

32. HOUSING CODE. GENERAL

32.01. Findings. The council has investigated and finds the following:

- (A) There exist in the city structures used for human habitation which are now or may become in the future sub-standard with respect to structure, equipment or maintenance, and such conditions, together with inadequate provisions for light and air, insufficient protection against fire hazards, lack of proper heating, unsanitary conditions and overcrowding, constitute a danger to public health, safety and welfare of its citizens.
- (B) The existence of such conditions, factors or characteristics adversely affect public health and safety and lead to the extension and aggravation of urban blight.
- (C) It is in the best interest of the public health, safety and welfare of the people of the city to establish and enforce minimum housing standards.

32.02. Responsibility of the Department of Building Safety. The department of building safety is hereby given and assigned the responsibility for supervising the administration and enforcement of the provisions of chapters 32 through 39 referred to as the "Housing Code of the City of Rochester, Minnesota." Administration and enforcement of the provisions of the housing code shall be through and by the director of building safety and personnel of the department of building safety. The department of building safety is given the additional responsibility of further developing a comprehensive and coordinated program for the improvement of present housing conditions in the city.

32.03. Applicability and Scope. Every portion of a building or premises, used or intended to be used for dwelling purposes, except hotels, motels, rooming houses, rest homes, convalescent homes, hospitals, and nursing homes, shall comply with the provisions of the housing code irrespective of when such building has been constructed, altered or repaired, except as hereinafter provided, and any construction, alteration, or repair thereof or changes of use therein, which are required by the provisions of the housing code, shall be done in accordance with applicable provisions of the building code. If any provision of the housing code is inconsistent with a comparable and applicable provision of the building code, the provision of the building code shall govern to the extent of such inconsistency. As used in this section, the term "inconsistent" shall refer to any provisions which are conflicting or contradictory, and shall also refer to provisions provided by the building code which are not found in the housing code.

32.04. Pre-existing Dwellings. Buildings built under and in full compliance with the code in force at the time of construction and properly maintained and used for only such use as originally permitted shall be exempt from the following provisions of the housing code to the extend indicated:

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- (A) Minimum floor area requirements in section 34.29 are reduced by 10%.
- (B) Existing means of exit or egress shall be acceptable if approved by the director of building safety notwithstanding section 34.16 in accordance with the applicable provisions of the fire code.

32.05. Conflicts; Higher Standard to Prevail. In any case where a provision of the housing code is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or code of the city existing on 7/17/67, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

32.06. Nuisance Authority to Continue. Nothing in the housing code shall be construed or interpreted in any way to impair or limit the authority of the city to define and declare nuisances or of the director of building safety, the chief of police, or other governmental officials having jurisdiction within the city to cause the removal or abatement of nuisances as authorized by law.

32.07. Definitions. Subdivision I. The following terms when used in the housing code shall have the meaning ascribed to them:

Subd. 2. "Apartment" means one or more rooms located within a dwelling with facilities which are used or intended to be used by a single family for living, sleeping, cooking and eating.

Subd. 3. "Basement" means that portion of a building which is partly below and partly above grade.

Subd. 4. "Board" means the Board of Appeals created by Chapter 33. (4357, 10/1/18)

Subd. 5. "Building code" means the building code of the city.

Subd. 6. "Building inspector" means the director of building safety or any of his or her authorized representatives and assistants.

Subd. 7. "County health officer" means the health officer of the County of Olmsted.

Subd. 8. "Department of building safety" means the department of building safety of the city.

Subd. 9. "Director of building safety" means the director of the department of building safety.

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Subd. 10. "Dwelling" means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants, except a hotel, motel, rooming house, and temporary housing.

Subd. 11. "Efficiency apartment" means an apartment consisting of not more than one habitable room with kitchenette and sanitary facilities.

Subd. 12. "Extermination" means 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 methods approved by the health officer.

Subd. 13. "Family" means a person living alone, or two or more persons related by blood or marriage, or a group of not more than five persons (excluding servants), who need not be related by blood or marriage, living together, as a single housekeeping unit in a dwelling.

Subd. 14. "Fire chief" means the chief of the fire department of the city or authorized representative.

Subd. 15. "Garbage" means all putrescible organic wastes resulting from the handling, storage, preparation, cooking or consumption of food.

Subd. 16. "Grade" means the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within 5 feet of a sidewalk, the above ground level shall be measured at the sidewalk.

Subd. 17. "Habitable room" means any room used or intended to be used for sleeping, living, cooking or dining purposes, excluding such enclosed places as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, utility rooms, and similar spaces.

Subd. 18. "Hotel-motel" means any building or structure, or series of buildings or structures operated as a unit, advertised as a hotel or motel, providing sleeping accommodations primarily to transient guests, and licensed for such purpose by the Olmsted County Health Department.

Subd. 19. "Housing code" means the housing code of the city contained in chapters 32 to 39 of this code.

Subd. 20. "Infestation" means the presence, within or around a dwelling, of any insects, rodents, or other pests.

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Subd. 21 . "Kitchen or kitchenette" means a room or area intended to store and prepare food and including the fixtures and appliances required to facilitate the sanitation of food, food preparation areas, and cooking appliances and utensils. The room or area must include an approved sink, refrigerator, and cook range and/or microwave oven.

Subd. 22. "Occupant" means any person, over one year of age, living, sleeping, cooking, or having actual possession of an apartment or rooming unit.

Subd. 23. "Operator" means any person who has charge, care, or control of a building, or part thereof, in which apartments or rooming units are let.

Subd. 24. "Owner" means a person who, as listed on the property tax records in Olmsted County, Minnesota, is the current title of record holder or the contract purchaser of a parcel of land located in the City of Rochester. (4036, 11/7/11)

Subd. 25. "Planning director" means the planning director for the city.

Subd. 26. "Plumbing" means all of the following supplied facilities and equipment: Gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures together with all connections to water, sewer or gas lines.

Subd. 27. "Refuse" means all types of garbage, rubbish and residential solid wastes.

Subd. 28. "Rooming unit" means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Subd. 29. "Rooming house" means any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let or held for letting by the owner or operator to five or more roomers, with or without meals.

Subd. 30. "Rubbish" means all nonputrescible solid wastes, such as paper, cardboard, tin cans, glass, cold ashes, wood, clothing, yard clippings and similar material.

Subd. 31. "Single Room Occupancy Unit (SRO)" means any room or group of rooms forming a single habitable unit used or intended to be used for living, sleeping, and eating; with a lease period of at least 30 days.

Subd. 32. "Superficial floor area" means the net floor area within the enclosing walls of a room in which the ceiling height is not less than five feet, excluding area occupied by closets and built-in equipment, such as cabinets, kitchen units, fixtures and appliances.

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Subd. 33. "Supplied" means paid for, furnished, or provided by or under the control of the owner or operator.

Subd. 34. "Temporary housing" means any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

Subd. 35. "Workmanlike state of maintenance or repair" means a state of maintenance or repair which reasonably approximates the standard of construction, fabrication, strength, functional utility, durability, surface appearance, and surface composition found in similar work products of professional craftsman performing similar work in the community.

Subd. 36. "Zoning ordinance" means the zoning ordinance of the city.

Subd. 37. Meaning of Certain Words. Whenever the words "dwelling," or "premises" are used in the housing code they shall be construed as though they were followed by the words "or any apartment, rooming unit, or part thereof."

32.08. Enforcement. The director of building safety shall enforce the provisions of the housing code. This shall not be construed to prohibit any other city officer or his authorized representative from enforcing the provisions of the housing code in the aspects related to their specific functions. All notices served for violations of the housing code shall be filed with the director of building safety.

32.09. Modifications. Whenever there are practical difficulties involved in carrying out the provisions of the housing code, the director of building safety shall have the authority to grant modifications for individual cases, provided the director shall first find that a special individual reason makes the strict letter of the housing code impractical and the modification is in compliance with the intent and purpose of the housing code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

32.10. Inspection of Dwellings. The director of building safety shall make inspections at reasonable times as hereinafter provided to determine the condition of dwellings, and premises located within the city in order to perform the duty of safeguarding the health and safety of the occupants of dwellings and of the general public. For the purpose of making such inspections the director of building safety is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, and premises, except that inspection of owner-occupied single family dwellings shall only be made when permitted by the owner, or in an emergency endangering life or property, or when authorized by court order, warrant, or other judicial process. Inspection of dwellings, other than owner-occupied single family dwellings, shall be a condition of the business of leasing or renting such dwellings to others, and the owner, occupant, or the person in charge of such dwellings shall give the director of building safety free access to such dwellings and its premises, at all reasonable times for the purpose

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of such inspection, examination and survey. No registration certificate required by the housing code shall be issued if admittance for the purpose of inspecting the premises is refused by the owner, occupant, or person in charge.

32.11. Access by Owner. Every occupant of a dwelling, rooming unit or apartment shall give the owner thereof, or owner's agent or employee, access to any part of such dwelling, rooming unit or apartment, or its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of the housing code or any lawful order issued pursuant to the provisions of the housing code.

32.12. Service of Notices. Whenever the director of building safety determines that there are reasonable grounds to believe that there has been a violation of any provisions of the housing code, the director shall give notice of such alleged violation to the person or persons responsible therefor as hereinafter provided. Such notice shall:

- (A) Be in writing;
- (B) Include a description of the real estate sufficient for identification;
- (C) Include a statement of the violation or violations for which the notice is being issued;
- (D) Specify a reasonable time for the performance of any act it requires; and
- (E) Be served upon the owner, or the operator, or the occupant as the case may require. Such notice shall be deemed to be properly served upon such owner, operator, or occupant if personally served on any of them; or if a copy is left at the owner's usual place of abode with a person of suitable age and discretion then resident therein; or by depositing in the United States Post Office, the notice addressed to the owner at the owner's last known address with postage prepaid thereon; or if service cannot be made by any one of the above means then such notice shall be deemed served if a copy of such notice be posted and kept posted for 48 hours in a conspicuous place on the premises affected by such notice. Such notice may contain an outline of remedial actions, which if taken, will effect compliance with the provisions of this ordinance.

32.13. Emergency Orders. Subdivision 1. Whenever the director of building safety finds that an emergency exists which requires immediate action to protect the public health or and safety, the director may, without notice or hearing, issue to the owner of property an order reciting the existence of such an emergency and requiring the owner to take such action as the director deems necessary to meet the emergency. Notwithstanding the other provisions of the housing code, such order shall be effective immediately and any person to whom such order is directed shall comply therewith immediately, but upon petition to the director of building safety shall be afforded a hearing in the manner prescribed in chapter 33 of this code. After such hearing, the board shall continue such order in effect, or modify it, or revoke it. (4357, 10/1/18)

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Subd. 2. The abatement procedure in section 35.24 shall apply if the property owner fails to comply with the emergency order within the timelines established above.

32.14. Citations for Certain Violations. The Director of the Department of Building Safety of the City of Rochester or his agent is authorized to issue a citation to any person, firm, or entity for any alleged violation of any of the following enumerated provisions of the Housing Code of the City of Rochester, Minnesota: Sections 35.11, 35.12, 35.13, 35.15, 35.16, 35.18, 35.19, 35.20, 35.21, and 35.22.

Section 2. This ordinance shall be effective as of the date of its publication.

(1406, 7/17/67; 1417, 10/2/67; 1476, 12/16/68; 1739, 12/13/73; 1816, 8/18/75; 2038, 4/16/79; 2625, 4/4/89; 2626, 4/4/89; 2809, 4/20/92; 2997, 8/8/95; 3063, 11/4/96; 3817, 6/4/07; 4036, 11/7/11; 4357, 10/1/18)