSS FLOOR AREA. The total area of all habitable space.

GUEST. An individual who shares a dwelling unit in a nonpermanent status for not more than 30 days.

GUEST ROOM. A room or a group of rooms in a licensed bed and breakfast facility forming a single habitable unit which is located within the walls of a residential structure and which is used or intended to be used for sleeping and living but not for cooking or eating purposes and which is let individually as a unit.

HABITABLE ROOM. A room occupied by one or more persons used or intended for living, cooking, eating or sleeping purposes but does not include bathrooms, closets, water closet compartments, laundries, serving and storage pantries, corridors, cellars and spaces that are not used frequently or during extended periods.

HABITABLE SPACE. The square feet of floor space in a dwelling unit multiplied by the number of stories, excluding the basement, unless the basement is specifically designed for occupancy with egress facilities.

HEALTH OFFICER. The County Sanitation Officer or an authorized representative who is the legally designated health authority of Nobles County.

HOUSING CODE. The Uniform Housing Code, volume 111, most recent edition, published by the International Conference of Building Officials as adopted by § 150.02.

INFESTATION. The presence, within or contiguous to a structure or premises, of insects, rodents, vermin or other pests.

INSPECTION. Unless the content of the provision in which the term is used requires a different meaning for the provision to be effective, the term shall apply to a review process which concerns only the exterior of a building and the premises on which the building is located.

LEAD-BASED PAINT. Any paint containing more lead than the level established by the U.S. Consumer Safety Commission as being the safe level of lead in residential paint and paint products.

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LET. To lease or to grant the use and possession of real property, whether or not for compensation.

LITTER. All rubbish, waste material, refuse, garbage, trash, debris, excrement, urine, offal composed of animal matter or vegetable or both or any noxious or offensive matter whatever, including but not limited to, any dead animals, dead fish and any of the following which are discarded or improperly stored: chemicals, chemical compounds, petroleum products or compounds, automobile parts or accessories, tires, wheels, furniture, appliances, junk, paper, cardboard, lids, bottles, caps, cartons, wrappers, boxes, wooden objects, plastic objects, rubber objects, leather objects, hides, feathers, grass clippings, leaves, cut weeds, branches cut from trees or bushes, building materials, brick, cinder block, paint, concrete, sand, gravel, stone, glass, asphalt, ashes, cigarettes, cigars, food or food products, solvents, dyes, beverages and liquids, except water. **LITTER** shall not include the composting of yard wastes at any authorized facility or composting in composting-holding units which meet the following specifications:

- (1) Does not exceed 125 cubic feet in volume;
- (2) Shall be constructed of wood, wire, metal or plastic excluding plastic bags;
- (3) May be a stationary or rotating unit;
- (4) Shall be maintained to minimize odors; and
- (5) Shall be insect-proof and animal-proof, both domestic and wild.

NON-RECYCLING MATERIALS. Solid waste, refuse, construction debris and materials for which there is no appropriate existing recycling market.

OCCUPANT. Any individual, living, sleeping, cooking or eating in or having possession of a dwelling unit for more than five days in any one-month period, except that in dwelling units a guest shall not be considered an occupant.

OPERATOR. Any person who has charge, care or control of a residential structure, rooming house or building in which dwelling units, rooming units or business spaces are let or offered for occupancy.

OWNER. Any person who, alone or jointly or severally with others:

- (1) Has legal title to any premises, building, structure, dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- (2) Has charge, care or control of any premises, building, structure, dwelling or dwelling unit, as owner or agent of the owner or an executor, administrator, trustee or guardian of the estate of the owner.

OPENABLE or **OPENABLE AREA**. The part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

PERSON. An individual, firm, corporation, association or partnership.

PLUMBING or **PLUMBING FIXTURE**. Water heating facilities, water pipes, gas pipes, garbage and disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines or other similar equipment, catch basins, drains, vents or other similarly supplied fixtures, together with all connection to water, gas, sewer or vent lines.

PREMISES. A platted lot or part thereof or unplatted lot or parcel of land, either occupied or unoccupied by any dwelling or non-dwelling structure and includes any such building, accessory structure or other structure thereon.

PROFESSIONAL STATE OF MAINTENANCE AND REPAIR. Maintenance and repair was done, is being done or will be done in a reasonable and skillful manner.

PROPERLY CONNECTED. Connected in accordance with all applicable codes and ordinances of the city, as from time to time enforced; provided, however, that the application of this definition shall not require the alteration or replacement of any connection in good working order and not constituting a hazard to life or health.

RAT, VERMIN AND INSECT HARBORAGE. Any conditions or place where rats, vermin and insects can live or seek shelter.

RAT AND VERMIN PROOFING. A form of construction which will prevent the ingress or egress of rats and vermin to or from a given space or building or from gaining access to food, water or harborage. It consists of the closing and keeping of every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, roofs, sidewalk gratings, sidewalk openings and other places that may be reached and entered by rats and vermin by climbing, burrowing or other methods, by the use of materials impervious to rat and vermin gnawing and other methods approved by the Building Inspector.

RECYCLING MATERIALS. Aluminum cans, tin food cans, glass bottle jars, plastic bottles and jugs, newspaper and corrugated boxes/cardboard.

REFUSE. Putrescible and non-putrescible solid waste, except body waste and includes garbage, rubbish, ash, incinerator residue, street cleanings and solid industrial and market wastes.

REFUSE CONTAINER. See "solid waste container."

RESIDENTIAL STRUCTURE. A residential structure, except when classified as an institution under the Building Code, shall mean a building in which sleeping accommodations or sleeping accommodations and cooking facilities as a unit are provided.

RUBBISH. Non-putrescible solid wastes (excluding ashes) consisting of, by way of example and not limitation:

- (1) Combustible wastes such as paper, cardboard, plastic containers, yard clippings and wood;
or
- (2) Noncombustible wastes such as tin cans, glass and crockery.

SAFETY. The condition of being reasonably free from danger and hazards which may cause accidents or disease.

SOLID WASTE. Garbage, rubbish and non-recyclable paper but not concrete, rock, dirt, construction materials, trees, cement pieces, yard waste or items of extreme bulk or weight beyond the capacity of one person to lift. Specifically excluded are recyclable materials.

SOLID WASTE CONTAINER. The container(s) furnished by the city's solid waste contractor assigned to each residential customer within the city or bulk storage containers supplied to commercial customers dependent upon the requirements of a particular commercial customer. If no such containers are being supplied, the term shall mean a refuse container which is a watertight container constructed of metal or other durable material impervious to rodents that is capable of being serviced without creating unsanitary conditions or such other containers as have been approved by the appropriate authority. Openings into the container such as covers and doors shall be tight-fitting.

STATE BUILDING CODE. The Building Code adopted by the State of Minnesota.

STRUCTURE. That which is built or constructed or any piece of work artificially built up or composed of parts joined together in some definite manner.

SUPPLIED. Installed, paid for, furnished by, provided by or under the control of the owner, operator or agent.

TOXIC SUBSTANCE. Any chemical product applied on the surface of or incorporated into any structural or decorative material which constitutes a potential hazard to human health at acute or chronic exposure levels.

VARIANCE. A difference between that which is required or specified and that which is permitted.

YARD. All ground, lawn, court, walk, driveway or other open space constituting part of the same premises as a structure.

YARD, FRONT. Any yard extending across the full width of the subject property, the area between the front property line and the nearest exterior wall of the principal structure located on the subject property.

YARD, REAR. A yard extending across the full width of the subject property, the depth of which is the minimum distance between the rear lot line and a line parallel thereto on the lot.

YARD, SIDE. A yard extending from the front yard to the rear yard, the width of which is the minimum horizontal distance between the side lot line and a line parallel on the lot.

ZONING CODE. Chapters 155 and 156.
(Ord. 962, passed 4-12-04)

§ 98.06 EXTERIOR PROPERTY AREAS.

The owner of any premises shall comply with the following requirements.

(A) *Sanitation.* All exterior property areas shall be maintained free from any accumulation of garbage, mixed municipal solid waste, solid waste, rubbish, animal feces or refuse.

(B) *Grading and drainage.* All premises shall be graded and maintained in a manner which, without causing erosion of the soil, allows water to drain away from occupied structures and which will minimize the accumulation of water on such premises.

(C) *Ground cover.* Every residential premise shall be maintained in a condition to control erosion, dust and mud by suitable landscaping with grass, trees, shrubs or other planted ground cover or by paving with asphalt, concrete or by such other suitable means which complies with the applicable provisions of the Zoning Code.

(D) *Insect and rodent infestations.* It shall be the responsibility of the owner and the occupant to control or eliminate any infestation of insects, rodents or other pests in all exterior areas and accessory structures on the premises.

(E) *Accessory structures.* All accessory structures, including but not limited to detached garages, sheds and fences, shall be maintained structurally sound and in good repair. All exterior wood surfaces or exterior surfaces constructed of a material other than wood which needs paint or protective cover or treatment to protect the surface from the elements, other than decay-resistant woods, shall be protected from the elements and decay by paint which is not lead-based paint or by other protective covering or treatment. Service doors to residential garages shall be provided with securing locks. Fences and similar structures constructed within a residential district shall be constructed of a material sold and designed for such uses. Materials not permitted for fence construction shall include, by way of example and not limitation, plastic or cloth or similar type tarpaulins, corrugated or plastic sheet goods, plywood sheet goods and galvanized, corrugated or rib steel.

(Ord. 962, passed 4-12-04) Penalty, see § 10.99

§ 98.07 EXTERIOR STRUCTURE.

The owner of any premises shall comply with the following requirements.

(A) *Foundations, walls, chimneys, roofs and other exterior surfaces.* Every foundation, chimney, exterior wall, roof and all other exterior surfaces shall be maintained in a professional state of maintenance and repair.

(1) The foundation elements shall adequately support the building at all points.

(2) Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit dampness to the interior portions of the wall or to the interior spaces of structures.

(3) All exterior wood surfaces or exterior surfaces constructed of a material other than wood which needs paint or protective cover or treatment to protect the surface from the elements, other than decay-resistant woods, shall be protected from the elements and decay by paint which is not lead-based paint or by other protective covering or treatment.

(4) The roof shall be tight, impervious to water and have no defects which admit water or dampness to the interior of the building. No building roof shall be used for storage of any materials, things or objects unless approved by the enforcement officer.

(5) All exterior surfaces shall be of a material manufactured and processed specifically for use in a weather-exposed location, including roofing, exterior painted wood, masonry, exposed redwood and other suitable materials. Exterior walls shall be maintained and kept free from dilapidation, including those conditions caused by extensive cracking, tears or breaks and by extensively deteriorated plaster, stucco, plastic, brick, wood or other materials or combinations of materials.

(6) The exposed surface of exterior walls on a building above ground level shall be maintained in a professional state of maintenance and repair, which will provide both sufficient covering and sufficient protection of the true surface underneath against its deterioration. Without limiting the generality of this section, an exposed surface shall be deemed not to be maintained in a professional state of repair if either of the following conditions exist:

(a) The painted surface area is blistered, cracked, flaked, scaled or chalked away and such conditions extend over more than 25% of the surface area of any plane or wall or area, including porch trim, cornice members, porch railings and such other areas; or

(b) More than 10% of the pointing of any masonry chimney or more than 25% of the pointing of any masonry wall is loose, has fallen out or otherwise does not exist.

(7) Any exterior surface required to be repaired under provisions of this section shall be repaired in its entirety to make it weather-tight, watertight and rodent- and insect-proof.

(B) *Stairs, porches, decks and railings.*

(1) Every outside stair and every porch and deck shall be constructed in a professional manner, shall be capable of supporting a load as determined in the Building Code and shall be maintained and kept in a professional state of maintenance and repair and in accordance with the Building Code in effect when originally constructed.

(2) Stairs, steps, porches, decks, handrails, balustrades and guardrails deemed hazardous by the enforcement officer shall be corrected so as to be in compliance with the Building Code.

(C) *Windows, exterior doors, basement hatchways.* Every window, exterior door and basement hatchway shall be kept weather-tight, watertight and rodent/insect proof and shall be kept in a professional state of maintenance and repair.

(1) Every window shall be fully supplied with window panes which are without open cracks or holes.

(2) All window screens shall be in good condition and without open tears or holes.

(3) Every window sash shall be in good condition and fit tight within its frame.

(4) Every exterior door, including but not limited to a storm door, shall have hinges and a latch which shall be in good condition and capable of keeping the door closed at all times. Every exterior door shall be maintained in a professional state of maintenance and repair. If the exterior door requires screens or storm windows, the screens and storm windows shall be provided and maintained in good condition and without tears or holes.

(5) Every exterior door when closed shall fit tightly within its frame.

(6) Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction as completely to exclude rain or similar elements and to substantially exclude wind from entering the structure.

(7) Every basement hatchway and window opening shall be maintained in a professional state of repair and shall be so constructed and maintained as to prevent the entrance of rain and surface drainage water into the structure, prevent the entrance of animals, whether domesticated or non-domesticated and shall be rodent-proof and insect-proof.

(8) Every basement window which is openable shall be supplied with a screen or hardware cloth of not more than 16 mesh per inch which fits tightly and is securely fastened to the frame or with other materials affording equivalent protection. Basement windows required for egress can be equipped with bars or hinged units with hasps and padlocks that can be easily opened from the interior for emergencies. Basement windows not required for egress can be equipped with non-openable bars.

(9) Every window required for ventilation or other outside opening used for ventilation purposes shall be supplied with a screen of not less than 16 mesh per inch.
(Ord. 962, passed 4-12-04) Penalty, see § 10.99

§ 98.08 OCCUPANCY LIMITATION.

A one-room dwelling unit which is rented to one person shall contain at least 150 square feet of habitable space. A one-room dwelling unit which is rented to more than one person must contain at least 75 square feet of habitable space per person. A rental dwelling unit which has more than one room must contain at least 150 square feet of habitable space per occupant. Nothing herein contained shall require a family to move from or be moved from a dwelling unit if the number of members of the family increases due to birth or adoption after the first date of occupancy. The square footage of a basement or an attic or of a room in a basement or in an attic which does not have two means of egress shall not be considered habitable space.

(Ord. 962, passed 4-12-04) Penalty, see § 10.99

§ 98.09 NONRESIDENTIAL, INDUSTRIAL AND INSTITUTIONAL USES.

In addition to any of the preceding provisions which may be of application to nonresidential, industrial and institutional uses, the following sections apply to all such uses. If one of the sections or provisions which follow conflict with any of the preceding provisions, the provision most favorable to the expressed intent of this chapter shall apply.

(A) *Sanitation.* All exterior property areas shall be maintained free from any accumulation of refuse, municipal solid waste, solid waste, rubbish, garbage, litter, animal feces or refuse.

(B) *Insect and rodent infestations.* It shall be the responsibility of the owner to exterminate any infestation of rodents, insects, vermin or other pests in all exterior areas and accessory structures on the premises.

(C) *Accessory structures.* All accessory structures, including but not limited to detached garages, sheds and fences, shall be maintained structurally sound and in good repair. All exterior surfaces shall be maintained in a state of good repair.

(D) *Stored materials.* It shall be unlawful to accumulate and store building material, lumber, boxes, cartons or other containers, machinery, scrap metal, junk, raw material, fabricated goods and other items in such manner as to constitute a nuisance or rodent harborage.

(E) *Obscuring fences.*

(1) It shall be unlawful to maintain outdoor storage abutting a residential district or a property occupied by a one-, two-, three- or four-dwelling unit, townhouse or multiple-family dwelling which constitutes a nuisance. Upon a determination that a violation of this section exists, the enforcement officer may cause the nuisance to be abated by requiring the installation of a six-foot high obscuring fence or landscape screening at an equal or lesser cost than a fence.

(2) Upon receipt of a notarized petition alleging the existence of a public nuisance and signed by 2/3 of the property owners located in an area one block in any direction of the subject property, the enforcement officer shall inspect the property. In the event the enforcement officer determines that the outdoor storage constitutes a violation, the enforcement officer may cause the nuisance to be abated by requiring the installation of a six-foot high obscuring fence or appropriate landscape screening.

(F) *Refrigerators and accessible containers.* It shall be unlawful to permit a refrigerator or other container, sufficiently large to retain a child and with doors which fasten automatically when closed, to be exposed and accessible to children without removing the doors, lids, hinges or latches.

(G) *Foundations, walls, roofs and other exterior surfaces.* Every foundation, exterior wall, roof and all other exterior surfaces shall be maintained in a professional state of maintenance and repair.

(1) The foundation elements shall adequately support the building at all points.

(2) Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which admit dampness to the interior portions of the walls or to the interior spaces.

(3) All exterior wood surfaces, other than decay-resistant woods and previously painted non-wood surfaces, shall be protected from the elements and decay by paint which is not lead-based paint or by other protective covering or treatment.

(4) The roof shall be tight and have no defects which admit rain and roof drainage shall be adequate to prevent rainwater from causing dampness in the walls.

(H) *Stairs, porches, decks and railings.*

(1) Every outside stair and every porch and deck shall be constructed safely and be capable of supporting a load as determined in the State Building Code and shall be kept in sound condition and good repair. Every stairway, porch, deck or step which is more than 30 inches above grade shall have guardrails constructed in accordance with the Building Code and maintained in accordance with the State Building Code under which it was constructed.

(2) Stairs, steps, porches, decks, handrails, balustrades and guardrails deemed hazardous by the enforcement officer shall be corrected in accordance with the Building Code or be maintained in accordance with the Building Code specifications under which it was originally constructed.

(I) *Windows, doors and hatchways.* Every window, exterior door and basement hatchway shall be substantially tight and shall be kept in sound condition and repair.

(1) Windows shall be fully supplied with windowpanes which are without open cracks or holes, sashes shall be in sound condition and fit reasonably tight within the frame and windows and windows other than a fixed window shall be capable of being easily opened and have hardware to hold it in the open position. Locking hardware shall be required on all windows up to and including the second story and on every other window which is accessible by an adjacent fire escape, stairway or other means of access integral to the structure.

(2) Every exterior door and its hardware shall be in sound condition and fit reasonably well within its frame.

(3) Every basement hatchway shall be so constructed and maintained as to prevent the entrance of rodents, rain and surface drainage water into the structure.

(4) Every exit door shall be capable of being opened from the inside, easily and without the use of a key, in accordance with the Building Code.

(Ord. 962, passed 4-12-04) Penalty, see § 10.99

§ 98.10 COUNCIL FINDINGS.

The City Council finds that some property owners take little or no responsibility for the exterior maintenance of their property until the city, through its various inspections programs, has repeatedly ordered them to abate the exterior of their property of the conditions listed in this chapter. Such property owners create excessive costs for the city which are over and above the normal cost of providing inspection services city-wide. Property owners who must repeatedly be ordered to abate their property consume an unacceptable and disproportionate share of limited city resources. Therefore, it is the intent of the City Council, by the adoption of this section, to impose and collect a user fee to defray costs associated with the excessive consumption of city exterior inspection services.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EXTERIOR INSPECTION CYCLE. An enforcement officer has conducted an exterior property area inspection based upon a complaint or otherwise had occasion to view the exterior property area and observed a violation of this chapter, issued an order to abate the violation and reinspected the exterior property area to determine compliance with the abatement order.

EXTERIOR INSPECTION SERVICES FEE. The fee to be imposed for exterior property area inspection services deemed excessive. The fee shall be based upon the number of inspections performed and shall include but not be limited to the pro rata salaries of the enforcement officer performing exterior

inspections of the subject property, the pro rata cost of equipment, materials and all other overhead costs used during inspection cycles of the subject property and the costs of any medical treatment of enforcement officers injured as a result of these inspections.

(B) *Initial exterior inspection by enforcement officer.* When an enforcement officer conducts an initial inspection of an exterior property area and determines that violations of this chapter exist, the enforcement officer shall, in addition to any other action the enforcement officer may undertake, serve written notice of the violation in conformance with the requirements set forth in § 92.06(A)(1). The initial notice must contain a notice of warning informing the owner that subsequent exterior property area inspections at that same location within the next consecutive 12 months may be deemed an excessive consumption of exterior inspection services and that the owner may be liable for an exterior inspection services fee.

(C) *Excessive consumption of exterior inspection services, fee and liability.*

(1) The city shall be entitled to collect its costs of enforcement from a property owner who consumes excessive exterior inspection services. An excessive consumption of exterior inspection services occurs at each element of an exterior inspection cycle beginning after:

(a) Written notice of a violation is served under division (B) following an initial inspection; and

(b) Two additional exterior inspection cycles are performed at the same location within a period of 365 days after the initial inspection; and

(c) During each of the two additional exterior inspection cycles under division (C)(1)(b) of this section, the enforcement officer finds violations of this chapter which are either new violations or violations based upon failure to correct previous violations.

(2) The fee for the third additional inspection cycle shall be \$400. The fee for each inspection cycle thereafter shall be \$200.

(3) Multiple owners of a property who have received a notice of warning shall be jointly and severally liable for the excessive consumption of exterior inspection services fee. Receipt of notice by one multiple owner of a property shall be considered receipt by all owners.

(4) The amount of the excessive consumption of exterior inspection services fee shall be a debt owed to the city by the responsible person or persons.

(5) Action under this section does not preclude any other civil or criminal enforcement procedure.

(6) A new owner who has duly recorded the instrument of conveyance for the subject property with the Nobles County Recorder shall not be liable for any excessive consumption fees arising from inspection services provided to the previous owner of the subject property.

(D) *Cost; collection.* The enforcement officer shall notify the City Finance Department in writing of the excessive consumption of exterior inspection services fee, of the name and address of the owner, the dates of the inspections giving rise to the excessive consumption of exterior inspection services fee, the violations observed and the amount of the excessive consumption of exterior inspection services fee. The City Finance Department shall thereafter cause appropriate billings to be made and be responsible for the collection of the excessive consumption of exterior inspection services fee.
(Ord. 962, passed 4-12-04)

§ 98.11 STRUCTURES UNFIT FOR HUMAN HABITATION.

(A) *Action to condemn.* Whenever an enforcement officer finds that any dwelling unit or residential structure constitutes a hazard to the health, safety or welfare of the occupants or to the public because of violations of any provision of the this code or any statute, rule or regulation of any governmental agency but which structure does not constitute a dangerous structure, in addition to invoking any other civil or criminal penalties for which provision is made in this code or any other statute, rule or regulation of any governmental body, the officer may take action to condemn the unit or structure as being unfit for human habitation. A material endangerment violation set forth in division (F) may be grounds for declaring a structure unfit for human habitation.

(B) *Placard as unfit for human habitation.* Any residential structure or unit ordered vacated or condemned as unfit for human habitation shall be posted with a placard by the enforcement officer. The placard shall include the following:

- (1) Name of city;
- (2) Name of the authorized department having jurisdiction;
- (3) Chapter and section of the ordinance under which it is issued;
- (4) Date on which the residential structure or unit must be vacated;
- (5) Statement that the residential structure or unit, when vacated, must remain vacant until the provisions of the order are complied with and the order to vacate is withdrawn;
- (6) Date that the placard is posted; and
- (7) Statement of the penalty for defacing or unauthorized removal of the placard.

(C) *Defacement and unauthorized removal of placard.* No person shall deface or remove the placard from any structure which has been condemned and placarded as unfit for human habitation. The placard may be removed only by or at the direction of the enforcement officer. Defacement of a placard or unauthorized removal of a placard shall be a misdemeanor punishable in accordance with § 10.99.

(D) *Service of notice.* The enforcement officer shall serve a written notice upon the owner of the premises informing the owner of the requirement to vacate the residential structure or unit within 24 hours of posting the placard. Service of the notice shall be by delivery to the owner personally or by leaving the notice at the owner's usual place of abode or with a person of suitable age and discretion or by depositing in the U.S. Post Office the notice, addressed to the owner at the last known address with postage prepaid.

(E) *Vacation of structure or unit.*

(1) Any residential structure or residential unit which has been condemned or placarded as unfit for human habitation shall be vacated within the time set forth in the placard and/or order. No person shall occupy or let for occupancy any dwelling unit which is condemned as unfit for human habitation.

(2) For the purpose of this section, **OCCUPANCY** shall be defined as any physical acts of possession, including dwelling, living, eating, sleeping, residing or conducting household affairs in a structure as a domicile or residence, primary or otherwise.

(F) *Material endangerment violations.* The following violations may constitute material endangerment if in combination or alone the conditions are substantial and expose the occupants or the public to danger or peril:

(1) *Lacking maintenance; dilapidation.* Whenever the structure or any portion thereof, because of dilapidation, deterioration or decay, faulty construction, the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building, the deterioration, decay or inadequacy of its foundation or any other cause, is likely to partially or completely collapse or whenever any portion or member or appurtenance thereof is likely to fall or to become detached or dislodged or to collapse and thereby injure persons or damage property or whenever the building has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated as to become an attractive nuisance to children, become a harborage for rodents, insects and vermin, become a harbor for vagrants or criminals or enable persons to resort thereto for the purpose of committing unlawful acts;

(2) *Fire hazard.* Whenever the structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits or access to exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus or other cause, is determined by the enforcement officer to be a fire hazard;

(3) *Unsanitary conditions.* Whenever the residential structure, structure or dwelling unit, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, unclean fixtures, accumulation of garbage, refuse or combustibles or otherwise, is determined by the enforcement officer to be unsanitary, unfit for human habitation or in such an unsound condition that it is likely to cause or harbor sickness or disease;

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(4) *Insect, rodent or other pests.* Whenever the residential structure or dwelling unit has a substantial or severe insect, rodent or other pest infestation, rodent burrows, open sewage systems or lacks approved rodent-proofing of the structure;

(5) *Lack of basic facilities.* Whenever the residential structure or structure lacks water, hot water, approved electrical, heating or sewage disposal systems or where the existing systems are unsafe for continued operation; and

(6) *Violations of other requirements.* Whenever any residential structure or structure or any part thereof is:

(a) Constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such residential structure or structure provided by the State Building Code; or

(b) Is erected, altered or occupied contrary to law.

(G) *Dangerous conditions.* Whenever, in the opinion of the enforcement officer, any condition exists which is so dangerous to the safety or health of the occupants or the public as to justify condemnation of the residential structure or structure as unfit for human habitation, such structure shall be deemed an unlawful structure and the enforcement officer may cause such dwelling to be vacated. (Ord. 962, passed 4-12-04) Penalty, see § 10.99

§ 98.12 STAY OF ENFORCEMENT; PENALTY.

(A) *Voluntary vacation of premises.* No penalty shall be imposed upon any owner who serves written notice upon the Legislative Hearing Officer stating an intent to permanently vacate the premises within 30 days. Written notice must be filed with the Hearing Officer within ten days from the date on which the placard was placed on the property and shall include proof that notice of eviction was served upon the occupants of the condemned premises.

(B) *Stay pending appeal.* Enforcement proceedings or orders to correct violations shall be held in abeyance if the owner shall file an appeal to the Legislative Hearing Officer within ten days of receiving the written order issued by the enforcement officer, except in the case of an order to vacate a structure which is deemed to be in an unsafe condition and dangerous to life or limb, the enforcement officer shall proceed to order the building vacated until it is made safe or a final determination is made by the Legislative Hearing Officer allowing re-occupancy of the building. Abeyance of enforcement proceedings shall continue until such time as the Hearing Officer shall have issued a final determination or in the event the owner should not prosecute the appeal in a timely fashion.

(C) *Procedure on appeal.* An appeal from an order of an enforcement officer shall proceed in accordance with the provisions of Chapter 31.

(D) *Summary enforcement.* In cases where the delay required to complete the notice and procedure requirements set forth in divisions (A) or (B) will permit a violation of this chapter to unreasonably endanger public health, safety or welfare, the City Council may order summary enforcement of the provisions of this chapter. To proceed with summary enforcement, the officer charged with enforcement shall determine that a violation exists or is being maintained on premises in the city and that delay in a cure of the violation will unreasonably endanger public health, safety or welfare. The enforcement officer shall notify, in writing, the occupant or owner of the premises of the nature of the violation and of the city's intention to seek summary enforcement and the time and place of the Council meeting at which the question of summary enforcement will be considered. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a violation, whether public health, safety or welfare will be unreasonably endangered by delay required to complete the procedure set forth in this section and may order that such violation be immediately cured. If the nuisance is not immediately cured, the City Council may order summary enforcement and take such action as is required to cure the violation.

(E) *Extension of time to cure violation.* If no appeal is made by the property owner or occupant or person claimed to be responsible for permitting a violation of this chapter to exist, the enforcement officer on request by the property owner or occupant or person claimed to be responsible for permitting a violation to exist may agree to extend the time period during which the owner, occupant or responsible person has to cure the violation. The extension of time shall be for a reasonable period. A refusal by the enforcement officer to extend the time period in which the owner, occupant or responsible person can cure the violation is not appealable.

(F) *Cure of violation by city.* If the owner or occupant does not cure the violation during the time period as set by the enforcement officer, whether as originally set or as extended or by the Legislative Hearing Officer after appeal, the city shall have the right to cure the violation. For the purpose of curing the violation, the city shall have the right to enter on the property where the violation exists to do what is necessary to cure the violation. By failing to cure the violation within any time period set the owner or occupant shall be considered to have consented to such entry.

(G) *Recovery of cost.* The owner of premises on which a violation has been cured by the city shall be personally liable for the cost to the city for the curing of the violation, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk or other official designated by the Council shall prepare a bill for the cost and mail it to the owner by first class mail. Thereupon the amount shall be immediately due and payable at the office of the City Clerk. Where the responsible party is the property owner, if all or any portion of the cost of curing the violation remains unpaid after 30 days, the portion thereof that remains unpaid constitutes a lien on the property that was the subject of the curative procedures. The City Clerk or other official designated by the Council is authorized to file a notice of lien with the County Recorder's office.

(Ord. 962, passed 4-12-04) Penalty, see § 10.99

§ 98.13 CONFLICT WITH OTHER ORDINANCES.

In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance, chapter or code of this city, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

(Ord. 962, passed 4-12-04)

§ 98.14 ADMINISTRATIVE LIABILITY.

No officer, agent or employee of the city shall be rendered personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of their duties under this chapter. No person who institutes or assists in the prosecution of a criminal proceeding under this code shall be liable in damages therefor unless they have acted with actual malice and without reasonable grounds for believing that the person accused or prosecuted was guilty of an unlawful act or omission. Any suit brought against any officer, agent or employee of the city as a result of any act required or permitted in the discharge of their duties under this chapter shall be defended by the City Attorney until the final determination of the proceedings therein.

(Ord. 962, passed 4-12-04)

§ 98.15 [RESERVED.]**§ 98.16 [RESERVED.]****§ 98.17 VIOLATION A PUBLIC NUISANCE.**

If the violation constitutes a public nuisance as such term is defined by Minnesota State Statute or Chapter 92, the enforcement officer may seek to abate the nuisance in accordance with the provisions of Chapter 92.

(Ord. 962, passed 4-12-04) Penalty, see § 10.99

§ 98.18 PRIVATE CAUSE OF ACTION.

Any person who has been damaged by a violation of any provision of this chapter shall have a private civil cause of action against the violator which may be brought in State District Court in the manner provided by law. Any action brought under this section shall be tried to the court. The court shall hear the evidence and if the case is proven by a preponderance of the evidence the court shall issue an order for appropriate relief, which may include an award of monetary damages, injunctive relief or

other remedies which the court believes will effectuate the purpose of this chapter or of any other chapter of this code. If the court finds that the person bringing the action prevails, the court shall award the person costs, disbursements and a reasonable attorney's fee for pursuing the action.
(Ord. 962, passed 4-12-04)

§ 98.19 [RESERVED.]

§ 98.20 CERTAIN NUISANCE DWELLINGS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DWELLING. Any one-family rental dwelling or multiple-unit dwelling. **DWELLING** includes both the building or structure and the land upon which it is located.

ENFORCEMENT OFFICER. The Neighborhood Services Officer and any inspector under his or her supervision and control and also includes any city officer or employee charged with responsibility for the enforcement of a safety code.

NUISANCE DWELLING. Any dwelling which has been found, upon inspection by the Neighborhood Services Officer, to be in violation of any provision of any applicable safety code on three separate dates in any 12-month period.

OWNER. The person, firm, corporation or other entity listed in the records on file in the Recorder's office as holding fee title to the dwelling or if not so listed, then as a purchaser by contract for deed. If no such person is so listed, the **OWNER** for the purpose of this section shall be any adult occupant of the dwelling.

RECORDER'S OFFICE. The Recorder's office is the Nobles County Recorder's office and any successor agency or department thereof.

SAFETY CODE. Any fire, housing, health, safety or other similar code, law and ordinance, promulgated or enacted by the United States, the State of Minnesota, the County of Nobles and the City of Worthington or any lawful agency or department thereof, which are applicable to a dwelling in such city.

SUBSTANTIAL VIOLATION OF A SAFETY CODE. A substantial violation of a safety code is one which presents a distinct hazard to the public health, welfare or safety of persons or property.

(B) *Consent to inspection.* If a dwelling is found to have a substantial violation of a safety code subsequent to date of such finding, the owner and occupant of the dwelling shall be deemed to consent

to additional inspections of the property by the Neighborhood Services Officer or other enforcement officer during the 12-month period from after the date of the first substantial violation of a safety code. Such inspections shall be made at reasonable times.

(C) *Registration of a nuisance dwelling.*

(1) *Registration.* Any dwelling meeting the definition of a nuisance dwelling shall be deemed, on the date of the third inspection in such 12-month period, to be registered as a nuisance dwelling and subject to the additional provisions of this chapter, including the payment of a registration fee. Such registration shall remain in effect for a 12-month period beginning on the date of registration as a nuisance building.

(2) *Additional requirements.* Any dwelling deemed registered as provided in division (C)(1) shall not be occupied until it has a certificate that is fit for occupancy issued by the Neighborhood Services Officer or other appropriate authority. Failure to have such a certificate issued within 12 months from the date of registration shall subject such dwelling and its owner to all enforcement and remedial measures which may be applicable under law or ordinance.

(D) *Multiple dwellings.* If the owner of a registered nuisance dwelling also owns other dwellings in the city, each other dwelling so owned shall be deemed to be a nuisance dwelling and registered as such on the same date as the first but only if such building has, within the same 12-month period, been found upon inspection to be in violation of any applicable safety code. The owner of a registered nuisance dwelling shall be deemed to have consented to inspections of other buildings owned by the owner by allowing one dwelling to become a registered nuisance dwelling. All of such dwellings which are deemed to be additional nuisance dwellings shall be subject to all of the provisions of this chapter and to the payment of a separate registration fee for each. Such additional registrations shall also remain in effect for a 12-month period as provided in division (C). The additional requirements in division (C)(2) above shall also apply to such other dwellings as are deemed under this section to be nuisance dwellings.

(E) *Registration fee.*

(1) *Initial payment.* The owner of a nuisance dwelling shall be obligated to pay \$250 to the city, payable within 15 days following the date of mailing of written notice to the last known address of the owner that such dwelling is a nuisance. Failure to do so shall be a misdemeanor.

(2) *Recover actual costs.* The fee shall be used for recovery of the city's actual costs in enforcement of this chapter. The Neighborhood Services Officer or other appropriate officer of the city shall from time to time determine whether such fee fully reimburses the city for its costs in responding to complaints, costs of inspections and administration, as well as costs of enforcement including inspectors and attorneys, for the period of time covering the three violations and the succeeding 12-month period of registration as a nuisance dwelling.

(3) *Additional fee for multiple dwellings.* An additional \$250 fee shall be paid by the owner of a nuisance dwelling for each other dwelling owned by such owner which has, within the same 12-month period, been found upon inspection to be in violation of any applicable safety code. Such sums shall be used by the city to pay for inspections of such other dwellings together with the legal, administrative and other enforcement costs incurred by the city in so doing.

(F) *Violations during period of registration.*

(1) *Continuance of registration.* If the Neighborhood Services Officer or other enforcement officer finds, upon one or more inspections, that any registered nuisance dwelling has one or more violations of a safety code, the registration shall be continued for an additional consecutive 12-month period of registration and the owner shall pay an additional \$250 registration fee as provided in division (E) above.

(2) *Nuisance abatement procedures.* If the enforcement officer finds, upon one or more inspections, that any registered nuisance dwelling:

- (a) Has one or more substantial violations of a safety code;
- (b) While registered has a documented and confirmed history as a blighting influence on the community;
- (c) Has persistent and continuous violations of the provisions of any applicable safety code, even though not substantial; or
- (d) During the second 12-month period of registration, has any violation of a safety code; then such dwelling may be:
 - 1. Deemed to be a nuisance under Chapter 92 and subject to all enforcement and abatement procedures provided thereunder; and
 - 2. Subject to all enforcement and remedial measures which may be applicable under law or ordinance, including acquisition by eminent domain to the extent authorized by law.

(G) *No violations during period of registration.* If the Neighborhood Services Officer or other enforcement officer does not find, during any 12-month period of registration as a nuisance dwelling, any violations of a safety code, then the dwelling shall no longer be deemed to be registered at the end of such 12-month period.

(H) *Public list.* The enforcement officer shall maintain a current list, updated weekly, of the addresses of all registered nuisance dwellings, together with, if available, the name of the owner thereof and the owner's address and telephone number. Such list shall be public information as and to the extent provided by law.

(I) *Alternative procedures.* Nothing in this section shall be deemed to supersede, amend or modify any other provision of this code or any safety code. This section is supplementary and in aid of existing law and is not intended to provide an exclusive remedy.

(Ord. 962, passed 4-12-04) Penalty, see § 10.99