

## TITLE XV: LAND USAGE

### CHAPTER 157: STRUCTURE MAINTENANCE CODE FOR RENTAL RESIDENTIAL PROPERTIES

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#### ***Cross-reference:***

*International Property Maintenance Code, see Ch. 156*

#### **§ 157.01 SHORT TITLE.**

This chapter may be cited as the City of Hastings Structure Maintenance Code, or the Structure Code. (Prior code, § 17.01)

#### **§ 157.02 POLICY, PURPOSE, INTENT.**

(A) *Policy.* It is the policy of the city to enhance the supply of safe, sanitary and adequate structures for its citizens and to prevent the deterioration of the existing structures of the city.

(B) *Purpose.* The purpose of this chapter is to carry out the policy stated in Section 2.1 by establishing minimum standards, and procedures for their enforcement consistent with the right to personal privacy, for the protection of life, limb, health, property, safety and welfare of the general public and the owners and occupants of residential buildings.

(C) *Objectives.* The objectives of this chapter include, but are not limited to, the following:

(1) Protection and preservation of the stability and character of residential areas in the city.

(2) The prevention and correction of structure conditions that adversely affect the life, safety, health and general well-being of persons occupying dwellings in the city.

(3) The establishment of minimum standards for light, ventilation, cooling, heating and sanitary equipment necessary to insure the health and safety of occupants of rental dwellings.

(4) The establishment of minimum standards for the maintenance of rental residential dwellings.

(5) The prevention of the emergence of blighted and deteriorating structures in the city.

(6) The prevention of overcrowding of rental dwellings.

(7) The preservation of the value of land and structures in the city.

(D) *Intent, relation to the provisions of city code.* The City Council intends that the Structure Code be an integral part of the city's program of health, safety, building and land use regulation. This chapter is to be construed liberally in conjunction with other provisions of the City Code to give effect to the policy, purpose and objectives of this section, but is not to be construed to modify, amend or otherwise alter the provisions of the city code relating to health, safety, structure, or land use regulation. (Prior code, § 17.02)

### **§ 157.03 ADOPTION OF 2006 INTERNATIONAL PROPERTY MAINTENANCE CODE BY REFERENCE.**

(A) *Code adopted.* The 2006 International Property Maintenance Code, published by International Code Council, Inc., except as modified or amended herein, is adopted by reference and is made a part of this code as if fully set out at length.

(B) *Copy on file.* One copy of the 2006 International Property Maintenance Code will be kept on file in the office of the City Clerk and available for public inspection at reasonable times. (Prior code, § 17.03)

### **§ 157.04 DEFINITIONS.**

(A) *General.* For purposes of this chapter the terms defined in this section have the following meanings given them.

**BUILDING CODE** means Chapter 50 and 150 of the city code.

**CITY CODE** means the Hastings City Code.

**CODE** or **THIS CODE** means the Structure Maintenance Code.

**HOUSING OFFICIAL** means the Supervisor of Inspections and Code Enforcement - the Building Official, and their designees.

**COMMON AREAS** means halls, corridors, passageways, utility rooms, recreational rooms and extensive landscaped areas, not under the exclusive control of 1 person or family, in or adjacent to a multiple dwelling.

**DWELLING** means a building or a portion of a building designed for residential occupancy: The term includes single-family, 2-family and multiple-family apartments, condominiums, hotels, motels and Bed and Breakfasts.

**DWELLING UNIT** means:

- (1) A single-family dwelling; and
- (2) A discrete portion of a dwelling designed for occupancy by 1 family.

**HOUSING OFFICIAL** means Supervisor of Inspections and Code Enforcement or designee.

**IMMEDIATE FAMILY** means close relatives by birth or marriage including siblings, parents, children, in-laws and any financial dependants.

**OPERATOR** means Building Manager or owner representative charged with the maintenance or operation of the building.

**OWNER, OWNER-OPERATOR** or **OPERATOR** means any person, firm or corporation who alone, jointly, or separately with others is in actual possession of or has charge, care or control of a dwelling or dwelling unit or structure in the city as owner, employee or agent of the owner or as trustee or guardian of the estate or the person is the title holder, and such person is bound by the provision of this code to the same extent as the owner.

**RENTAL RESIDENTIAL PROPERTY** means an occupied single- or multi-family rental dwelling or dwelling unit that is let to a party other than the registered owner of the property.

**REPAIR** means to restore to a sound acceptable state of operation, serviceability or appearance.

**REPLACE** means to remove an existing item or portion of a system and to construct or install a new item of similar or new quality as an existing item when new when repair of the item is impractical.

**STRUCTURE** means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

**ZONING ORDINANCE** means the Chapter 155 of the city code.

(A) *Relation to other code definitions.* Except as expressly provided in this code, the words, terms

and phrases as used in this code have the meanings given them by the City Code. In cases where conflicting definitions of a word, term or phrase make its precise meaning unclear in its application to particular facts, the City Administrator shall resolve the conflict. (Prior code, § 17.04) (Am. Ord. 2009-09, 3rd Series, passed 9-8-2009) (Ord. No 2014-11 3rd Series, Adopted 5-19-14)

## **§ 157.05 APPLICATION.**

(A) *General.* This code applies to rental residential properties including: structures, their premises, accessory structures thereto, and dwelling units therein, used or designed to be used for human habitation or storage.

(B) *Existing structures.*

(1) A building lawfully existing under the Minnesota State Building Code must conform to this code. A building need not be altered or changed to exceed the requirements of the Minnesota State Building Code in effect at the time of its construction, except in the following cases:

(a) If the structure is altered or enlarged pursuant to Minnesota State Building Code;

(b) If the structure is moved or relocated; or

(c) If the structure is determined to be unsafe or hazardous by the Building Official pursuant to the Minnesota State Building Code, 2006 International Property Maintenance Code or state law.

(2) Occupancy in structures lawfully existing under the Building Code may be continued under this code. (Prior code, § 17.05)

## **§ 157.06 DUTIES OF OWNERS AND OCCUPANTS.**

(A) *Sanitation.* The occupant of a dwelling or dwelling unit must maintain in a clean and sanitary condition that part of the dwelling, dwelling unit and yard that the occupant occupies and controls; and is responsible for the occupant's own misuse of areas and facilities available in common. The owner or operator of a 2-family dwelling or multiple dwelling must maintain in a clean and sanitary condition the shared or public areas of the dwelling and yard. The occupant of a dwelling unit must keep all mechanical equipment and appliances, including furnace, water heater, plumbing fixtures, air conditioner, stove, refrigerator, dishwasher and the like in a clean and sanitary condition and is responsible for the exercise of reasonable care in their proper use and operation.

(B) *Removal of waste matter.* The occupant of a dwelling unit must dispose of rubbish, ashes, garbage and other organic waste in a clean and sanitary manner as required in the city code. The owner or operator of a multiple dwelling is responsible for the clean and sanitary maintenance of common storage or disposal facilities and must dispose of rubbish in a clean and sanitary manner as required in the city code.

(C) *Pest extermination.* The occupant or owner of a single dwelling unit is responsible for the extermination of vermin infestations or rodents on the premises. The occupant or owner of a dwelling unit in a building containing more than 1 dwelling unit is responsible for such extermination when the dwelling unit is infested. When infestation is caused by the failure of the owner or operator to maintain a building containing dwelling units in a reasonable rodent-resistant or reasonably vermin-resistant condition, pest extermination is the responsibility of the owner or operator. After extermination it is the responsibility of the owner or operator, to provide evidence that the infestation has been eliminated and steps have been taken to prevent a reoccurrence as designated by appropriate city officials. If infestation exists in 2 or more dwelling units in any dwelling, or in the shared or public parts of any dwelling containing 2 or more dwelling units, pest extermination is the responsibility of the owner or operator.

(D) *Heat.* The owner or operator of a building containing 2 or more dwelling units must supply facilities capable of providing adequate heat to every habitable room therein. For the purposes of subdivision **ADEQUATE HEAT** means heat sufficient to maintain a temperature of 68 degrees Fahrenheit at a height of 3 feet above the floor in all habitable rooms, bathrooms and water closet compartments.

(E) *Utilities.* Except as otherwise provided by law, an owner, operator or occupant may not cause service equipment or utility service that is required by this code to be removed, shut off or discontinued for any occupied dwelling let or occupied by that person, except for such temporary interruption as may be necessary while actual repairs or alterations are in process or during temporary emergencies.

(F) *Transfer of responsibility.* A contract between owner and operator, operator and occupant, or owner and occupant, with regard to compliance with this code, does not relieve the owner or operator of a duty imposed by this chapter.

(G) *Notice of maximum occupancy.* An owner or operator must advise the occupant, in writing, by insertion in the lease between the parties or otherwise, the maximum number of occupants permitted in occupied premises subject to this code. (Prior code, § 17.06)

## **§ 157.07 ADMINISTRATION; ENFORCEMENT; INSPECTION.**

(A) *Administration and enforcement.* The Building Official is responsible for the administration and enforcement of this chapter.

(B) *Compliance.* When the Housing Official determines that there exists in a building or a portion thereof conditions that constitute a violation of this code, the Housing Official may begin enforcement procedures. (Prior code, § 17.07)

## § 157.08 LICENSING OF RENTAL UNITS.

(A) *General rule.* Owners of rental dwelling units shall be required to obtain a license. The license is issued every year and expires on July 31 each year. License renewal notices will be sent via U.S. Mail 60 days prior to the expiration date. Penalties for late payment will be added as outlined in Section 110.19 of the Hastings City Code. Site inspections are performed initially, then every two years from then on. Exempt: Rental dwelling units housing immediate family members.

(B) *Application.* This section is intended to provide standards for licensed rental housing and to allow resolution of complaints regarding licensed rental housing. All rental dwellings shall conform to the requirements of this section, without regard to when it was constructed, altered or repaired. This section establishes minimum standards for maintaining rental dwellings and their accessory structures and related premises.

(C) *License fees.* Owners of rental dwellings shall pay an annual license fee. License fees are due by July 31 of each year. License fees are due upon occupancy of newly rented dwelling units. License fees are set by ordinance adopted from time to time by the Hastings City Council.

(D) *Conditions.* A license is non-transferable. The license fee is not refundable upon revocation or suspension. The license fee is refundable prorated monthly, upon proof of transfer of legal control or ownership.

(E) *Licensing phase-in policy.* Commencing on April 1, 1998, initial licensing inspection will begin according to inspection areas established by the Housing Official.

(F) *Application information.* Applications for a license or renewal of a license must be made by the owner of a rental dwelling. Application forms are filed with the Housing Official. The application form must supply:

(1) Name, address and telephone number of dwelling owner, partners if partnership, corporate officers if corporation;

(2) Name, address and telephone number of designated operator or agent, if any;

(3) Name, address and telephone number of vendee, if the dwelling is being sold through a contract for deed;

(4) Legal address and parcel identification number;

(5) Number of dwelling or rental units;

(6) Description of procedure by which tenant inquiries and complaints are to be processed.

(G) *Notice of change.* The licensee must give notice in writing to the Housing Official within five business days after any change of information in the application. Notice of transfer of ownership is governed by division (L).

(H) *Resident agent required.* An operating license will not be issued or renewed for a non-resident owner of rental dwelling units (an owner who does not reside in any of the following Minnesota Counties: Hennepin, Ramsey, Anoka, Carver, Dakota, Goodhue, Scott or Washington) unless the owner designates in writing the name of a resident agent or operator (an agent who does reside in 1 of the aforementioned counties) who is:

(1) Responsible for maintenance and upkeep;

(2) Legally constituted and empowered to receive service of notice of violation of the provisions of city ordinances, to receive orders and to institute remedial action to effect such orders; and

(3) To accept service or process pursuant to law. The Housing Official must be notified in writing by the owner of a change of resident agent.

(I) *Conformance to laws.* An operating license will not be issued or renewed unless the rental unit and its premises conform to this section, the ordinances of the city and laws of the State of Minnesota.

(J) *Inspection condition.* An operating license will not be issued or renewed unless the owner of the rental unit agrees in the application to permit inspection pursuant to § 157.09.

(K) *Posting of license.* The licensee of a building containing three or more dwelling units must conspicuously post the current license in the main entry way or other conspicuous location in a frame with a glass or plastic cover.

(L) *Transfer.* The licensee must give notice in writing to the Housing Official within 5 business days after having legally transferred or otherwise disposed of the effective control of licensed rental property. The notice must include the name and address of the person succeeding to the ownership or control of the rental dwelling or dwellings.

(M) *License, suspension and revocation.* An operating license is subject to suspension or revocation by the Housing Official or designee if the licensed owner fails to operate or maintain licensed rental dwellings and units therein consistent with this chapter. Suspension or revocation of an operating license may be appealed pursuant to provisions of § 157.14. If an operating license is suspended or revoked by the staff, it is unlawful for the owner to permit new occupancy of vacant rental units until a valid operating license is issued by the city. (Prior code, § 17.08) (Ord. 423, passed 12-15-1997; Am. Ord. 2009-09, 3rd Series, passed 9-8-2009)

## **§ 157.09 ENFORCEMENT AUTHORITY.**

(A) *Inspection authority.* The Housing Official may inspect on complaint, change in ownership, or otherwise when reason exists to believe that a violation of this chapter has been or is being committed. Except in the case of emergency, inspections must be conducted during reasonable daylight hours. The Housing Official must present evidence of official authority to the occupant in charge of a rental dwelling unit.

(B) *Inspection access.* If an owner, occupant, or other person in charge of a dwelling unit licensed under this section fails or refuses to permit free access and entry for inspection purposes, the Housing Official may, upon a showing of probable cause, obtain orders from a court of competent jurisdiction for the inspection. (Prior Code, § 17.09)

## **§ 157.10 MINIMUM REQUIREMENTS; IMPLEMENTATION STANDARDS; POLICIES.**

(A) *Minimum requirements.* The minimum requirements imposed by this chapter include those standards or requirements in effect on the date of the construction of a building subject to this chapter. It is not the intention of this code to require all buildings to be upgraded to meet all requirements of the present Building Code.

(B) *Implementation standards.* In administering this code, the Housing Official will treat the following as conditions constituting an immediate hazard to health and safety:

(1) Heating systems, woodburning stove, fireplaces, oil burners and alike, that are unsafe due to: burned out or rusted heat exchanger (fire box); burned out or plugged flues; not being vented; being connected with unsafe gas supplies; or being incapable of adequately heating the living space;

(2) Water heaters that are unsafe due to: burned out or rusted out heat exchanger (fire box); burned out, rusted out, or plugged flues; not being vented; being connected with unsafe gas supplies; or lack of temperature and pressure relief valves;

(3) Electrical systems that are unsafe due to: dangerous overloading; damaged or deteriorated equipment; improperly tapped or spliced wiring; exposed uninsulated wires; distribution systems of extension cords or other temporary methods; ungrounded systems; ungrounded appliances in contact with earth;

(4) Plumbing systems that are unsanitary due to: leaking waste systems fixtures and traps; lack of water closet; lack of washing and bathing facilities; or cross connection of pure water supply with fixtures or sewage lines;

(5) Structural systems, walls, chimneys, ceilings, roofs, foundations and floor systems, that will not safely carry imposed loads;

(6) Refuse, garbage, human waste, decaying vermin or other dead animals, animal waste, other materials rendering it unsanitary for human occupancy, including lack of light and air;

(7) Infestation of rats, insects and other vermin.



(C) *Foundations, exterior walls and roof.* The foundation, exterior walls, and exterior roof shall be substantially water tight and protected against vermin and rodents and shall be kept in sound condition and repair. The foundation element shall adequately support the building at all points. Every exterior wall shall be free of deterioration, holes, breaks, loose or rotting boards or timbers, and any other condition which might admit rain or dampness to the interior portion of the walls or to the exterior spaces of the structure. The roof shall be tight and have no defects which admit rain, and roof drainage shall be adequate to prevent rain water from causing dampness in the walls. All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by paint or other protective covering or treatment.

(D) *Exterior doors and windows.* Every window, exterior door, and other exterior openings shall be substantially tight and shall be kept in sound condition and repair. Every window, other than a fixed window or storm window, shall be capable of being easily opened. Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction as to completely exclude rain, wind, vermin and rodents from entering the building. Garages attached or detached shall have a fully operational overhead door or barn-type doors. (Prior Code, § 17.10)

### **§ 157.11 REPORTING FORMS, RECORDS.**

The Housing Official must prepare forms and certificates necessary to carry out the provisions of this code. The Housing Official must design appropriate systems of accumulating or organizing and cataloging data relating to the condition, adequacy, and availability of rental residential housing in the city and must report on these matters from time to time to the City Council at its request. The Housing Official's report must also contain recommendations for modifications in the provisions of this chapter and its administration. (Prior Code, § 17.11)

### **§ 157.12 HAZARDOUS CONDITIONS, BUILT-IN DEFICIENCIES, PROCEDURE.**

(A) *Procedure.* If the Housing Official determines that there exists in a building a condition that constitutes an immediate hazard to the health and safety of its occupants, the Housing Official may:

- (1) Issue a compliance order requiring immediate compliance if the condition can reasonably be corrected;
- (2) Proceed against the building pursuant to applicable city code provisions and state laws relating to hazardous or unsafe structures; or
- (3) Recommend that the City Council proceed to correct the condition by abating it as a nuisance under M.S. § 429.101, as it may be amended from time to time, and this clause is to be construed as authorizing the imposition and billing of charges for the cost thereof and the assessment of unpaid charges against the property on which the building is located in the manner provided by M.S. § 429.101, as it may be amended from time to time.

(B) *Built in deficiencies.* It is determined that certain conditions within existing buildings, lawful at the time of the construction of the building, may not comply with the minimum requirements of this chapter. Such conditions are herein referred to as built-in deficiencies, and the Housing Official, in administering this chapter, must consider the following built-in deficiencies as being beyond reasonable correction:

(1) *Ceiling heights.* An existing habitable room with less than a 7-foot ceiling height.

(2) *Superficial floor area.* An existing habitable room with less than 70 square feet.

(3) *Natural light and ventilation.* An existing habitable room with window area less than 8% of the floor area provided, however, that in no case may the required area of light and ventilation be less than 5% of the floor area. (Prior Code, § 17.12)

### **§ 157.13 INSPECTIONS.**

(A) *Records.* Except in the case of emergency, inspections must be conducted during reasonable hours. The Housing Official must present evidence of authority to the owner or occupant in charge of a dwelling unit. Subject to the provisions of law, the Housing Official must keep evidence, exclusive of the inspection records, discovered or obtained in the course of an inspection confidential.

(B) *Unfit for human habitation.* A dwelling, dwelling unit or rooming unit or portion thereof that is damaged, decayed, dilapidated, unsanitary, unsafe, vermin- or rodent-infested or which lacks provision for basic illumination, ventilation or sanitary facilities to the extent that the defects create a hazard to the health, safety and welfare of the occupants or of the public may be declared unfit for human habitation. If a dwelling, dwelling unit, or rooming unit has been declared unfit for human habitation, the Housing Official must order the same vacated within a reasonable time and post a placard on same indicating that it is unfit for human habitation.

(C) *Correction.* It is unlawful for a dwelling, dwelling unit or rooming unit or portion thereof to be used for human habitation until defective conditions have been corrected and written approval has been issued by the Housing Official. It is unlawful to deface or remove the declaration placard from a dwelling, dwelling unit or rooming unit.

(D) *Secure unfit and vacated dwellings.* The owner of a dwelling, dwelling unit, or rooming unit that has been declared unfit for human habitation or that is otherwise vacant for a period of 60 days or more must make the same safe and secure so that it is not hazardous to the health, safety and welfare of the public and does not constitute a public nuisance. A vacant dwelling open at doors, windows, or wall opening, if unguarded, is deemed to be a hazard to the health, safety and welfare of the public and a public nuisance within the meaning of this section.

(E) *Hazardous building declaration.* If a dwelling has been declared unfit for human habitation and the owner has not remedied the defects within a prescribed reasonable time, the dwelling may be declared a hazardous building and may be removed, razed or corrected pursuant to the city code and provisions of M.S. Chapter 463, as it may be amended from time to time.

(F) *Compliance procedure order.* If the Housing Official determines that a rental dwelling, rental dwelling unit or rooming unit or portion thereof is in violation of an order of this chapter, the Housing Official may issue a compliance order setting forth the violations of such and ordering the owner/occupant, operator or agent to correct such violation. The compliance order must:

(1) Be in writing;

(2) Describe the location and nature of the violations of this section;

(3) Establish a reasonable time for the correction of the violation and notify the owner of appeal procedures;

(4) Be served upon the owner, owner's agent, or the occupant, as the case may be: the notice is deemed to be properly served upon owner or agent, or upon any such occupant, if a copy thereof is:

(a) Served upon the owner or agent; or

(b) Sent by registered mail to the owner or agent's last known address; or

(c) Upon failure to effect notice through division (F)(4)(a) or (F)(4)(b), service may be made pursuant to M.S. § 463.17, Subdivision 2, as it may be amended from time to time, which reads as follows:

“Service. This order shall be served upon the owner of record, or his agent if an agent is in charge of the building, and upon the occupying tenant, if there is one, and upon all lien holders of record, in the manner provided for service of a summons in a civil action. If the owner cannot be found, the order shall be served upon them by posting it at the main entrance to the building and by four weeks' publication in the official newspaper of the municipality if it has one, otherwise in a legal newspaper in the county;” or

(d) Pursuant to M.S. § 145A.04, as it may be amended from time to time.

(Prior Code, § 17.13)

## **§ 157.14 APPEALS; RIGHT OF APPEAL.**

(A) *Appeals.* Any person who may be aggrieved by a violation notice and or a compliance order to repair property shall have the right to appeal any action of the Building Official or designee to the Board of Appeals and Adjustment (City Council). The Board may support the violation as described by the Housing Official; void all violations; or, change any described violation by adding violations, removing violations or changing the order to repair as seen fit.

(B) *Appeals procedure.* Any property owner or property owner's agent that has been served with a violation notice and an order to repair under the provisions of this chapter that believes such orders are without just cause shall have the right to appeal the orders to the Board of Appeals and Adjustments within 30 days after receiving the order of repair. All appeals shall be made to the Building Official in writing with any information to substantiate the appeal. The appeal shall be considered by the Board under provisions established for consideration of appeals under § 30.02. (Prior Code, § 17.14)

#### **§ 157.15 RESTRICTIONS ON TRANSFER OF OWNERSHIP.**

It is unlawful for the owner of a dwelling, dwelling unit or rooming unit upon whom a Compliance Order has been served to sell, transfer, mortgage or lease or otherwise dispose the dwelling, dwelling unit, or rooming unit to another person until the compliance order has been complied with, unless the owner furnishes to the grantee, lessee or mortgagee a true copy of any notice of violation or compliance order and obtains and possesses a receipt of acknowledgment. A person obtaining an interest in the dwelling, dwelling unit or rooming unit who has received notice of the existence of a compliance order is bound by the order without further notice and is subject to the penalties and procedures provided by this chapter. (Prior Code, § 17.15)

#### **§ 157.99 PENALTY.**

(A) *General.* It is unlawful to erect, construct, enlarge, alter, repair, move, improve, equip, use, occupy or maintain any building or structure within the City contrary to the provisions of this chapter.

(B) *Non-compliance.* Failure to comply with a lawfully issued compliance order is a violation of this chapter.

(C) *Violation a misdemeanor.* Any person who shall violate any of the provisions of this chapter, or shall violate or fail to comply with any order made thereunder, shall separately for each and every violation and non-compliance, respectively, be guilty of a misdemeanor. The imposition of 1 penalty for any violation shall not excuse the violation or permit it to continue; and, all such persons shall be required to correct or remedy such violation or defects within reasonable time. When not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense. (Prior Code, § 17.99) (Ord. 365, 2nd Series, passed 11-28-1994; Res. 1-9-00, passed 1-18-2000)