



HOUSING ORDINANCE



**CHAPTER 33A-HOUSING:
RENTAL PROPERTY**

CHAPTER 33A HOUSING: RENTAL PROPERTY

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CHAPTER 33A HOUSING: RENTAL PROPERTY

33A.01 - PURPOSE AND SCOPE

- (a) Purpose. The purpose of this chapter is to provide minimum standards to safeguard life or limb, health, and public welfare by regulating and controlling the use and occupancy, maintenance and repair of all buildings and structures within the City of Winona used for the purpose of rental housing. The purpose of this chapter is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.
- (b) Scope. The provisions of this chapter shall apply to all buildings or portions thereof used, or designed or intended to be let for human habitation. Certified dwellings in existence at the time of adoption of this chapter may have their existing use or occupancy continued, if such use or occupancy was legal at the time of adoption of this chapter, provided such continued use is not dangerous to life, health, property or public welfare and are not found to be substandard as defined in this chapter.
- (c) Application to Existing Buildings. Additions, alterations or repairs, shall be done in compliance with the City of Winona Unified Development Code, Chapter 43, and the Building Code, Chapter 44, of this Code and the Minnesota State Building, Fire, Plumbing and Mechanical Codes, as well as the National Electric Code (NEC).
- (d) Exemptions. Exempt from this chapter shall be: nursing homes, hotels, motels, properties otherwise licensed for occupancy by the State of Minnesota, theme houses in a campus overlay, college and university owned dormitories and properties inspected by the Department of Housing and Urban Development.

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33A.02 - ENFORCEMENT

- (a) Authority. The building official is hereby authorized and directed to enforce or cause the enforcement of all of the provisions of this chapter. For such purposes, the building official or his/her designated representative shall have the powers of a law enforcement officer. The building official shall have the power to render interpretations of this chapter. Such interpretations shall be in conformity with the intent and purpose of this chapter.
- (b) Right of Entry. When it is necessary to make an inspection to enforce the provisions of this chapter, or when the Building Official or Building Inspector has reasonable cause to believe that there exists in a building or upon a premises a condition that is contrary to or in violation of this chapter, the Building Official or Building Inspector may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided that if such building or premises are occupied that credentials be presented to the occupant and entry requested. If such building or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is

refused, the Building Official or Building Inspector shall have recourse to the remedies provided by law to secure entry.

(c) **Responsibilities Defined.** Owners remain liable for violations of duties imposed by this chapter even though an obligation is also imposed on the occupants of the building, and even though the owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this chapter.

Buildings and structures and parts thereof shall be maintained in a safe and sanitary condition. The owner or the owner's designated agent shall be responsible for such maintenance. To determine compliance with this subsection, the building may be re-inspected.

Owners, in addition to being responsible for maintaining buildings in a sound structural condition, shall be responsible for keeping that part of the building or premises which the owner occupies or controls in a clean, sanitary and safe condition, including the shared or public areas in a building containing two or more dwelling units.

Owners shall, when required by this chapter, health laws or the Building Official, furnish and maintain such approved sanitary facilities as required, and shall furnish and maintain approved devices, equipment or facilities for the prevention of insect and rodent infestation, and when infestation has taken place, shall be responsible for any insects, rodents or other pests when such extermination is not specifically made the responsibility of the occupant by law or ruling.

Occupants of a dwelling unit, in addition to being responsible for keeping in a clean, sanitary and safe condition that part of the dwelling or dwelling unit or premises which they occupy and control, shall dispose of their recyclables, rubbish, garbage and other organic waste in a manner required by city ordinance.

Occupants shall, when required by this chapter or city ordinance furnish and maintain approved devices, equipment or facilities necessary to keep their premises safe and sanitary.

(d) **Substandard Buildings.** Buildings or portions thereof that are determined to be substandard as defined in this chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in this chapter.

(e) **Appeals.** Any person aggrieved by an order, requirement, decision or determination made by the Building Official or Building Inspector pursuant to this chapter may, within 10 days of the decision, appeal to the Board of Appeals in accordance with Section 22.24 of this Code.

(f) **Violations.** A violation of this chapter is a misdemeanor. Each day the property is in violation is a separate violation.

(g) **Inspection Access.** If an owner, occupant or other person in charge of a dwelling, dwelling unit or a multiple dwelling fails or refuses to permit free access

and entry to the structure or premises, or any part thereof, for an inspection authorized by this chapter, the Building Official or the Building Inspector may, upon a showing that probable cause exists for the inspection or for the issuance of an order directing compliance with the inspection requirements of this chapter with respect to such dwelling, dwelling unit or multiple dwelling, petition and obtain an order to inspect and/or search warrant from a court of competent jurisdiction.

33A.03 RENTAL HOUSING LICENSE

- (a) License Required, Application. Unless licensed by the State of Minnesota, all dwellings, dwelling units, roominghouses, rooming units, residential retreat centers, bed and breakfasts, and tourist homes must at all times have a valid rental housing license issued pursuant to this chapter upon such building or structure. The owner or manager of a structure, in which one or more dwelling units or rooming units are let or intended to be let, shall make application for a rental housing license prior to letting the unit, unless such unit is currently certified. An owner or manager of such structure shall not allow occupancy of such unit until the certification-inspection fee has been paid and a rental housing license has been issued. The issuance of a rental housing license for a building or structure is subject to a prior passing (in compliance with this chapter and applicable law) inspection by the Building Official, Building Inspector or such other personnel designated by the City Manager, provided, however, that following such inspection and any subsequent or follow-up inspections deemed necessary by the inspector to ensure compliance or correct deficiencies or violations, the Building Official or Building Inspector, or such other personnel designated by the City Manager, may, in his or her sole judgment and discretion based upon circumstances demonstrating that the building or structure will be brought timely into compliance with this chapter, issue a temporary rental housing license not exceeding 3 months in duration in order to bring the unit into compliance with this chapter.
- (b) Issuance. The Building Official or Building Inspector shall issue a rental housing license for each dwelling, dwelling unit or rooming unit or such other building or structure governed by this chapter, when upon inspection, the Building Official or Building Inspector finds such unit meets or exceeds the minimum requirements set forth by this chapter. Such license shall show the number of occupants for which the dwelling, dwelling unit or rooming unit is approved for and once issued shall remain valid until it expires under the terms of this chapter, or is suspended or revoked, or until such time as the Building official or Building Inspector determines that the dwelling, dwelling unit or rooming unit does not meet the minimum requirements set by this chapter.
- (c) Term, Renewals and Transfers. A rental housing license shall expire five (5) years after the date of issuance, unless sooner terminated as provided in this chapter. A passing inspection of all dwellings, dwelling units or rooming units, or such other building or structure governed by this chapter, shall be required prior to issuance of a rental housing license or any renewal thereof. If there is a change of ownership, the new owner shall apply for a transfer of the rental housing license on a form provided by the City within 60 days of the transfer of ownership. Failure to timely transfer a rental housing license following a change in ownership shall result in termination thereof. In the event of termination for

failure to timely transfer a license, a new application shall be required as provided in this chapter and the Building Official or Building Inspector may issue a temporary rental housing license not exceeding 3 months in duration in order to allow for processing of the application, any subsequent inspection as determined necessary by the Building Official or Building Inspector, and issuance of a new license. A new license fee shall also be paid prior to issuance of the new license.

- (d) Revocation. A Rental Housing License may be suspended or revoked as prescribed in section 51.02 of this Code.
- (e) Fees. A Rental Housing License-inspection fee as set forth in section 51.01 of the Winona City Code shall be paid prior to issuance of a rental housing license. If multiple re-inspections are required to achieve code compliance, a re-inspection fee may be charged to the property owner as determined by Section 51.01 of this Code.
- (f) Payment of Real Estate Taxes, Assessments and Other Municipal Charges. At the time of initial application and renewal of a rental housing license, the applicant/licensee shall provide evidence to the City that all unpaid or delinquent real estate taxes, assessments and municipal service charges on the subject real property are paid and are current for the applicable period. Rental housing licenses will not be issued or renewed if there are unpaid and delinquent municipal charges, assessments or prior years taxes owed on the subject real property, except as authorized by the City Council. During the license term, the applicant/licensee shall pay all real estate taxes, assessments and municipal charges on the subject real property as they become due and payable. Failure by an owner of a licensed property to continually pay all real estate taxes, assessments and municipal charges on the subject real property as they become due and payable throughout the term of the license constitutes grounds for revocation or suspension of the rental housing license.
- (g) Additional Inspection. The Building Official or Building Inspector shall inspect a unit upon receiving a legitimate complaint from a complainant willing to leave their name and address; anonymous complaints shall not be handled. Complainant data shall be kept pursuant to the Minnesota Government Data Practices Act, Minn. Stat. c.13. Upon inspection and finding a violation the inspector shall notify the owner, manager or tenant in writing to correct the violation. Failure to timely correct any noticed violations shall result in enforcement pursuant to this chapter. The owner or manager may request an advisory inspection of a unit.
- (h) Prohibited Acts. Whoever does any of the following shall be guilty of a misdemeanor.
 - (i) No License. Allows occupancy of a dwelling unit or rooming unit prior to the issuance of a rental housing license and payment of the license inspection fee.
 - (ii) Over Occupancy. Permits a dwelling unit or rooming unit to be occupied by more persons than the dwelling unit or rooming unit or such other building or structure governed by this chapter is certified for.

- (iii) Occupying Vacated Unit. Occupies or allows occupancy of a unit or such other building or structure governed by this chapter that was posted and ordered vacated.
- (iv) Occupying Uncertified Bedrooms. Occupies or allows occupancy of a room as a bedroom that is not certified as a bedroom and does not qualify as a bedroom.
- (v) Inspections. Fails to allow timely inspection of a licensed dwelling unit or rooming unit, or such other building or structure governed by this chapter.
- (i) Limitation of rental housing in low density neighborhoods. In R-R, R-S, R-1, R-1.5 and R-2 districts of the city, no more than 30 percent (rounded up) of the lots on any block shall be eligible to obtain certification as a rental property. This shall include homes in which roomers and/or boarders are taken in by a resident family. This shall not include Bed and Breakfasts and Owner-Occupied Tourist Homes.

A block is defined as a group of properties bounded entirely by streets, public land, railroad rights of way, zoning district lines, corporate limit lines, or physical features such as rivers, outcroppings, ponds or lakes; provided that final delineation of a block shall be made by City staff. When determining the number of eligible properties on a block, the number shall be the lowest number that results in 30 percent or more of the residential lots being rental. The following table indicates how many lots are able to be certified as rentals based on the number of lots that exist on a block.

Lots	Rental	Lots	Rental	Lots	Rental	Lots	Rental	Lots	Rental
1-3	1	21-23	7	41-43	13	61-63	19	81-83	25
4-6	2	24-26	8	44-46	14	64-66	20	84-86	26
7-10	3	27-30	9	47-50	15	67-70	21	87-90	27
11-13	4	31-33	10	51-53	16	71-73	22	91-93	28
14-16	5	34-36	11	54-56	17	74-76	23	94-96	29
17-20	6	37-40	12	57-60	18	77-80	24	97-100	30

In cases in which one portion of the block is in an affected zone and another is in an exempt zone, only the affected portion is subject to this regulation.

- (i) Exceptions. This limitation shall not apply to state licensed residential facilities nor to rental properties which are validly licensed as of the date of adoption of this ordinance. The latter will be counted among the 30 percent of allowable rental houses for purposes of determining whether new licenses may be issued.
- (ii) Exempt Districts. Property located within the following zoning districts are exempt from this rule: AG/NR, R-3, B-1, B-2, B-3, I-1, I-2, MU-N, MU-DC, MU-DF.
- (iii) Temporary Rental License. Notwithstanding the foregoing, a property owner, whose property is subject to the 30 percent limitation, may obtain a temporary rental license for his or her property for a period of time not exceeding 12 consecutive months under the following conditions:

1. The property is actively being offered for sale to the public by the owner, or by any authorized agent of the owner, during the license term.

2. The property shall be temporarily licensed for rental purposes only if the property complies with all applicable City and State rental housing requirements.

3. The property shall be licensed only for one of the following: (a) one adult living alone; or (b) two unrelated adults living together with any dependents by birth, adoption or law; or (c) any number of persons related by blood, marriage, adoption, or law.

4. The temporary rental housing license shall terminate immediately upon the closing of a sale of the property to a purchaser or at the end of the license term, whichever event first occurs.

5. A copy of the lease agreement shall be deposited with the City's Community Development Department within one week from the date of the execution of the lease.

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33A.04 - DEFINITIONS

Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Words in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

APARTMENT BUILDING is a building or portion of a building that contains three or more dwelling units.

BED AND BREAKFAST is a building or part thereof, other than a hotel or motel, where lodging and breakfast are provided to transient guests by a resident family for compensation.

BUILDING CODE is the *Minnesota State Building Code*.

CONGREGATE RESIDENCE is any building or portion thereof that contains facilities for living, sleeping and sanitation, as required by this chapter, and may include facilities for eating and cooking and for occupancy by other than a family. A congregate residence may be a shelter, convent, monastery, dormitory, and fraternity or sorority house but does not include jails, hospitals, nursing homes, hotels or lodging houses.

DWELLING is any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, cabin, trailer or trailer coach.

DWELLING UNIT is any unit containing a habitable room or suite of rooms forming a single housekeeping unit for one or more persons and containing complete, independent facilities for living, sleeping, cooking, eating and sanitation, and containing only one kitchen or kitchenette.

EFFICIENCY DWELLING UNIT is a dwelling unit containing only one habitable room and meeting the requirements of Section 33A.05(a)(ii) exception.

EGRESS is an arrangement of exit facilities to assure a safe means of exit from a building.

ELECTRICAL CODE is *the National Electrical Code (NEC)*.

EXTERMINATION is 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, trapping; or by any other recognized and legal pest elimination method approved by the building official; and to remove all signs of extermination thereafter.

FIRE CODE is *the Minnesota State Fire Code*.

FLOOR AREA is the net floor area within the enclosed walls of a room in which the ceiling height is not less than 5 feet, excluding areas used for closets and built-in equipment, such as cabinets, kitchen units, fixtures and appliances.

GRADE FLOOR OPENING is a window or other opening located such that the sill height of the opening is not more than 44 inches above or below the finished ground level adjacent to the opening.

HABITABLE ROOM is a room or enclosed floor space, used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets and storage spaces.

HOTEL is any building or portion thereof operated as a commercial establishment containing guest rooms that are accessed through an inside lobby or office and are offered to the general public for transient sleeping accommodations.

HOT WATER is water supplied to plumbing fixtures at a temperature of not less than 120 degrees F (49 degrees C).

INFESTATION is the presence of insects, rodents, or other pests within or around the dwelling on the premises.

LET is to give the use of a dwelling, dwelling unit, roominghouse, or rooming unit, residential retreat center, bed and breakfast, or tourist home by an owner or manager to a tenant in return for rent or other compensation.

MANAGER is a person or firm who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

MECHANICAL CODE is *the Minnesota State Mechanical Code*.

NUISANCE. The following shall be defined as nuisances:

1. Any public nuisance known at common law or in equity jurisprudence.
2. Any attractive nuisance that may prove detrimental to children whether in a building, on the premises of a building or on an unoccupied lot. This includes any abandoned

wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation that may prove a hazard for inquisitive minors.

3. Whatever is dangerous to human life or is detrimental to health, as determined by the Building Official and/or the Building Inspector.
4. Overcrowding a room with occupants.
5. Insufficient ventilation or illumination.
6. Inadequate or unsanitary sewage or plumbing facilities.
7. Uncleanliness, as determined by the health officer.
8. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the Building Inspector.
9. Such other nuisances as provided in City Code or applicable law.

OCCUPANT(S) is one or more persons occupying and maintaining a common household in a single dwelling unit. For the purposes of this chapter, children under the age of 2 shall not be counted as an occupant.

OWNER is a person, firm or corporation who, alone, jointly or severally with others, owns or has an ownership interest in a dwelling, dwelling unit or rooming unit within the city.

PLUMBING CODE is the *State of Minnesota Plumbing Code*.

PLUMBING SYSTEM is all potable water supplies and distribution pipes, all plumbing fixtures and traps and all drainage and vent pipes.

PREMISES is the dwelling and its land and all buildings thereon and areas thereof.

REFUSE is all putrescible and nonputrescible waste solids including garbage and rubbish. (Putrescible-Liable to undergo bacterial decomposition when in contact with air and moisture at normal temperatures.)

RENT is a stated return or payment for the temporary possession of a dwelling, dwelling unit, roominghouse, rooming unit, residential retreat center, bed and breakfast, or tourist home. The return or payment may be money or service or property.

RESIDENTIAL RETREAT CENTER is a dwelling unit with living and sleeping quarters including cooking facilities that is wholly rented to one (1) common party for the purpose of overnight lodging for one (1) night or longer, but less than one (1) week.

ROOMINGHOUSE is a building or structure where sleeping accommodations are furnished to the public as regular roomers for periods of one week or more and having 3+ units let to the public. A roominghouse shall not have full kitchen facilities (e.g. hot plates, stoves, or ovens). A maximum of one person shall inhabit each unit. Also known as a lodging house.

ROOMING UNIT is a habitable room located in an operator-occupied dwelling or dwelling unit and so arranged as to provide a private habitable unit used, or intended to be used, for living and sleeping but not for cooking purposes, along with private or shared sanitation facilities. A rooming unit is furnished to the public as regular roomers for periods of one week or more. Up to two rooming units with occupancy of one person per unit are permitted per dwelling unit. Also known as a sleeping room.

SAFETY is the condition of being reasonably free from danger and hazards, which may cause injury or illness.

SUBSTANDARD BUILDING is any building where any condition exists that endangers the life, limb, health, safety or welfare of the public or the occupants thereof as deemed by the Building Official or Building Inspector.

TOURIST HOME is any building or part thereof, other than a hotel or motel, bed and breakfast, residential retreat center, roominghouse or rooming unit, where sleeping accommodations are provided to transient guests for up to 29 consecutive days for compensation.

TOURIST HOME – OWNER OCCUPIED is a tourist home located on a lot that is owned by and includes the primary residence of a host or host family. The host or host family shall reside on the lot during any period of guest stay.

TOURIST HOME – NON-OWNER OCCUPIED is a tourist home located on a lot where the property owner does not occupy the premises during the rental period.

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

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33A.05 - SPACE AND OCCUPANCY STANDARDS

All dwellings, dwelling units, roominghouses, rooming units, residential retreat centers, bed and breakfasts, and tourist homes let for occupancy to another shall comply with the following requirements:

(a) Room Dimensions.

(i) **Ceiling Heights.** Habitable space, hallways, bathrooms, toilet rooms, laundry rooms, and portions of basements containing these spaces shall have a ceiling height of not less than 7 feet. The required height shall be measured from the finished floor to the lowest projection from the ceiling. Alterations to existing basements or portions thereof shall have a ceiling height of not less than 6 feet 4 inches, including beams, girders, ducts or other obstructions. If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the area thereof. No portion of the room measuring less than 5 feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof.

EXCEPTION: Bathrooms shall have a minimum ceiling height of 6 feet 8 inches at the center of the front clearance area for water closets, bidets or sinks.

(ii) Floor Area. In single-family, two-family (duplexes) and buildings consisting of 3 or more townhouse units, all habitable rooms shall have a floor area of 70 square feet and shall not have a dimension of less than 7 feet in any horizontal direction. All residential dwelling units other than single-family, two-family (duplexes) and buildings consisting of 3 or more townhouse units shall have not less than one room with 120 square feet or more of net floor area. All other habitable rooms shall have a floor area of not less than 70 square feet and shall not have a dimension of less than 7 feet in any horizontal direction. Where more than one person occupies a room used for sleeping purposes, the required floor area shall be 50 square feet for each occupant.

EXCEPTION: Kitchens are not required to be of a minimum floor area.

EXCEPTION: Nothing in this section shall prohibit the use of an efficiency living unit within an apartment house meeting the following requirements:

- A. The unit shall have a living room of not less than 220 square feet of floor area for the first occupant. An additional 100 square feet of floor area shall be provided for each additional occupant.
- B. The unit shall be provided with a separate closet.
- C. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this chapter shall be provided.
- D. The unit shall be provided with a separate bathroom containing a water closet, lavatory, and bathtub or shower.

(b) Light and Ventilation.

- (i) General. For the purpose of determining the light or ventilation required by this section, any room may be considered as a portion of an adjoining room when one half of the area of the common wall is open and unobstructed and provides an opening of not less than one tenth of the floor area of the interior room or 25 square feet. Exterior openings for natural light or ventilation required by this section shall open directly onto a public way or a yard or a court located on the same lot as the building.

EXCEPTIONS:

- A. Required windows may open into a roofed porch where the porch:
 - A.1 Abuts a public way, yard or court;
 - A.2 Has a ceiling height of not less than 7 feet; and
 - A.3 Has a longer side at least 65 percent open and unobstructed.
- B. Skylights.

(ii) Light. Habitable rooms shall have an aggregate glazing area of not less than 8 percent of the floor area of such rooms

EXCEPTION: Artificial light in accordance with the building code.

(iii) Ventilation. Habitable rooms shall have natural ventilation through windows, skylights, doors, louvers, or other approved openings to the outdoor air. Such openings shall be provided with ready access or shall otherwise be readily controllable by the building occupants. The openable area to the outdoors shall be not less than 4 percent of the floor area being ventilated. Exterior openings for natural ventilation shall be provided with tight fitting insect screens in good condition.

EXCEPTION: Artificial ventilation in accordance with the building code.

Bathrooms, water closet compartments and similar rooms shall be provided with aggregate glazing area in windows of not less than 3 square feet, one-half of which shall be openable.

EXCEPTION: The glazed area shall not be required where artificial light and a local exhaust system are provided. The minimum local exhaust rates shall be 50 cubic feet per minute for intermittent exhaust and 20 cubic feet per minute for continuous exhaust. Such exhaust fans shall be exhausted directly to the outdoors and be kept clean and maintained in good operating condition to prevent the accumulation of moisture.

(iv) Hallways. All public hallways, stairs and other exit ways shall be adequately lighted at all times. Every common hall and stairway in residential occupancies, other than in one and two family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including stairways and exterior means of egress, shall be illuminated at all times during which the building space served by the means of egress is occupied, with a minimum of 1 footcandle (11 lux) at floors, landings and treads.

(v) Interior Stairway Illumination. For one and two-family dwellings, interior stairways shall be provided with an artificial light source to illuminate the landings and treads. The light source shall be capable of illuminating treads and landings to levels of not less than 1 foot-candle (11 lux) as measured at the center of treads and landings. There shall be a wall switch at each floor level to control the light source where the stairway has six or more risers.

EXCEPTION: A switch is not required where remote, central or automatic control of lighting is provided.

(vi) Exterior Stairway Illumination. For one and two-family dwellings, exterior stairways shall be provided with an artificial light source located at the top of the landing of the stairway. Exterior stairways providing access to a

basement from the outdoor grade level shall be provided with an artificial light source located at the bottom landing of the stairway.

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(c) Sanitation.

- (i) Dwelling Units. Dwelling units shall be provided with a bathroom equipped with facilities consisting of a water closet, lavatory, and either a bathtub or shower.
- (ii) Rooming Units. Rooming Units. Where private water closets are not provided, there shall be provided at least one bathroom accessible from a public hallway.
- (iii) Kitchen. Each dwelling unit shall be provided with a kitchen. Every kitchen shall be provided with a kitchen sink. Sinks shall be of nonabsorbent materials.
- (iv) Fixtures. All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system. All plumbing fixtures shall be connected to an approved system of water supply and provided with hot and cold running water necessary for its normal operation. All plumbing fixtures shall be of an approved glazed earthenware type or of a similarly nonabsorbent material.
- (v) Bathroom Accessibility. Where bathrooms are shared by rooming units or by occupants of a dwelling unit, the bathroom shall be located so that no occupant has to pass through another occupant's room to use the facility.
- (vi) Room Separations. Every water closet, bathtub or shower required by this chapter shall be installed in a room that will afford privacy to the occupant. Bathrooms shall be separated from food-preparation areas by a tight fitting door.
- (vii) Floor Coverings. Bathroom floors shall have a smooth, hard nonabsorbent surface such as vinyl tile, vinyl sheet goods, ceramic tile or concrete. Floor surfaces shall be maintained in good condition so the floor can be maintained in a sanitary condition.
- (viii) Installation and Maintenance. All sanitary facilities shall be installed and maintained in a safe and sanitary condition and in accordance with applicable requirements of the Plumbing Code.
- (ix) Wall Coverings. In a bathtub or shower compartment shall be finished with a nonabsorbent surface. Such wall surfaces shall extend to a height of not less than 6 feet above the drain opening.

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33A.06 - STRUCTURAL REQUIREMENTS

- (a) General. Roofs, floors, walls, foundations and all other structural components of buildings shall be capable of resisting any and all forces and loads to which they may be subjected. All structural elements shall be maintained in a sound condition.
- (b) Shelter. Every building shall be weather protected to provide shelter for the occupants against the elements and to exclude dampness.
- (c) Protection of Materials. All wood shall be protected against water damage and decay as provided in the Building Code.

33A.07 - MECHANICAL REQUIREMENTS

All dwellings, dwelling units, roominghouses, rooming units, residential retreat centers, bed and breakfasts, and tourist homes let for occupancy to another shall comply with the following requirements:

- (a) Heating. Dwelling units and guestrooms shall be provided with heating appliances capable of maintaining a room temperature of 68 degrees F at a point 3 feet above the floor and 2 feet from exterior walls in all habitable rooms, bathrooms and water closet compartments. Owners shall turn on the heating appliances when the outside temperature falls to 64 degrees F or below. Such facilities shall be installed and maintained in a safe condition and in accordance with their listings and the Building, Mechanical and Electrical Codes and all other applicable laws. Clearances from combustible materials shall be maintained as required by the Building and Mechanical Codes and their listing. Unvented fuel-burning appliances are not permitted. All heating devices or appliances shall be of an approved type.
- (b) Electrical Equipment. All electrical equipment, wiring and appliances shall be installed in compliance with the Electrical Code and maintained in a safe manner in accordance with all applicable laws. All electrical equipment shall be of an approved type.

Every habitable room shall be provided with at least one switched ceiling or wall light and one duplex outlet or two duplex convenience outlets.

At least one receptacle outlet shall be installed in bathrooms and such outlet shall be located within 36 inches of the outside edge of each lavatory basin. The receptacle outlet shall be located on a wall or partition that is adjacent to the lavatory basin location or installed on the side or face of the basin cabinet not more than 12 inches below the top of the basin or basin countertop.

Outlets within 6 feet of a sink, lavatory or bathtub shall be Ground Fault Interrupted (GFI) outlets.

Refer to the National Electrical Code for additional requirements for placement of receptacle outlets, switches or fixtures.

At least one wall switch-controlled lighting outlet shall be installed in every

habitable room, kitchen and bathroom.

EXCEPTIONS:

- A. In other than kitchen and bathrooms, one or more receptacles controlled by a wall switch shall be considered equivalent to the required lighting outlet.
- B. Lighting outlets shall be permitted to be controlled by occupancy sensors that are in addition to wall switches, or that are located at a customary wall switch location and equipped with a manual override that will allow the sensor to function as a wall switch.

Public hallways, corridors, stairways and other exit facilities shall be adequately lighted pursuant to Section 33A.05(b) iv, v and vi of this chapter.

Outlets within 6 feet of a sink or bathtub shall be Ground Fault Interrupted (GFI) outlets.

Extension cords shall be used only with portable appliances and shall not be used as a substitute for permanent wiring. Extension cords shall be plugged directly into an approved outlet, power tap or multi-plug adapter and shall, except for approved multi-plug extension cords, serve only one portable appliance. The opacity of the extension cord shall not be less than the rated capacity of the portable appliance supplied by the cord and shall be grounded when serving a grounded appliance. Extension cords shall be maintained in good condition without splices, deterioration or damage. Extension cords and flexible cords shall not be attached to the structure, extend through walls, ceilings, and floors or under doors or floor coverings, or be subject to environmental or physical damage.

A clear and unobstructed means of access with a minimum width of 30 inches, depth of 36 inches and a height of 78 inches shall be maintained from the operating face of an electrical service panel, meter or switchboard. Tenants shall at all times have free access to the service panel for their dwelling unit.

- (c) Ventilation. Ventilation for rooms and areas and for fuel-burning appliances shall be provided as required in the Mechanical Code and in this chapter. Where mechanical ventilation is provided in lieu of the natural ventilation required by this chapter, such mechanical ventilating system shall be maintained in operation during the occupancy of any building or portion thereof.

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33A.08 - EXITS

- (a) General. Dwelling units or rooming units shall have access directly to the outside or to a public corridor with egress to the outside. All buildings or portions thereof shall be provided with exits as required by the Building Code. An exit shall not pass through a hazardous area such as a furnace room, boiler room, storage room, garage or similar areas.

(b) Obstruction of Egress. Obstructions, including storage, shall not be placed in the required width of a means of egress, except for projections allowed by the Building Code. Means of egress shall not be obstructed in any manner and shall remain free of any material or matter where its presence would obstruct or render the means of egress hazardous.

(c) Emergency Escape and Rescue Openings. Sleeping rooms below the fourth story shall have at least one operable window or exterior door approved for emergency escape or rescue. The units shall be operable from the inside to provide a full clear opening without the use of separate tools or special knowledge and shall open directly onto a public way or a yard or court that opens to a public way.

An Emergency Escape and Rescue Opening from a sleeping room shall have a minimum net clear opening of 5.7 square feet. *Grade floor openings* shall have a net clear opening of not less than 5.0 square feet. The net clear opening height shall be not less than 24 inches and the net clear opening width shall be not less than 20 inches. The finished sill height shall not be greater than 44 inches above the finished floor. Emergency escape and rescue openings installed under decks and porches shall be fully openable and provide a path not less than 36 inches in height to a yard or court.

If necessary to add a window, the new window shall meet all of the requirements of the Building Code for a new Emergency Escape and Rescue Opening.

Replacement windows installed in buildings shall be exempt from the minimum sill height requirements and the minimum opening area provided that the replacement window meets the following conditions:

(i) The replacement window is the manufacturer's largest standard size window that will fit within the existing frame or existing rough opening. The replacement window is of the same operating style as the existing window or a style that provides for an equal or greater window opening area than the existing window.

(ii) The replacement window is not part of a change of occupancy.

(d) Security Locks. When an exit door from a dwelling unit is required to provide security from unlawful entry, the door shall be provided with a dead-bolt lock, which is operable from the egress side without the use of a key, special knowledge, or extraordinary effort. All windows intended to operate shall have a functioning lock, which is operable from the egress side without the use of a key, special knowledge, or extraordinary effort.

(e) Emergency Escape and Rescue Doors. Where a door is provided as the required emergency escape and rescue opening, it shall be a side-hinged door or slider. Where the opening is below grade, it shall be provided with an area well.

(f) Window Wells. The horizontal area of the window well shall not be less than 9 square feet, with a horizontal projection and width of not less than 36 inches. The area of the window well shall allow the emergency escape and rescue

opening to be fully opened. Window wells with a vertical depth greater than 44 inches shall be equipped with a permanently affixed ladder or steps usable with the window in a fully open position. Ladders or rungs shall have an inside width of not less than 12 inches, shall project not less than 3 inches but not more than 6 inches from the wall and shall be spaced not more than 18 inches on center vertically for the full height of the window well.

33A.09 - FIRE PROTECTION

All dwellings, dwelling units, roominghouses, rooming units, residential retreat centers, bed and breakfasts, and tourist homes let for occupancy to another shall comply with the following requirements:

- (a) General. All buildings or portions thereof shall be provided with the degree of fire-resistive construction, fire warning devices and fire extinguishing devices as provided by this chapter and the Fire Code.
- (b) Corridors. Corridors in apartment building serving an occupant load of ten or more shall have walls and ceilings of not less than one-hour fire resistive construction. Existing lath and plaster walls in good condition are permitted for corridor walls and ceilings and for occupancy separations when approved by the Building Official or Building Inspector.
- (c) Corridor Doors. Doors located in a 1 hour fire-resistive corridor, not within a dwelling unit, shall be a reasonably smoke and draft tight 1 3/4" solid core wood door or a 20 minute fire-rated door assemble. Doors shall be self closing by means of a door closure or a pair of spring loaded hinges and shall be maintained so as to securely latch when closed by the closure or spring loaded hinges.
- (d) Openings in Corridors. Transom windows and openings other than doors are not permitted into corridors unless they are a fixed one-hour fire-rated assembly (e.g. fire rated glass) or have been covered with 5/8" type X gypsum board applied to both sides of the transom. A smoke damper with a one-hour fire-resistive rating shall protect ventilation ducts with openings into corridors.
- (e) Smoke Detectors. Smoke detectors shall be installed as required by this Section. A minimum of one detector shall be located in the basement and each story. A detector shall be located outside of bedrooms in the immediate vicinity of the bedrooms and inside each bedroom. Smoke alarms shall be installed 3 feet or more horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by this section. The Building Official or Building Inspector may require additional smoke detectors where additional protection may be deemed necessary.

Where more than one smoke alarm is required to be installed within an individual dwelling unit, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

EXCEPTION: Interconnection of smoke alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior finishes exposing the structure.

Combination smoke and carbon monoxide alarms shall be permitted in lieu of smoke alarms.

Smoke alarms installed in existing areas shall be permitted to be battery powered provided any alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure. If repairs or alterations will result in the removal of interior wall or ceiling finishes and expose the structure, than the smoke alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery.

The occupant of a dwelling or rooming unit must notify the building owner or building manager within 24 hours of discovering that a detector is not functioning. The building owner or manager shall take immediate action to render the detector operational or replace it.

Any occupant, owner or manager of a dwelling or rooming unit who willfully disables a smoke detector or causes it to be nonfunctioning is guilty of a misdemeanor. If the unit is occupied by more than one tenant, each tenant shall be held accountable.

(f) **Carbon Monoxide Alarms.** Carbon monoxide alarms shall be installed outside of and not more than 10 feet from each separate sleeping area or bedroom. Alarms shall be installed on each level containing sleeping areas or bedrooms. Where a fuel-burning appliance is located within a bedroom or its attached bathroom, a carbon monoxide alarm shall be installed within the bedroom.

Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling unit. Physical interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

EXCEPTION: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior finishes exposing the structure.

Combination carbon monoxide and smoke alarms shall be permitted in lieu of carbon monoxide alarms.

Carbon monoxide alarms installed in existing areas shall be permitted to be battery powered provided any alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure. If repairs or alterations will result in the removal of interior wall or ceiling finishes and expose the structure, than the carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery.

(g) Fire Alarm System. A fire alarm system meeting the requirements of the Minnesota State Fire Code shall be installed in apartment buildings containing 16 or more dwelling units or exceeding 2 stories in height.

EXCEPTIONS:

1. A fire alarm system is not required in buildings not over two stories in height where all dwelling units or sleeping units and contiguous attic and crawl spaces are separated from each other and public or common areas by at least 1-hour fire partitions and each dwelling unit or sleeping unit has an exit directly to a public way, exit court or yard.
2. A fire alarm system is not required in buildings which are equipped throughout with an approved automatic sprinkler system in accordance with the Fire Code and the notification appliances will activate upon sprinkler flow.
3. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with the Fire Code and provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directing to the exits or are served by open-ended corridors designed in accordance with the Fire Code.

Fire alarm systems shall be tested in accordance with the procedures and frequency required pursuant to the Minnesota State Fire Code and its corresponding regulations, as the same may be amended from time to time. Contractors who perform inspections, testing and/or maintenance services on fire alarm systems or any other similar or related systems within the City shall submit all compliant and non-compliant reports, and such other reports and records, in accordance with and as required by the Minnesota State Fire Code, to the Winona Fire Department using the method approved by the Fire Chief. The method selected for filing reports and records may include electronic or computer based reporting or recording systems as determined by the Fire Chief.

(h) Fire Sprinkler Systems. A fire sprinkler system shall be installed in all new apartment buildings, buildings converted into apartment buildings and in apartment buildings during major renovations as required by the Fire Marshal, and throughout all building with a Group R fire area in accordance with the Building Code. Fire sprinkler systems shall be installed in accordance with the Building Code and the Minnesota State Fire Code.

Fire sprinkler systems shall be tested in accordance with the procedures and frequency required pursuant to the Minnesota State Fire Code and its corresponding regulations, as the same may be amended from time to time. Contractors who perform inspections, testing and/or maintenance services on fire sprinkler systems or any other similar or related systems within the City shall submit all compliant and non-compliant reports, and such other reports and records, in accordance with and as required by the Minnesota State Fire Code, to

the Winona Fire Department using the method approved by the Fire Chief. The method selected for filing reports and records may include electronic or computer based reporting or recording systems as determined by the Fire Chief.

(i) **Fire Extinguishers.** All rental units shall be equipped with a fire extinguisher with a minimum rating of 2A 10BC. The extinguisher shall be located within the individual dwelling unit or in a common hallway or corridor within 50 feet of the dwelling unit door.

Fire extinguishers shall be serviced at least annually. A tag with the name of the servicing company and the service date shall be affixed to the extinguisher and shall remain affixed until the next servicing.

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33A.10 - MISCELLANEOUS REQUIREMENTS.

All dwellings, dwelling units, roominghouses, rooming units, residential retreat centers, bed and breakfasts, and tourist homes let for occupancy to another shall comply with the following requirements:

(a) **Building Identification.** Every building shall have the assigned street numbers displayed on the building in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall be no less than 4 inches in height and shall contrast with the background on which they are displayed.

Every building shall have the owner's name and phone number posted on a sign or plaque in a plainly visible place on the exterior of the building adjacent to the main building entrance or on the main entrance door. If there is a building manager, the manager's name and phone number may be posted in lieu of the owner's name and phone number. Such sign or plaque shall be of durable weather and fade resistant material permanently affixed to the building and shall not exceed 1 square foot in size. The wording shall be printed in letters a minimum of $\frac{1}{2}$ " in height and shall be worded as follows:

BUILDING OWNER	OR	BUILDING MANAGER
NAME		NAME
PHONE NUMBER		PHONE NUMBER

(b) **Handrails.** Stairways shall have a continuous full-length handrail on both sides. The handrail shall be mounted no less than 34 inches nor more than 38 inches above the nosing of the stair tread. The handgrip portion of the handrail shall not be less than $1\frac{1}{4}$ " nor more than 2" in cross-sectional dimension. The ends of the handrails shall be returned to the walls.

EXCEPTIONS:

1. Stairways serving one dwelling unit or stairways less than 44" in width may have one handrail.

2. Stairways with 4 or more risers and serving a one or two-family dwelling unit must have a handrail on at least one side.

Existing handrails that are not deemed to be hazardous by the Building Official or Building Inspector are allowed to remain as they are.

(c) Guardrails. Unenclosed floor and roof openings, open sides of stairways, landings, decks, balconies, porches or occupied roofs which are more than 30 inches above the grade or floor below shall be protected by a guardrail. Guardrails shall be a minimum of 42 inches high, except that guardrails serving one and two-family dwelling unit may be 36 inches high. Open railings shall have intermediate rails, spindles or an ornamental pattern such that a 4-inch sphere cannot pass through.

Existing guardrails that are not deemed to be hazardous by the Building Official or Building Inspector are allowed to remain as they are.

(d) Parking. Required off street parking shall at all times be available to the occupants of the property. Required parking spaces shall not be rented or leased to persons that are not occupants of the property. If the required parking is in a garage, the space shall not be used for storage. The number and location of off street parking spaces required for the particular building or structure is set forth in the Winona Unified Development Code.

(e) Recyclables. The property owner shall provide recyclable materials containers for the property and shall inform the tenants about the recycling requirements in the City of Winona. It shall be the responsibility of the tenants and the owner to place recyclables curbside on designated pick-up days. Recyclables shall be stored in an inconspicuous place and shall not be stored in the front yard.

(f) Refuse. The property owner or property manager shall provide an adequate number of refuse containers to contain the amount of refuse produced on the property. Containers shall be rodent and animal proof plastic, fiberglass or rust resistant metal with a tight fitting cover. Containers shall have a maximum capacity of 35 gallons with two handles or a container of any size supplied by the waste removal company that can be mechanically lifted. It shall be the tenant's responsibility to place their garbage and refuse in the approved refuse containers provided by the owner. The owner or manager shall be responsible for ensuring that the garbage and refuse is removed from the property at least once every seven days. Refuse containers shall not be stored in a front yard, boulevard, or public way. Containers with a capacity of 1.5 cubic yards or more shall not be stored in a building or within 5 feet of combustible walls, opening or combustible roof eaves.

(g) Unused or Discarded Items. Discarded, unused and junk appliances, furniture, mattresses and other items shall be immediately removed from the property.

(h) Storage of Items. Large amounts of combustible items and materials shall not be stored in attics or basements. Storage shall be maintained 2 feet or more below ceilings and floor joists. Combustible materials and items shall not be stored within 1 foot of any fuel burning appliances. Storage of items shall be orderly and shall not block or obstruct exits. A minimum 3-foot aisle shall be maintained to all

exits, furnaces, water heaters, water meters, gas meters or other building service equipment.

- (i) **Fuel Storage.** LP tanks, gasoline containers and fueled equipment, including but not limited to motorcycles, mopeds, lawn-care equipment and portable cooking equipment, shall not be stored or repaired in an apartment building or dwelling unit.
- (j) **Barbecues and Open Flames.** In any structure containing two or more dwelling units, no person shall kindle, maintain, or cause any fire or open flame on any balcony above ground level, on any roof, or on any ground floor patio within 15 feet of the structure. No person shall store or use any fuel, barbecue, torch, or similar heating or lighting chemicals or device in such locations.
- (k) **Energy Conservation.** Doors and windows shall be maintained in tight and draft free condition. Holes and cracks in foundations and exterior walls shall be filled. A minimum of 75 percent of the lamps in permanently installed lighting fixtures shall be high-efficacy lamps or a minimum of 75 percent of the permanently installed light fixtures shall contain only high-efficacy lamps.

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Ord. No. 3978 11/03/2014

Ord. No. 4063 12/18/2017

Ord. No. 4151 06/07/21

33A.11 - SUBSTANDARD BUILDINGS

- (a) **General.** Any building or portion thereof that is determined to be an unsafe building in accordance with the Building Code, or any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the conditions referenced in this section to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof, shall be deemed and hereby are declared to be substandard buildings.
- (b) **Inadequate Sanitation.** Buildings or portions thereof shall be deemed substandard when they are unsanitary. Inadequate sanitation shall include, but not be limited to, the following:
 1. Lack of or improper water closet, lavatory, bathtub or shower in a dwelling unit or rooming unit.
 2. Lack of or improper kitchen sink in a dwelling unit.
 3. Lack of hot and cold running water to plumbing fixtures in a dwelling unit or rooming unit.
 4. Lack of adequate heating facilities.
 5. Lack of or improper operation of required ventilating equipment.

6. Lack of minimum amounts of natural light and ventilation required by this chapter.
7. Room and space dimensions less than required by this chapter.
8. Lack of required electrical lighting.
9. Dampness of habitable rooms.
10. Infestation of insects, vermin or rodents.
11. General dilapidation or improper maintenance.
12. Lack of connection to required sewage disposal system.
13. Lack of adequate garbage and rubbish storage and removal facilities.

(c) Structural Hazards. Buildings or portions thereof shall be deemed substandard when they are or contain structural hazards. Structural hazards shall include, but not be limited to, the following:

1. Deteriorated or inadequate foundations.
2. Defective or deteriorated flooring or floor supports.
3. Flooring or floor supports of insufficient size to carry imposed loads with safety.
4. Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
5. Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
6. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split or buckle due to defective material or deterioration.
7. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.
8. Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration.
9. Fireplaces or chimneys that are of insufficient size or strength to carry imposed loads with safety.

(d) Nuisances. Buildings, or portions thereof, in which there exists any nuisance as defined in this chapter are deemed substandard buildings.

(e) Hazardous Electrical Wiring. Electrical wiring that was installed in violation of the Electrical Code requirements in effect at the time of installation or Minnesota

Statutes, Section 326B.35, SAFETY STANDARDS, or electrical wiring not installed in accordance with generally accepted construction practices in areas where no codes were in effect or that has not been maintained in good condition or that is not being used in a safe manner or that has been inspected as required in Minnesota Statutes, Section 326B.36, INSPECTION, shall be considered substandard.

- (f) Hazardous Plumbing. Plumbing that was installed in violation of Minnesota State Plumbing Code requirements in effect at the time of installation or plumbing not installed in accordance with generally accepted construction practices in areas where no codes were in effect or that has not been maintained in good condition or that is not free of cross-connections or siphonage between fixtures shall be considered substandard.
- (g) Hazardous Mechanical Equipment. Mechanical equipment that was installed in violation of Minnesota State Mechanical Code requirements in effect at the time of installation or mechanical equipment not installed in accordance with generally accepted construction practices in areas where no codes were in effect or that has not been maintained in good and safe condition shall be considered substandard.
- (h) Faulty Weather Protection. Buildings or portions thereof shall be considered substandard when they have faulty weather protection which shall include, but not be limited to, the following:
 - 1. Deteriorated, crumbling or loose plaster.
 - 2. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
 - 3. Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.
 - 4. Broken, rotted, split or buckled exterior wall coverings or roof coverings.
- (i) Fire Hazard. Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation that, in the opinion of the chief of the fire department, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause shall be considered substandard.
- (j) Faulty Materials of Construction. The use of materials for construction, except those that are specifically allowed or approved by this code and the Building Code, and that have not been adequately maintained in good and safe condition, shall cause a building to be substandard.
- (k) Hazardous or Unsanitary Premises. The accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, and similar materials or conditions on the premises constitutes fire, health or safety hazards.

(l) **Inadequate Exits.** Except for those buildings or portions thereof that have been provided with adequate exit facilities conforming to the provisions of this chapter, buildings or portions thereof whose exit facilities were installed in violation of chapter requirements in effect at the time of their construction or whose exit facilities have not been increased in number or width in relation to any increase in occupant load due to alterations, additions or change in use or occupancy subsequent to the time of construction shall be considered substandard.

Notwithstanding compliance with code requirements in effect at the time of their construction, buildings or portions thereof shall be considered substandard when the building official finds that an unsafe condition exists through an improper location of exits, a lack of an adequate number or width of exits, or when other conditions exist that are dangerous to human life.

(m) **Inadequate Fire-protection or Firefighters Equipment.** Buildings or portions thereof shall be considered substandard when they are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this chapter, except those buildings or portions thereof that conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(n) **Improper Occupancy.** All buildings or portions thereof occupied for living, sleeping, cooking or dining purposes that were not designed or intended to be used for such occupancies shall be considered substandard.

33A.12 - NOTICES AND ORDERS OF THE BUILDING OFFICIAL

(a) **Commencement of Proceedings.** When the Building Official or Building Inspector has inspected or caused to be inspected a building and has found and determined that such building is a substandard building, the building official shall commence proceedings to cause the repair, rehabilitation, vacation or demolition of the building.

(b) **Notice and Order.** The Building Official or Building Inspector shall issue a notice and order directed to the owner of record of the building. The notice and order shall contain the following:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.
2. A statement that the Building Official or Building Inspector has found the building to be substandard, with a brief and concise description of the conditions found to render the building substandard under the provisions of this chapter.
3. A statement of the action required to be taken as determined by the Building Official or Building Inspector.
- 3.1 If the Building Official or Building Inspector has determined that the building or structure must be repaired, the order shall require that all

required permits be secured therefore and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the Building Official or Building Inspector shall determine is reasonable under all of the circumstances.

- 3.2 If the Building Official or Building Inspector has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a certain time from the date of the order as determined by the building official to be reasonable.
- 3.3 If the Building Official or Building Inspector has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the Building Official or Building Inspector shall determine reasonable (not to exceed 60 days from the date of the order), that all required permits be secured therefore within 60 days from the date of the order and that the demolition be completed within such time as the Building Official or Building Inspector shall determine is reasonable.
4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Building Official or Building Inspector (i) will order the building vacated and posted to prevent further occupancy until the work is completed and (ii) may proceed to cause the work to be done and charge the costs thereof against the property or its owner.
5. Statements advising (i) that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the Building Official or Building Inspector to the housing appeals board, provided the appeal is made in writing as provided in this chapter, and filed with the Building Official or Building Inspector within 30 days from the date of service of such notice and order, and (ii) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

(c) **Service of Notice and Order.** The notice and order, and any amended or supplemental notice and order, shall be served upon the owner of record, and posted on the property; and one copy thereof shall be served on each of the following if known to the Building Official or Building Inspector or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record, the owner or holder of any lease of record, and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the Building Official or Building Inspector to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

(d) **Method of Service.** Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of the

county or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

(e) Proof of Service. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgement of receipt by certified mail, shall be affixed to the copy of the notice and order retained by the Building Official or Building Inspector.

(f) Recordation of Notice and Order. If compliance is not had with the order within the time specified therein, and no appeal has been properly and timely filed, the building official shall file in the office of the county recorder a certificate describing the property and certifying (i) that the building is a substandard building and (ii) that the owner has been so notified. Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a substandard building on the property described in the certificate, the building official shall file a new certificate with the county recorder certifying that the building has been demolished or all required corrections have been made so that the building is no longer substandard, whichever is appropriate.

(g) Repair, Vacant and Demolition. The following standards shall be followed by the Building Official or Building Inspector (and by the housing appeals board if an appeal is taken) in ordering the repair, vacation or demolition of any substandard building or structure:

1. Any building declared a substandard building under this chapter shall be made to comply with one of the following:
 - 1.1 The building shall be repaired in accordance with the current Building Code or other current code applicable to the type of substandard conditions requiring repair.
 - 1.2 The building shall be demolished at the option of the building owner.
 - 1.3 If the building does not constitute an immediate danger to the life, limb, property or safety of the public, it may be vacated, secured and maintained against entry.
2. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or of the occupants, it shall be ordered to be vacated

(h) Notice to Vacate. Every notice to vacate shall, in addition to being served as provided in Section 12(c) of this chapter shall be posted at or upon each exit of the building, and shall be in substantially the following form:

**DO NOT ENTER
UNSAFE TO OCCUPY**

It is a misdemeanor to occupy this building
or to remove or deface this notice.

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(i) Compliance. Whenever such notice is posted, the Building Official or Building Inspector shall include a notification thereof in the notice and order issued under Section 12 (b) of this chapter reciting the emergency and specifying the conditions that necessitate the posting. No person shall remain in or enter any building that has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal has been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code. Any person violating this subsection shall be guilty of a misdemeanor.

33A.13 APPEAL

(a) Form of Appeal. Any person entitled to service under Section 12(c) of this chapter may appeal from any notice and order or any action of the building official under this chapter by filing at the office of the building official a written appeal containing the following:

1. A heading in the words: "Before the Housing Appeals Board of the City of Winona."
2. A caption reading: "Appeal of _____, giving the names of all appellants participating in the appeal."
3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
4. A brief statement in ordinary and concise language of that specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
5. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
6. The signatures of all parties named as appellants and their official mailing addresses.
7. The appeal shall be filed within 30 days from the date of the service of such order or action of the Building Official or Building Inspector, provided, however, that if the building or structure is in such condition as

to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with Section 12(h) of this chapter, such appeal shall be filed within 10 days from the date of the service of the notice and order of the building official.

- (b) Processing of Appeal. Upon receipt of any appeal filed pursuant to this section, the Building Official or Building Inspector shall present it at the next regular or special meeting of the board of appeals.
- (c) Scheduling and Noticing Appeal for Hearing. As soon as practicable after receiving the written appeal, the housing appeals board shall fix a date, time and place for the hearing of the appeal by the board. Such date shall be not less than 10 days nor more than 45 days from the date the appeal was filed with the building official. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the secretary of the board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.
- (d) Form of Notice of Hearing. The notice to appellant shall be substantially in the following form, but may include other information:

You are hereby notified that a hearing will be held before the Housing Appeals Board at _____ on the day of _____, at the hour _____, upon the notice and order served upon you. You may be, but need not be, represented by counsel. You may present any relevant information you feel relevant to your case.

- (e) Reasonable Dispatch and Continuances. The board shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives. The board may grant continuances for good cause shown.
- (f) Inspection of Premises. The board may inspect any building or premises involved in the appeal during the course of the hearing, provided that (i) notice of such inspection shall be given to the parties before the inspection is made, (ii) the parties are given an opportunity to be present during the inspection, and (iii) the board shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom.
- (g) Effect of Failure to Appeal. Failure of any person to file an appeal in accordance with the provisions of Section 13(a) of this chapter shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or to any portion thereof.
- (h) Scope of Hearing on Appeal. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.
- (i) Reasonable Dispatch and Continuances. The board shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown

for the convenience and necessity of any parties or their representatives. The board may grant continuances for good cause shown.

- (j) Record. A record of the entire proceedings shall be made by tape recording, or by any other means of permanent recording determined to be appropriate by the board.
- (k) Form of Decision and Effective Date. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent by certified mail, postage prepaid, return receipt requested. The effective date of the decision shall be as stated.
- (l) Staying of Order Under Appeal. Except for vacation orders made pursuant to Section 12(g)2 of this chapter, enforcement of any notice and order of the Building Official or Building Inspector issued under this chapter shall be stayed during the pendency of an appeal there from that is properly and timely filed.

33A.14 - ENFORCEMENT OF THE ORDER OF THE BUILDING OFFICIAL OR THE BOARD OF APPEALS

- (a) General. After any order of the building official or the housing appeals board made pursuant to this chapter becomes final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.
- (b) Failure to Obey Order. If, after any order of the building official or housing appeals board made pursuant to this chapter has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the building official may (i) cause such person to be prosecuted under section (a) above or (ii) institute any appropriate action to abate such building as a public nuisance.
- (c) Failure to Commence Work. Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this chapter becomes effective:
 1. The building official shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

**SUBSTANDARD BUILDING
DO NOT OCCUPY**

It is a misdemeanor to occupy this building
or to remove or deface this notice.

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- 2. No person shall occupy any building that has been posted as specified in this subsection. No person shall remove or deface any such notice so posted until the repairs, demolition or removals ordered by the building

official have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.

3. The building official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions that render the building substandard as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished; or, to be demolished, and the materials, rubble and debris there from removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this chapter. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot shall be paid over to the person or persons lawfully entitled thereto.

(d) **Extension of Time to Perform Work.** Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the building official may grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect or extend the time to appeal the notice and order.

(e) **Interference with Repair or Demolition Work Prohibited.** No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city or with any person who owns or holds any estate or interest in any building that has been ordered repaired, vacated or demolished under the provisions of this chapter, or with any person to whom such building has been lawfully sold pursuant to the provisions of this chapter, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building pursuant to the provisions of this chapter, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this chapter.

33A.15 - PERFORMANCE OF WORK OF REPAIR OR DEMOLITION

(a) **Procedure.** When any work or repair or demolition is to be done pursuant to Section 14(c)3, of this chapter, the building official shall cause the work to be accomplished by private contract under the direction of the building official. Plans and specifications therefore may be prepared by the building official, or the building official may employ such architectural and engineering assistance on a contract basis as may be deemed reasonably necessary.

(b) **Costs.** The costs of such work shall be paid from the repair and demolition fund, and may be made a special assessment against the property involved, or may be made a personal obligation of the property owner, whichever the City Council shall determine is appropriate.

33A0.16 - RECOVERY OF COST OF REPAIR OR DEMOLITION

- (a) Account of Expense, Filing of Report. The building official shall keep an itemized account of the expense incurred by the City in the repair or demolition of any building done pursuant to the provisions of Section 14 of this chapter. Upon the completion of the work of repair or demolition, said building official shall prepare and file with the City Clerk a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to Section 12(c) of this chapter.
- (b) Personal Obligation. The City Council may order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved. If the City Council orders that the charge shall be a personal obligation of the property owner, it shall direct the City Attorney to collect the same on behalf of the jurisdiction by use of all appropriate legal remedies.
- (c) Special Assessment. If the City Council orders that the charge shall be assessed against the property, it shall be levied and collected as a special assessment in the manner provided by Minnesota Statutes Section 429.061 to 429.081. Prior to submission of the assessment to the County, the City Council shall, on the date the assessment is confirmed, add an administrative fee of up to 15 percent of the amount then due. The assessment shall be payable in a single installment.
- (d) Repayment of Repair and Demolition Fund. All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the fund from which the costs were drawn from.

Ord. No. 3752	1/05/07
Ord. No. 3803	8/17/09
Ord. No. 3791	4/20/09
Ord. No. 3682	2/06/06
Ord. No. 3445	3/20/00
Ord. No. 3899	4/02/12
Ord. No. 3966	7/21/14
Ord. No. 3978	11/03/14
Ord. No. 4151	06/07/21