

## 404. HOUSING

404.010. TITLE. This chapter shall be known and may be cited and referred to as the Minimum Standards Housing Ordinance of the City.

404.020. APPLICATION. The provisions of this chapter shall apply to all buildings or portions thereof used, or designed or intended to be used, for human habitation.

404.030. DEFINITIONS. Certain words or terms in this chapter are defined for the purpose hereof as follows: words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural number the singular; the words "dwelling", "dwelling unit #", or "premises" include the words "or any part thereof".

1. Approved. Shall mean approved by the Inspector of Buildings appointed to enforce the provisions of this chapter.

2. Half-Basement or lower level. A portion of a building located partly underground but having less than one-half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

3. Basement. A portion of a building located partly or wholly underground and having one-half or more of its clear floor-to-ceiling height below the average grade of the adjoining ground.

4. Dwelling. Any building or structure, or part thereof, which is used or intended to be used for living or sleeping.

5. Dwelling Unit. A room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping and cooking.

6. Extermination. The control or elimination of insects, rodents or other pests by eliminating their harborage, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating or trapping, by blocking their access to a dwelling, or by any other recognized and legal pest elimination methods approved by the City, pursuant to the appropriate Code.

7. Habitable Room. 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.

8. Housing Appeals Board. Defined in 404.140.

9. Housing Inspector. Shall mean the Inspector of Buildings of the City of Birchwood Village, appointed to enforce the Code.

10. Infestation. The substantial presence, within or around a dwelling or in or near waste disposal containers, of any insects, rodents or other pests.

11. Occupant. Any person living, sleeping, cooking or eating in or having possession or use of a dwelling unit.

12. Owner. Any legally responsible person who alone or jointly or severally with others:

a. Has legal title to any dwelling with or without actual possession thereof; or

b. Has charge, care or control of any dwelling as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the owner shall be bound to comply with the provisions of this Code to the same extent as if he were the owner.

13. Person. Shall include any individual, firm, corporation, association or partnership.

14. Plumbing. Water pipes, mechanical garbage disposal units, waste pipes, water closets, sinks, installed dishwashers and clothes washing machines, lavatories, bathtubs, shower baths, catch basins, drains, vents and other similar supplied fixtures, including all connections to water or sewer lines.

15. Supplied. Paid for, arranged, furnished, or provided by or under control of the owner or operator.

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404.040. COMPLIANCE WITH REQUIREMENTS. No person shall occupy or let to another for occupancy any dwelling for the purpose of living, sleeping, cooking or eating therein which does not comply with the requirements of this chapter.

404.050. REQUIREMENTS FOR SANITATION.

1. Sink, Flush Water Closet, Lavatory Basin and Bathtub or Shower in dwellings. Refer to the State Building Code.

2. Access to Bathrooms and Water Closets. Refer to the State Building Code.

3. Floors and Ventilation of Bathrooms and Water Closets. Refer to the State Building Code.

4. Piped Hot and Cold Running Water. Refer to the State Plumbing Code.

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404.060. REQUIREMENTS FOR LIGHT, VENTILATION AND HEATING.

1. Window Area and Ventilation. Refer to the State Building Code.
2. Electrical Outlets. Refer to the State Electrical Code
3. Heating Facilities. Refer to the State Building Code.

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404.070. REQUIREMENTS FOR FLOOR SPACE AND GENERAL OCCUPANCY.

1. Floor Space. Refer to the State Building Code.
2. Access to Sleeping Rooms. Refer to the State Building Code.
3. Ceiling Height of Habitable Rooms. Refer to the State Building Code.
4. Basement or Half-Basement Occupancy. Refer to the State Building Code.

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404.080. REQUIREMENTS FOR SAFE AND SANITARY MAINTENANCE OF DWELLINGS AND DWELLING UNITS.

1. Structural Soundness.
  - a. Members - Every foundation, door, outer wall, ceiling and roof shall be weather tight, water tight, and rodent proof, shall be capable of affording privacy, and shall be kept in good repair.
  - b. Openings - Every window, exterior door and basement hatchway or stairway shall be weather tight, water tight and rodent proof and shall be kept in good working condition and repair.
  - c. Stairs and Porches - Every inside and outside stair and handrail, and every porch and porch rails shall be so constructed as to safely support the maximum load that normal use may require and shall be kept in safe condition and good repair at all times. The Housing Inspector may require a handrail for each stair if deemed necessary.
  - d. Every stairway of more than 3 risers must have a handrail of height corresponding to State Statute requirements and be safely enclosed to handrail height.

2. Mechanical Soundness of Plumbing. All plumbing shall comply with the State Plumbing Code.

3. Exits. Every dwelling unit shall have a safe, unobstructed means of egress leading to safe and open space ground level, as required by the Minnesota Statutes and the Code of the City.

4. Effectiveness. Every supplied facility, piece of equipment, or utility which is required under this Section shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

404.090. REQUIREMENTS FOR CLEANLINESS AND GARBAGE AND TRASH DISPOSAL.

1. Owner or Owner-Occupant Responsibility. Every owner or owner occupant shall be responsible for the cleanliness of all parts of a dwelling and premises shared in common by more than one family and for provision of the following utilities and services, except where such responsibility is assumed by an operator or an occupant by agreement.

a. Extermination of insects, rodents or other pests; except that where only one dwelling unit is infested, the occupant of such infested unit shall be responsible for its extermination, unless the dwelling is not maintained in a reasonable rodent proof or insect proof condition.

b. Provisions of all other facilities, utilities, service or conditions required by this chapter and chapter 402.

2. Occupant Responsibility. Every occupant of a dwelling unit shall be responsible for keeping the occupied area and premises and all plumbing equipment and facilities in a clean, safe and sanitary condition at all times. Refuse shall be disposed of in accordance with chapter 402.

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404.100. EMERGENCY DISCONTINUANCE OF SERVICE OR UTILITIES. No owner or occupant shall cause any service, facility, equipment or utility to be removed from or shut off from or discontinued in any occupied dwelling unit let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alterations are in progress, or during temporary emergencies when discontinuance of service is approved by the Housing Inspector. Upon discontinuance of gas or electric service for cause by a public utility company or upon discontinuance of any municipal or other service for cause, the Housing Inspector shall be notified, and shall thereupon take immediate steps to have the responsible person correct conditions leading to such discontinuance of services. This section shall not be construed to prevent the cessation or discontinuance of any such service upon order of the Housing Inspector or any other authorized officials.

404.110. DANGEROUS DWELLINGS. Refer to State Building Code for regulations on dangerous dwellings.

1. Declaration of Nuisance and Orders.

a. All dangerous dwellings or parts thereof within the terms of State Building Code are hereby declared to be public nuisances, and shall be vacated and repaired or demolished in accordance with the provisions of Section 404.130.

b. In any case where a dangerous dwelling is 50 percent or more damaged or decayed, or deteriorated from its original structure, or where it cannot be repaired so as to comply with the terms of the State Building Code it shall be ordered vacated and demolished in accordance with the provisions of Section 404.130.

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404.120. ENTRY AND INSPECTION OF DWELLINGS.

1. The Housing Inspector is hereby authorized, with the consent of the homeowner or if he has obtained a warrant or other court order authorizing the inspection, to make inspections to determine the condition of dwellings, dwelling units and premises located within the City in order to safeguard the health and safety of the occupants of such dwellings and of the general public. For this purpose and upon showing proper identification, the Housing Inspector is authorized to enter, examine and survey, at any reasonable hour, all dwellings, dwelling units and premises, and the owner, occupant or the person in charge thereof, shall give the Housing Inspector free access thereto for the purpose of such inspections.

2. Every occupant of a dwelling shall give the owner thereof of his agent or employee access to any part of such dwelling or its premises at any reasonable hour for the purpose of making any repairs or alterations which are necessary to effect compliance with the provisions of this section or any lawful order issued pursuant thereto.

404.130. ENFORCEMENT: SERVICES OF NOTICES AND ORDERS: HEARINGS.

1. Notices of Violation

a. Whenever the Housing Inspector determines that there has been a violation of any provision of this chapter, he shall give notice of such violation to the person or persons responsible therefore and order compliance with the Code as hereinafter provided. Such notice and order shall be in writing on an appropriate form and shall include:

(i) A list of the violations, with reference to the section of this chapter violated, and an order as to the remedial action required to effect compliance with this chapter.

(ii) Specification of a reasonable time for compliance.

(iii) Advice concerning the procedure for appeal. Such notice and order shall be served upon the owner, occupant or agent in person; provided, however, that the notice and order shall be deemed to be deemed to be properly served if such owner, occupant or agent is sent a copy thereof by registered mail to his last known address and a copy is posted in a conspicuous place in or on the dwelling affected.

b. Whenever the Housing Inspector determines that a dwelling is a dangerous dwelling as defined in State Building Code, he shall:

(i) Affix upon the door or entrance to such dwelling a printed placard declaring that such dwelling is unfit for human habitation and is ordered vacated. No person shall deface or remove such placard from any dwelling which has been condemned as unfit for human habitation and placarded as such. The Housing Inspector shall remove the placard whenever the defect or defects upon which the condemnation and placarding were based have been eliminated.

(ii) Serve notice, as provided herein to the owner and occupant or lessee of any building found by him to be a dangerous dwelling within the standards set forth in Section 404.110 that: (1) the owner must vacate and repair or demolish said building in accordance with the terms of notice and this Section, and (2) the occupant or lessee must vacate said building or, with the consent of the owner, may have it repaired, in accordance with the notice and order, and remain in possession.

## 2. Hearings.

a. Any person affected by a notice and order issued in connection with the enforcement of this section may request and shall be granted a hearing on the matter before the Housing Appeals Board, provided such person shall file with the City Clerk a written petition requesting the hearing and setting forth his name, address, telephone number and a brief statement of the grounds for the hearing or for the mitigation of the order. Such petition shall be filed within thirty (30) days of the date the notice and order are served. Upon receipt of the petition, the City Clerk shall set a time and place for a hearing before the Housing Appeals Board and shall give the petitioner written notice thereof. Said hearing shall be held within thirty (30) days after a petition has been filed, and the petitioner shall be given an opportunity to be heard and to show cause why the notice and order should be modified or withdrawn. The failure of the petitioner or his representative to appear and to state his case at such hearing shall have the same effect as if no petition were filed.

b. After the hearing, the Housing Appeals Board by a majority vote, shall sustain, modify or withdraw the notice, depending on its findings as to whether the provisions of this section have been complied with, and the petitioner and the Housing Inspector shall be notified within ten days in writing of such findings.

c. The proceedings of the hearing, including the findings and decision of the Housing Appeals Board and the reasons therefore shall be summarized in writing and entered as a matter of public record with the City Clerk. Such record shall also include a copy of every notice and order issued in connection with the case.

### 3. Orders to Vacate.

a. Where a notice of violation and order to comply have been served pursuant to this section and, upon reinspection at the end of the time specified for compliance, and if no petition for a hearing has been filed, it is found that the violation or violations have not been remedied, the Housing Inspector may order the dwelling, or parts thereof affected by the continued violations, vacated in accordance with the following procedure:

(i) Dwellings shall be vacated within a reasonable time, not to exceed 60 days.

(ii) Vacated dwellings shall have all outer doors firmly locked and basement, cellar and first and second story windows barred or boarded to prevent entry.

(iii) Vacated dwellings shall not again be used for human habitation until written approval is secured from the Housing Inspector.

b. If a dwelling or part thereof is not vacated within the time specified in the order of vacation, the Inspector shall seek a court order in a court of competent jurisdiction for the vacation of such dwelling or part thereof.

4. Emergency Order. Whenever the Housing Inspector finds that an emergency exists which requires immediate action to protect the health and safety of the residents or of the public, he may issue an order so stating, and notwithstanding any other provisions of this section such order shall take effect and shall be complied with immediately. Upon petition to the Housing Appeals Board, petitioner shall be afforded a hearing pursuant to paragraph 2 of this section.

### 5. Vacation and Demolition.

a. If the owner, occupant, or lessee fails to comply with the order of the Housing Inspector or the action of the Housing Appeals Board after hearing, the Housing Inspector shall cause such dwelling or part thereof to be vacated and repaired or demolished as the facts may warrant and shall, with the assistance of the City of

Birchwood Village Attorney, cause the costs of such repair or demolition to be charged against the land on which the building existed as a municipal lien or to be recovered in a suit of law against the owner.

b. In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a dangerous dwelling as defined herein is immediately vacated and repaired or demolished, the Housing Inspector shall cause its immediate vacation and repair or demolition. The costs of such emergency repair or demolition shall be collected in the same manner as provided in Paragraph (a) of this subsection.

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404.140. HOUSING APPEALS BOARD.

1. A Housing Appeals Board is hereby created as authorized by this Section.

a. Membership - The Board shall consist of five members to be selected by the City Council annually, or, in the absence of such selection by the City Council, - the City Council shall act as the Housing Appeals Board, and the City Clerk shall be ex-officio member of the Board and act as secretary and shall not be able to vote.

2. The Board shall elect a Chairperson from its members, except where the Board is the City Council, in which case, the Chairperson shall be the Mayor. The Housing Appeals Board shall:

a. Conduct all proceedings in accordance with the Open Meeting Laws and keep a record of all proceedings, including the vote of each member on each case heard. No member of the Board shall take part in any hearing or determination in which he has directly or indirectly, any personal or financial interest. Three members of the Board in attendance at any meeting shall constitute a quorum.

b. Interpret the intent of the section in specific cases where, upon appeal, it clearly appears that, by reason of special conditions, undue hardship would result from literal application of any action of the section. Where such undue hardship is clearly demonstrated, the Board may permit a variance from the applicable section provided the dwelling will vary only a reasonable minimum from the literal provisions of the section and will comply generally with spirit and intent of the regulations as to sanitation, safety and rehabilitation. Any such variance shall be permitted only by the concurring vote of at least three members of the Board.

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404.150. INTERPRETATION. The provisions of this chapter shall be held to be the minimum requirements to protect the health, safety, and welfare of the people of the City, and where this chapter imposes greater requirements than imposed by other provisions or law or ordinance, the provisions of this chapter shall control.



404.160. SEPARABILITY. Should any chapter, section or provision of this Code be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Code as a whole or any part thereof other than the part so declared to be invalid.