

CHAPTER 8
RENTAL HOUSING DWELLINGS

SECTION:

- 9-8- 1: Purpose And Intent
- 9-8- 2: Definitions
- 9-8- 3: Types of Licenses Required
- 9-8- 4: Application For Rental Dwelling License
- 9-8- 5: Fees
- 9-8- 6: License Terms And Renewals
- 9-8- 7: Conditions Of License Issuance
- 9-8- 8: Inspections, Investigations And Maintenance
- 9-8- 9: Non-transferability Of License
- 9-8-10: Conduct On Licensed Property
- 9-8-11: Provisional Rental License
- 9-8-12: Single Family Rental License
- 9-8-13: Landscaping; Lighting; Snow Removal
- 9-8-14: Fire Control Regulations
- 9-8-15: License Revocation Or Suspension
- 9-8-16: No Retaliation
- 9-8-17: Summary Action
- 9-8-18: Appeals
- 9-8-19: Applicable Laws

9-8-1: **PURPOSE AND INTENT:**

- A. Purpose: It is the purpose of this chapter to protect the public health, safety and welfare of citizens of the city who have as their place of abode a living unit furnished to them for the payment of a rental fee to another. This chapter is the initial step in the city's effort to provide a housing maintenance code.
- B. Intent: It is the intent of this chapter that uniform standards be established and applicable for all rental dwellings in the city. (Ord. 266A, 5-6-2003)

9-8-2: **DEFINITIONS:** The following words and terms used in this chapter are construed and defined as follows:

IMMEDIATE FAMILY: Direct descendants, parents, grandparents, sibling or any such person of traditional or blended family.
(Ord. 381, 5-19-09)

MULTI-FAMILY

RENTAL LICENSE: A rental license established for any rental dwelling with two (2) or more living units are subject to interior and exterior inspections. (Ord. 381, 5-19-09)

OPERATE: To charge a rental fee for the use of a living unit in a rental dwelling.

PROVISIONAL RENTAL LICENSE: A Multi-Family or Single Family rental license containing certain provisions and/or criteria as required by the City Council. (Ord. 381, 5-19-09)

RENTAL DWELLING: Means any dwelling or dwelling unit used for residential occupancy by one or more persons who are not the owner or a member of the owner's immediate family. "Rental dwelling" does not include hotels, motels, and hospitals. (Ord. 381, 5-19-09)

SINGLE FAMILY RENTAL LICENSE: A rental license established for any rental dwelling with less than two (2) living units which is subject to exterior inspections only, with the exception of interior inspections in the event of emergency or life threatening situations as determined by the Building Official, Fire Chief, and/or their designated representative. (Ord. 381, 5-19-09)

VALID COMPLAINT: A valid complaint is a violation that is visible at the time of inspection. (Ord. 381, 5-19-09)

9-8-3: **TYPES OF RENTAL LICENSES REQUIRED:** No person, firm or corporation shall allow to be occupied or let to another a living unit in a rental dwelling for which a license has not been granted by the city. There shall be three (3) types of licenses: multi-family, single family and provisional. (Ord. 381, 5-19-09)

9-8-4: **APPLICATION FOR RENTAL DWELLING LICENSE:** Requests for rental dwelling licenses shall be made by the owner of the rental dwelling units or his/her legally constituted agent by submitting an application to the city. (Ord. 381, 5-19-09)

Before any rental dwelling license shall be issued or renewed, the owner shall complete a rental license application and allow an onsite inspection of the

property as necessary. Each parcel identification number requires a separate application. The following persons shall be authorized to sign and submit the application:

- A. If the owner is a natural person, by the owner thereof.
- B. If the owner is a corporation, by an officer thereof.
- C. If the owner is a partnership, by a partner thereof.

The application shall be made on forms prescribed by the city and shall include:

- A. The name, address, and telephone numbers of the owner of the rental dwellings.
- B. The name, address, and telephone numbers of any operator or agent actively managing the rental dwelling.
- C. If the operator or agent is a business entity, the application shall include the names, telephone numbers, and addresses of individuals who will be involved in such management, together with a description of the scope of services and manner of delivering these services by the manager.
- D. If the applicant is a partnership, the name and address of all partners.
- E. If the applicant is a corporation, the name and address of all officers.
- F. If the rental dwelling is being sold on a contract for deed, the name and address of the vendees.
- G. The legal address of the rental dwelling.
- H. The number of units within the rental dwelling.

Notification by the rental operator shall be given to the city within five (5) business days of any change of information required, and stated in the initial application. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-5: **FEES¹** :

A. License Fees:

- 1. Fees Established; And Due Date: License fees as set by the City Council shall be due sixty (60) days prior to the license expiration date. In the case of a new unlicensed rental dwelling, the license fee shall be

¹ See subsection 1-7-3B of this code.

submitted with the application. A license fee shall be collected for each unit in a rental dwelling, except owner occupied units. License fees are non-refundable.

2. Filing Due Date And Penalty: If a renewal application is made less than sixty (60) days before the beginning date of the renewal license period applied for, then the fee shall be accompanied by an additional amount equal to one hundred percent (100%) of such license fee. The additional amount shall be a penalty for a late application, with the exception of the first year of the adoption of this chapter. In no case shall there be a lapse in the license period. The late penalty is established for those licensees who have failed to submit an application as specified in this chapter. All new owners must submit an application and obtain a new rental license; previously approved rental licenses are not transferable.

- B. Re-inspection Fee: An initial inspection shall be required at the time of application, the cost of which shall be included in the license application fee. A fee, as set by the City Council, shall be charged thereafter for all re-inspections necessitated by the receipt of any valid complaint(s) of the property. The re-inspection fee(s) will be payable at the time of license renewal for the property. (Ord. 381, 5-19-09)

9-8-6: **LICENSE TERMS AND RENEWALS:**

- A. Multi-Family and Single Family rental licenses:

Initial and renewal applications shall be issued for a period of two (2) years and shall expire the second year after the date that it was issued. The license period shall commence on the date of the approved application. Renewal applications shall be filed at least sixty (60) days prior to license expiration date.

- B. Provisional Rental Licenses:

Provisional licenses shall be issued only upon approval by the City Council and shall expire six (6) months after issuance. A multi-family or single family rental license may be re-established pursuant to Subsection 9-8-11B1. (Ord. 381, 5-19-09)

9-8-7: **CONDITIONS OF LICENSE ISSUANCE:**

- A. Compliance With Chapter: The city shall issue a rental dwelling license if the building and the application are found to be in compliance with the provisions of this chapter.
- B. Conformance To Laws: No rental dwelling license shall be issued or

renewed unless the rental dwelling and its premises conform to the Andover City Code of Ordinance; and the laws of the State of Minnesota; and all re-inspection fees have been paid. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-8: **INSPECTIONS, INVESTIGATIONS AND MAINTENANCE:**

- A. No rental dwelling license shall be issued or renewed unless the owner of the rental units agrees in his/her application to permit inspections pursuant to this section.
- B. Every rental dwelling unit shall maintain the standards as stated in Chapter 9, "Housing Maintenance Code", and standards established within all other sections of the Andover City Code of Ordinance and Minnesota State Statutes.
- C. The Building Official, Fire Chief, and/or their designated representatives are hereby authorized to make any and all inspections reasonably necessary to enforce this chapter.
- D. Persons inspecting any rental dwelling, as provided herein, shall notify the license holder of all violations, if any, by issuing a written compliance order. Said compliance order shall direct that compliance on housing maintenance code violations be made within no more than ten (10) business days from the date of the notice, unless extended by the Building Official, Fire Chief, and/or designated representative for good cause. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-9: **NONTRANSFERABILITY OF LICENSE:** No rental dwelling license shall be transferable to another person or to another rental dwelling. Every person holding a rental dwelling license shall give notice in writing to the city within five (5) business days after having legally transferred or otherwise disposed of the legal control of any licensed rental dwelling. Such notice shall include the name and address of the person succeeding to the ownership or control of such dwelling or dwellings. (Ord. 266A, 5-6-2003)

9-8-10: **CONDUCT ON LICENSED PROPERTY:**

- A. Disorderly Premises: It shall be the responsibility of the licensee to see that persons occupying the living units conduct themselves in a manner as not to cause the premises to be disorderly. For the purpose of this section, a premises is disorderly when any of the following activities occur:
 - 1. Violation of the city's noise ordinance¹.

¹ See title 5, chapter 6 of this code.

2. Violation of state laws relating to the possession or sale of illegal drugs or controlled substances.
 3. Violation of disturbing the peace.
 4. The unlawful sale of liquor.
 5. Violation of laws relating to gambling.
 6. Violation of state laws relating to acts of prostitution.
 7. The unlawful use or possession of a firearm per state law.
 8. Violation of Minnesota Statutes, Chapter 609 (i.e., disorderly conduct; unlawful assembly; riot; terroristic threat; presence at unlawful assembly).
- B. Enforcement Authority: The City Administrator shall be responsible for enforcement and administration of this chapter. Authority to take any action authorized by this chapter may be delegated to the City Administrator's designee.
- C. Other Rules: Other rules and regulations as set forth in Minnesota State Statute Chapter 504B, standards established within all other sections of the Andover City Code of Ordinance, and Minnesota State Statutes shall also apply to this chapter.
- D. Notice Of Violation: Upon determination by the city that a living unit was used in a disorderly manner, as described in this section, the city shall give notice to the licensee of the violation and direct the licensee to take steps to prevent further violations. The disorderly manner shall be as defined in this section.
- E. Second Instance: If a second instance of disorderly use of the living unit occurs within three (3) months of an incident for which a notice was given as specified in Subsection D of this section, the city shall notify the licensee to submit a written report of the actions taken, and proposed to be taken by the licensee to prevent further disorderly use of the living unit. This written report shall be submitted to the city within five (5) days of receipt of the notice/report of disorderly use of the living unit and shall detail all actions taken by the licensee in response to all notices of disorderly use of the living unit within the preceding three (3) months.
- F. Third Instance: If a third instance of disorderly use of the living unit occurs within three (3) months after a second instance of disorderly use for which a notice was given to the licensee pursuant to Subsections of

- this section, the rental dwelling license for the rental dwelling may be denied, revoked, suspended or not renewed. An action to deny, revoke, suspend, or not renew a license under this section shall be initiated by the city, who shall give the licensee written notice of a hearing before the City Council to consider such denial, revocation, suspension or non-renewal. Such written notice shall specify all violations of this section, and shall state the date, time, place and purpose of the hearing. The hearing shall be held no less than ten (10) days and no more than thirty-(30) days from the date of such notice.
- G. Action Of The City Council: Following the hearing, the City Council may deny, revoke, suspend or decline to renew the license for all or any part or parts of the rental dwelling or may grant a license upon such terms and conditions as it deems necessary to accomplish the purposes of this section.
 - H. Eviction Proceedings: No adverse license action shall be imposed where the instance of disorderly use of the living unit occurs during the pendency of eviction proceedings (unlawful detainer) or within thirty (30) days of notice given by licensee to a tenant to vacate the premises where the disorderly use was related to conduct by that tenant or by other occupants or guests of the tenant's living unit. Eviction proceedings shall not be a bar to adverse license action, however, unless they are diligently pursued by the licensee. Further, any action to deny, revoke, suspend, or not renew a license based upon violations of this section may be postponed or discontinued at any time if it appears that the licensee has taken appropriate measures to prevent further instances of disorderly use.
 - I. Evidence Of Disorderly Manner: A determination that the rental dwelling unit has been used in a disorderly manner as described in this section shall be made upon substantial evidence to support such determination. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such criminal charge operate as a bar to adverse license action under this section.
 - J. Serving Notice: All notices given by the city under this section shall be personally served on the licensee, sent by certified mail to licensee's last known address or, if neither method of service effects notice, by posting on a conspicuous place on the licensed rental dwelling.
 - K. Council Action Not Exclusive: Enforcement actions provided in this section shall not be exclusive, and the City Council may take any action with respect to a licensee, a tenant, or the licensed rental dwelling as is authorized by this chapter, other sections of the Andover City Code Ordinance, or state law. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-11: **PROVISIONAL RENTAL LICENSE:**

A. Police Or Fire Calls: Licensed dwelling units that have generated two (2) police calls per dwelling unit over any consecutive twelve (12) month period during the license period shall only be eligible for a provisional license at the time of next renewal, as specified in this section.

1. Police calls that are counted in determining whether a provisional license is required include the following types of calls or events:

a. Calls or events listed in this section or Section 9-8-10 of this chapter.

b. Calls or events categorized as part one crimes in the uniform crime reporting system, including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft, and arson.

c. Calls or events categorized by the Public Safety Department: miscellaneous juvenile status crimes; liquor offenses or curfew violations; disturbing the peace or harassing communications; property damage; criminal damage to property or trespass; domestic incidents; public disturbance or disorderly conduct; loud party or noise complaints; disorderly juveniles; assault in the fifth degree or non-domestic related assaults. The Sheriff shall maintain for public inspection a description of the coding system and a list of the codes and crimes included within each of these categories or calls or events. The Sheriff may determine that multiple incidents shall be counted as a single call in appropriate cases.

2. Calls not counted for purposes of determining whether a provisional license is required includes calls where the victim and suspect are "family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subdivision 2(b) and where there is a report of "domestic abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subdivision 2(a).

3. The city will provide a report by mail to each licensee for calls described in this section. The violation report will describe the nature and type of call that became an instance that will be counted for purposes of determining whether the license will be denied, revoked, or suspended or not renewed.

4. The City Council may require a Single Family Rental License to become provisional as specified in Section 9-8-12 (D) of this chapter.

- B. Mitigation Plan: Prior to consideration of a provisional license, the applicant for a provisional license must work with the city staff to prepare and submit a mitigation plan to be reviewed for approval by the City Council.
1. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police or fire calls described in Subsection A1 of this section over the six (6) month period of the provisional license to a level that would entitle the property to qualify for a regular license at the end of the six (6) month provisional license period.
 2. The mitigation plan may include such steps as: changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, and security personnel.
- C. Decision Of City Council: The application and a proposed mitigation plan will be presented to the City Council, together with a disposition recommendation by the City Administrator. After giving the applicant an opportunity to be heard and present evidence, the City Council shall approve, disapprove, or approve with conditions the mitigation plan and the provisional license. If the City Council disapproves an application and mitigation plan or approves a provisional license with conditions, it shall state the reasons for its decision in writing.
- D. Monthly Reports: The provisional licensee shall comply with the approved mitigation plan. No later than the tenth day of each month, the licensee shall mail or deliver to the city a written report describing all steps taken in furtherance of the mitigation plan during the preceding month. If the required monthly reports are not submitted in a timely fashion by the property owner, the city may begin proceedings to revoke the provisional license for all or any part or parts of the licensed premises. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-12: **SINGLE FAMILY RENTAL LICENSE:**

- A. Inspections: Onsite inspections shall be required at the time of receipt of an initial application or a renewal application and upon receipt of a complaint regarding the property.
1. Inspections may be conducted by the Building Official, Fire Chief, and/or a designated representative.
 2. Inspections may be conducted on the property to include only the exterior portion of the rental dwelling and property with the following exceptions:

a. In emergency and/or life threatening situations as deemed necessary by the Building Official, Fire Chief, and/or designated representative, inspections may be conducted on the property to include the interior and exterior portions of the rental dwelling and without permission from the property owner, after reasonable attempts to contact the owner have failed.

b. Abatement may be scheduled for a property as outlined in Title 4 of the City Code, if there are failed attempts at bringing the property into compliance, at which time no permission is needed from the property owner to abate the property.

B. Re-inspection fees: Re-inspection fees shall only be required after receipt and inspection of a valid complaint. Re-inspection fees shall not be incurred for required annual inspections.

C. Enforcement: A violation shall be enforced as specified within the established guidelines process of the particular Title within the City Code of Ordinances violated. (ie. A nuisance violation would be enforced through the established process within Title 4 of the City Code of Ordinance.)

D. City Council Action: Upon repeat violations, or failure of a property owner to bring the property into compliance, the City Council may do the following:

1. Require a single-family rental license to become provisional as specified in Section 9-8-11 of this chapter.
2. Revoke, suspend, deny, or decline to renew a single family rental license as specified in Section 9-8-15 of this chapter.
3. Order the property to be abated.

9-8-13: **LANDSCAPING; LIGHTING; SNOW REMOVAL:** Each rental dwelling shall be maintained by its owner, occupant, operator or agent so that the yards, open spaces and parking facilities are kept in a safe and attractive condition. In addition, adequate lighting facilities shall be provided and operated between the hours of sunset and sunrise; and snow plowing or snow shoveling shall be regularly accomplished to maintain all sidewalks and parking areas in a safe condition. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-14: **FIRE CONTROL REGULATIONS:** An owner, operator or agent of a rental dwelling shall be responsible for compliance with the applicable provisions of the fire code of the city¹, including the keeping of all fire lanes open for emergency purposes. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

¹ See title 7, chapter 2 of this code.

9-8-15: **LICENSE REVOCATION OR SUSPENSION:**

- A. Reason For Action: The Council may revoke, suspend, deny or decline to renew any license issued under this chapter upon any of the following grounds:
 - 1. False statements on any application or other information or report required by this chapter to be given by the applicant or licensee.
 - 2. Failure to pay any application, penalty, re-inspection, or reinstatement fee required by this chapter or resolution of the City Council.
 - 3. Failure to correct deficiencies noted in notices of violation in the time specified in the notice.
 - 4. Failure to comply with the provisions of an approved mitigation plan in the case of provisional licenses.
 - 5. Any other violation of this chapter.
- B. Applicable Sections: Revocation, suspension, and non-renewal may be brought under this section or Section 9-8-10 of this chapter.
- C. Multi-Family and Single Family License: A Multi-Family or Single Family license may be revoked, if at midterm, or not renewed, if at the end of a term, upon a finding that the premises are only eligible for a provisional license as provided in Section 9-8-11 of this chapter.
- D. Written Notice: A decision to revoke, suspend, deny or not renew a license shall be preceded by a written notice to the applicant or licensee of the alleged grounds therefore, and the applicant or licensee will be given the opportunity for a hearing before the City Council before final action to revoke, suspend, deny, or not renew a license.
- E. Action Of City Council: The City Council shall give due regard to the frequency and seriousness of violations, the ease with which such violations could have been cured or avoided, and good faith efforts to comply, and shall issue a decision to deny, not renew, suspend, or revoke a license only upon written findings. The City Council may suspend or revoke a license or not renew a license for part or all of the rental dwelling.
- F. Reinstatement Of License: Upon a decision to revoke, deny, or not renew a license, no new application for the same facility will be accepted for a

period of time specified in a written decision of the City Council, not exceeding one year. Such new applications must be accompanied by a reinstatement fee, as specified by resolution, in addition to all other fees required by this chapter.

- G. **No New Rentals:** A written decision to revoke, suspend, deny, or not renew a license or application shall specify the part or parts of the rental dwelling to which this applies. Thereafter, and until a license is reissued or reinstated, no living unit becoming vacant in such part or parts of the rental dwelling may be re-let or occupied. Revocation, suspension, or non-renewal of a license shall not excuse the owner from compliance with all terms of this chapter for as long as any units in the rental dwelling are occupied.
- H. **Failure To Comply:** Failure to comply with this chapter is a misdemeanor. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-16: **NO RETALIATION:** No licensee shall evict, threaten to evict, or take any other punitive action against any tenant by reason of good faith calls made by such tenant to law enforcement agencies related to criminal activity, suspected criminal activity, suspicious occurrences, or public safety concerns. This section shall not prohibit the eviction of tenants from a dwelling unit for unlawful conduct of a tenant or invitee or violation of any rules, regulations, or lease terms other than a prohibition against contacting law enforcement agencies. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-17: **SUMMARY ACTION:** When the conduct of any licensee or his/her agent, representative, employee or lessee or the condition of his/her dwelling is detrimental to the public health, safety and general welfare as to constitute a nuisance, fire hazard or other unsafe or dangerous condition and thus give rise to an emergency, the city shall have the authority to summarily condemn or close off such area of the rental dwelling. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-18: **APPEALS:** Any person aggrieved by a decision of the city to cease business or revoke or suspend the license shall be entitled to appeal to the City Council immediately by filing a notice of appeal. The city shall schedule a date for hearing before the City Council and notify the aggrieved person of the date. The hearing shall be conducted in the same manner as if the aggrieved person had not received summary action. The decision of the city shall not be voided by the filing of such appeal. Only after the City Council has held its hearing will the decision of the city be affected. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-19: **APPLICABLE LAWS:** Licensees shall be subject to all of the ordinances of the city and laws of the state related to rental dwellings. This chapter shall not be construed or interpreted to supersede or limit any other such applicable ordinance or law. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

CHAPTER 9
HOUSING MAINTENANCE CODE

SECTION:

- 9-9- 1: Purpose And Intent
- 9-9- 2: Application Of Provisions
- 9-9- 3: Definitions
- 9-9- 4: Responsibilities Of Owners And Occupants
- 9-9- 5: Minimum Standards For Basic Equipment And Facilities
- 9-9- 6: Stairways, Porches And Balconies
- 9-9- 7: Access To Dwelling Units
- 9-9- 8: Security for Rental Units
- 9-9- 9: Minimum Standards For Light and Ventilation
- 9-9-10: Minimum Standards for Heat
- 9-9-11: General Maintenance Requirements
- 9-9-12: Construction Requirements
- 9-9-13: Maximum Density, Minimum Space For Rental Units
- 9-9-14: Administration And Enforcement Official; Inspections
- 9-9-15: Unfit Conditions
- 9-9-16: Compliance Order; Appeals; Penalty

9-9-1: **PURPOSE AND INTENT:**

- A. Purpose: The purpose of this chapter is to protect the public health, safety and the general welfare of the people of the city. These objectives include the following:
1. To protect the character and stability of residential areas within the city.
 2. To correct and prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare or health of Andover residents.
 3. To provide minimum standards for heating and sanitary equipment and for light and ventilation necessary to protect the health and safety of occupants of buildings.
 4. To prevent the overcrowding of dwellings.
 5. To provide minimum standards for the maintenance of existing residential buildings and to thus prevent substandard housing and blight.
 6. To preserve the value of land and buildings throughout the city.

B. Intent: With respect to disputes between tenants and landlords, and except as otherwise specifically provided by the terms of this chapter, it is not the intention of the City Council to intrude upon the accepted contractual relationship between the tenant and landlord. The City Council does not intend to intervene as an advocate of either party, nor to act as arbiter, nor to be receptive to complaints from tenant or landlord which are not ordinance related. In the absence of such relevancy with regard to rental disputes, it is intended that the contracting parties exercise such legal sanctions as are available to them without the intervention of city government. In enacting this chapter, it is not the intention of the City Council to interfere or permit interference with legal rights to personal privacy. (Ord. 267, 7-20-1999)

9-9-2: **APPLICATION OF PROVISIONS:** This chapter establishes minimum standards for maintaining dwelling units, accessory structures and related premises. This chapter is intended to provide standards for rental housing and to provide standards to allow resolution of complaints regarding owner occupied housing. (Ord. 267, 7-20-1999)

9-9-3: **DEFINITIONS:** Whenever the words "dwelling", "dwelling unit", "premises", or "structures" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof". The following definitions shall apply in the interpretation and enforcement of this chapter:

ACCESSORY USE OR STRUCTURES:

A use or structure subordinate to, and serving the principal use or structure on the same lot and customarily incidental thereto which is not used for living or sleeping by human occupants.

ANDOVER BUILDING CODE:

The Minnesota State Building Code, International Building Code (IBC) and International Residential Code (IRC) adopted by the city¹ (Amended Ord. 314 10-4-2005).

BUILDING:

Any structure having a roof which may provide shelter or enclosure for persons, animals, or chattels, and when said structure is divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

BUILDING OFFICIAL:

The designated agent authorized by the City Council to administer and enforce this chapter.

¹ See section 9-1-1 of this title.

DWELLING:	A building, or one or more portions thereof, occupied or intended to be occupied for residential purposes, but not including rooms in motels, hotels, nursing homes, boarding houses, trailers, tents, cabins or trailer coaches.
DWELLING UNIT:	A single-family dwelling or unit designed to accommodate one family.
FAMILY:	<p>A. An individual or two (2) or more persons related by blood, marriage or adoption living together; or</p> <p>B. A group of not more than five (5) persons who need not be related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit, exclusive of usual servants.</p>
GARBAGE:	Animal and vegetable waste resulting from the handling, preparation, cooking, marketing or processing of food, or the non-consumed waste resulting from animals or humans consuming food.
HABITABLE BUILDING:	Any building or part thereof that meets minimum standards for use as a home or place of abode by one or more persons.
HABITABLE ROOM:	A room with enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, unfinished basements (those without required ventilation, required electric outlets and required exit facilities), pantries, utility rooms of less than fifty (50) square feet of floor space, foyers, communicating corridors, stairways, closets, storage spaces, workshops, and hobby and recreation areas in parts of the structure below ground level or in attics.
HEATED WATER:	Water heated to a temperature of not less than one hundred ten degrees Fahrenheit (110°F), or such lesser temperature required by government authority, measured at faucet outlet.
KITCHEN:	A space which contains a sink with counter working space, space for installing cooking and refrigeration equipment, and space for the storage of cooking

utensils.

MAINTENANCE:	Upkeep of property and equipment in a safe working condition for which it was installed and/or constructed.
MULTIPLE-FAMILY DWELLING:	A dwelling or portion thereof containing two (2) or more dwelling units.
OCCUPANT:	Any person (including owner operator) living, sleeping, cooking and eating in a dwelling unit or living and sleeping in a rooming unit.
OPERATE:	To charge rent for the use of a unit in a rooming unit.
OPERATOR:	The owner or his/her agent who has charge, care, control, or management of a building, or part thereof, in which dwelling units or rooming units are let.
OWNER:	Any person, firm or corporation who, alone, jointly, or severally with others, shall be in actual possession of, have charge of, care of, or control of any dwelling, dwelling unit, or rooming unit within the city as owner, employee or agent of the owner, or as trustee or guardian of the estate or person of the title holder. Any person representing the actual owner shall be bound to comply with the provisions of this chapter to the same extent as the owner.
PERMISSIBLE OCCUPANCY:	The maximum number of persons permitted to reside in a dwelling unit or rooming unit.
PERSON:	An individual, firm, partnership, association, corporation, company or joint venture or organization of any kind.
PLUMBING:	All of the following supplied facilities and equipment in a dwelling: gas pipes, gas burning equipment, water pipes, steam 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 fixtures and the

installation thereof, together with all connections to water, sewer and gas lines.

PREMISES: A platted lot or part thereof or unplatted parcel of land, and adjacent right-of-way, either occupied or unoccupied by any dwelling or non-dwelling structure, including such building or accessory structure.

PUBLIC HALL: A hall, corridor or passageway for providing egress from a dwelling unit to a public way and not within the exclusive control of one family.

REFUSE: Personal leavings, trash, garbage.

RENTAL DWELLING: A dwelling unit for hire.

REPAIR: The construction or renewal of any part of an existing building or its utilities, facilities or equipment for the purpose of its maintenance.

RODENT HARBORAGE: A place where rodents commonly live, nest, or establish their habitat.

ROOMING UNIT: 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 and eating purposes.

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

SUBSTANDARD DWELLING: Any dwelling that does not conform to the minimum standards established by city ordinances.

SUPPLIED: Paid for, furnished by, provided by or under the control of the owner, operator, or agent of a dwelling. (Ord. 267, 7-20-1999; amd. 2003 Code)

WATER CLOSET: A toilet with a bowl and trap made in one piece, that is connected to the city water and sewer system or other approved water supply and sewer system.

9-9-4: **RESPONSIBILITIES OF OWNERS AND OCCUPANTS:** No owner or other person shall occupy or let to another person any dwelling, dwelling unit or rooming unit unless it and the premises are fit for human occupancy and comply with all applicable legal requirements of the state and the city, and as set forth specifically in this section:

- A. **Maintenance Of Shared Or Public Areas:** Every owner of a dwelling containing two (2) or more dwelling units shall maintain or shall provide for maintenance of the units shared along with all public areas of the dwelling and premises thereof.
- B. **Housekeeping Of Occupied Areas:** Every occupant of a dwelling, dwelling unit or rooming unit shall properly housekeep the dwelling unit and premises thereof that he/she occupies and controls.
- C. **Storage And Disposal Of Garbage And Refuse:**
 - 1. Every occupant of a dwelling, dwelling unit or rooming unit shall store and dispose of all his/her refuse and garbage and any other organic waste that might provide food for insects and/or rodents in a manner approved by the city. The city requires that refuse and garbage be disposed of by a garbage hauler¹.
 - 2. Every owner of a multiple-family dwelling shall supply facilities for the storage and/or disposal of refuse and garbage. In the case of single- or two-family dwellings, it shall be the responsibility of the occupant to furnish such facilities as prescribed by city ordinance.
- D. **Storm And Screen Doors And Windows:** The owner of a rental dwelling unit shall be responsible for providing, maintaining and hanging all screen and storm doors and storm windows whenever the same are required under the provisions of this chapter.
- E. **Pest Extermination:** Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of vermin infestations and/or rodents on the premises. Every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his/her dwelling unit is the only one infested. Notwithstanding, however, whenever infestation is caused by the failure of the owner to maintain a dwelling in a reasonable rodent proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination thereof shall be the responsibility of the owner.

¹ See section 4-2-3 of this code.

F. Rodent Harborages Prohibited:

1. Occupied Areas: No occupant of a dwelling or dwelling unit shall accumulate boxes, firewood, lumber, scrap metal or any other similar materials in such a manner that may provide a rodent harborage in or about any dwelling or dwelling unit. Outside stored materials shall be stacked neatly in piles at least four inches (4") above bare soil or ground.

2. Public Areas: No owner of a dwelling containing two (2) or more dwelling units shall accumulate or permit the accumulation of boxes, lumber, scrap metal or any other similar materials in such a manner that may provide a rodent harborage in or about shared or public areas of a dwelling or premises. Materials stored outside by the owner or permitted to be stored by the owner shall be stacked neatly in piles at least four inches (4") above bare soil or ground.

G. Storage Of Food For Rodent Prevention: No owner or occupant of a dwelling unit shall store, place or allow to accumulate any materials that may serve as food for rodents in a site accessible to rodents.

H. Maintenance Of Plumbing Fixtures And Facilities: The owner or occupant of a dwelling unit shall maintain all supplied plumbing fixtures and facilities therein.

I. Minimum Heating Capability And Maintenance: In every dwelling unit or rooming unit, when the control of the supplied heat is the responsibility of a person other than the occupant, a temperature of at least sixty-eight degrees Fahrenheit (68°F) at a point three feet (3') above the floor when the outside temperature is sixteen degrees below zero Fahrenheit (-16°F) (Amended Ord. 314 10-4-2005)

J. Removal Of Snow And Ice: The owner of any rental dwelling shall be responsible for the removal of snow and ice from parking lots and/or driveways, steps and walkways on the premises. Individual snowfalls of three inches (3") or more or successive snowfall accumulations to a depth of three inches (3") shall be removed from walkways and steps within forty-eight (48) hours after cessation of the snowfall. (Ord. 267, 7-20-1999)

K. Minimum Exterior Lighting: The owner of rental dwellings shall be responsible for providing and maintaining in good condition lighting fixtures and levels required by State Building Code for tenants. (Ord. 267, 7-20-1999; amd. 2003 Code)

L. Maintenance Of Driveway And Parking Areas: The owner of a multiple-

family dwelling shall be responsible for providing and maintaining in good condition paved and delineated parking areas and driveways for tenants. (Ord. 267, 7-20-1999)

9-9-5: **MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES:** No person shall rent or let to another for occupancy any dwelling or dwelling unit for the purposes of living, sleeping, cooking and eating therein which does not comply with the following minimum standards for basic equipment and facilities:

- A. Kitchen Sink: Provide a kitchen sink in good working condition which is properly connected to an approved water supply system and which provides at all times an adequate amount of heated and unheated running water under pressure and which is connected to an approved sewer system per city ordinances.
- B. Cabinets/Shelves, Counter/Table: Provide cabinets and/or shelves for the storage of eating, drinking and cooking equipment and utensils and for food that does not require refrigeration for safekeeping; and a counter or table for food preparation. Said cabinets and/or shelves and counter or table shall be of sound construction and finished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food. (Ord. 267, 7-20-1999)
- C. Cooking And Storage Facilities: Provide a stove or similar device for cooking food and a refrigerator or similar device for the safe storage of food at or below forty degrees Fahrenheit (40°F), which are properly installed with all necessary connections for safe, sanitary and efficient operation. Such stove, refrigerator or similar devices need not be installed when a dwelling unit is not occupied, but sufficient space and adequate connections for the installation and operation of said stove, refrigerator or similar device must be provided. (Ord. 267, 7-20-1999; amd. 2003 Code)
- D. Toilet Facilities: Within every dwelling unit there shall be a non-habitable room which is equipped with a water closet in compliance with the Minnesota State Plumbing Code. Such room shall have an entrance door that affords privacy. Said flush water closet shall be equipped with easily cleanable surfaces, shall be connected to an approved water system that at all times provides an adequate amount of running water under pressure to cause the water closet to be operated properly, and all shall be connected to a sewer system in compliance with city ordinances.
- E. Lavatory Sink: Within every dwelling unit there shall be a lavatory sink. Said lavatory sink may be in the same room as the water closet, or if located in another room, the lavatory sink shall be located in close

proximity to the door leading directly into the room in which said water closet is located. The lavatory sink shall be in good working condition and shall provide at all times an adequate amount of heated and unheated running water under pressure and shall be connected to an approved sewer system in compliance with city ordinances.

- F. **Bathtub Or Shower:** Within every dwelling unit there shall be a non-habitable room which is equipped with a bathtub or shower in good working condition. Such room shall have an entrance door that affords privacy. Said bathtub or shower may be in the same room as the water closet, or in another room, and all shall be properly connected to an approved water supply system and shall provide at all times an adequate amount of heated and unheated water under pressure and shall be connected to an approved sewer system in compliance with city ordinances. (Ord. 267, 7-20-1999)

9-9-6: **STAIRWAYS, PORCHES AND BALCONIES:** Every stairway, inside or outside of a dwelling, and every porch or balcony shall be kept in safe condition and sound repair. Stairs and handrails shall conform to the Andover Building Code standards¹. Every porch, balcony or deck that is thirty inches (30") or more above grade shall have a guardrail and shall be firmly fastened and maintained in good condition. No flight of stairs shall have settled out of its intended position or have pulled away from the supporting or adjacent structures enough to cause hazard. No flight of stairs shall have rotting, loose or deteriorating supports. Excepting spiral and winding stairways, the treads and risers of every flight of stairs shall be essentially uniform in width and height. Stairways shall be capable of supporting a live load of one hundred (100) pounds per square foot of horizontal projection. (Ord. 267, 7-20-1999)

9-9-7: **ACCESS TO DWELLING UNITS:** Access to or egress from each dwelling unit shall be provided without passing through any other dwelling unit. (Ord. 267, 7-20-1999)

9-9-8: **SECURITY FOR RENTAL UNITS:** No owner shall let or rent to another for occupancy any dwelling or dwelling unit unless all exterior doors of the dwellings or dwelling units are equipped with safe, functioning locking devices. Rental dwellings shall be furnished with door locks as follows:

- A. For the purpose of providing a reasonable amount of safety and general welfare for persons occupying multiple-family dwellings with common areas, an approved security system shall be maintained for each multiple-family building to control access. The security system shall consist of locking building entrance or foyer doors, and locked doors leading from hallways into individual dwelling units. Dead latch type door locks shall be provided with releasable lever knobs (or doorknobs) on the inside of

¹ See chapter 1 of this title.

building entrance doors and with key cylinders on the outside of the building entrance doors. Building entrance door latches shall be of a type that is permanently locked.

- B. Every door that provides ingress or egress for a dwelling unit within a multiple-family building shall be equipped with an approved lock that has a deadlocking bolt that cannot be retracted by end pressure; provided however, that such door shall be able to be opened from the inside without the use of a key or any special knowledge or effort. (Amended Ord. 314, 10-4-2005)
- C. All multiple-family dwellings in existence prior to April 21, 1992, which were not previously required to have an approved security system, shall not be subject to the requirements of Subsection A of this section. (Ord. 267, 7-20-1999)

9-9-9: **MINIMUM STANDARDS FOR LIGHT AND VENTILATION:** No person shall occupy as owner or occupant or let to another for occupancy any dwelling or dwelling unit for the purpose of living therein which does not comply with the following minimum standards for light and ventilation:

- A. Habitable Room Ventilation: Except where there is supplied some other device affording ventilation and approved by the Building Official, every habitable room shall have at least one window facing directly outdoors that can be opened easily. The minimum total of window area that can be opened in every habitable room shall be a minimum of eight percent (8%) of the floor area of the room (Amended Ord. 314 10-4-2005).
- B. Non-habitable Room Ventilation: Every bathroom and water closet compartment, and every laundry and utility room shall be provided with natural ventilation by means of windows, or skylights having an area of not less than four percent (4%) of the floor area of such rooms; except, that no windows shall be required if such rooms are equipped with a ventilation system that is approved by the Building Official. (Ord. 267, 7-20-1999; amd. 2003 Code, Amended Ord. 314 10-4-2005)
- C. Electric Service, Outlets And Fixtures: Every dwelling unit and all public and common areas shall be supplied with electric service, functioning over-current protection devices, electric outlets, and electric fixtures which are properly installed, which shall be maintained in a safe working condition, and shall be connected to a source of electric power in a manner prescribed by ordinance, rules and regulations of the city and bylaws of the state. The minimum capacity of such electric service and the minimum number of electric outlets and fixtures shall be as follows:

1. A dwelling containing one or two (2) dwelling units shall have at least

the equivalent of 100-ampere, 3-wire electric service per dwelling unit.

2. Each dwelling unit shall have at least one branch electric circuit for each six hundred (600) square feet of dwelling unit floor area. (Ord. 267, 7-20-1999)

3. Every habitable room shall contain one electrical convenience outlet for each twelve (12) lineal feet, or major fraction thereof, measured horizontally around the room at the baseboard line; provided, that in each room, a ceiling type electric light fixture may be substituted for one of the required electrical convenience outlets. (Ord. 267, 7-20-1999; amd. 2003 Code)

4. Every water closet compartment, bathroom, kitchen, laundry room, and furnace room shall contain at least one supplied ceiling type or wall type electric convenience outlet.

5. Every public hall and public stairway in every multiple dwelling shall be adequately lighted to provide at least ten (10) foot-candles of illumination of all parts thereof at all times by means of properly located electric light fixtures; provided that such electrical lighting may be omitted from sunrise to sunset where there are windows or skylights opening directly to the outside and where the total window or skylight area is at least one-tenth (1/10) of the combined horizontal area of the floor and stairway of each such public hallway and where such windows or skylight provide adequate natural light to all parts of each public hallway. Every public hall and stairway in dwellings containing two (2) dwelling units shall be supplied with convenient light switches, controlling an adequate lighting system that will provide at least ten (10) foot-candles of illumination on all parts thereof, which may be turned on when needed.

6. A convenient switch or equivalent device for turning on a light in each dwelling unit shall be located near the point of entrance to such unit. (Ord. 267, 7-20-1999)

9-9-10: **MINIMUM STANDARDS FOR HEAT:**

A. Standards Established: No person shall occupy as owner or occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not have heating facilities which are properly installed and maintained in a safe and working condition and which are capable of safely heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit located therein to a temperature of at least sixty-eight degrees Fahrenheit (68°F) at a point three feet (3') above the floor when the outside temperature is -16 degrees Fahrenheit. (Amended Ord. 314 10-4-2005)

B. Prohibited Heating Methods:

1. Gas or electric appliances designed primarily for cooking or water heating purposes shall not be considered as heating facilities within the meaning of this section.
2. Portable heating equipment employing flame and the use of liquid fuel does not meet the requirement of this section and is prohibited.
3. No owner or occupant shall install, operate or use a space heater employing a flame that is not vented outside the structure in an approved manner. (Ord. 267, 7-20-1999)

9-9-11: **GENERAL MAINTENANCE REQUIREMENTS:** No person shall occupy, as owner or occupant, or let to another for occupancy, any dwelling or dwelling unit for the purpose of living therein which does not comply with the following requirements:

- A. Foundations, Exterior Walls And Roofs: The foundation, exterior walls and exterior roof shall be substantially watertight and protected against vermin and rodents and shall be kept in sound condition and repair. The foundation element shall adequately support the building at all points. Every exterior wall shall be free of structural deterioration or any other condition that might admit rain or dampness to the interior portion of the walls or to the interior spaces of the dwelling. The roof shall be tight and have no defects that admit rain and roof drainage and shall be adequate to prevent rainwater from causing dampness in the walls. All exterior surfaces, other than decay resistant materials, shall be protected from the elements and decay by paint or other protective covering or treatment. If approximately twenty five percent (25%) or more of the total exterior surface is unpainted or lacks protective coating or is determined by the Building Official to be deteriorated, the surface shall have a protective covering applied. If approximately twenty five percent (25%) or more of the total exterior surface of any brick, block or stone wall is loose or has fallen out, the surface shall be repaired. Any shingles, siding, or other protective element that has become damaged or deteriorated beyond effectiveness or is missing shall be repaired or replaced in a timely manner. (Ord. 267, 7-20-1999; amd. 2003 Code, Amended Ord. 314 10-4-2005)
- B. Windows And Doors: Every window, exterior door and hatchway shall be substantially tight and shall be kept in good repair. Every window, other than a fixed window or storm window, shall be capable of being easily opened and closed. Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction as to completely exclude rain, vermin and rodents from entering the building.

- C. Floors, Interior Walls And Ceilings: Every floor, interior wall and ceiling shall be protected against the passage and harborage of vermin and rodents and shall be kept in sound condition and good repair. Every floor shall be free of loose, warped, protruding or rotting flooring materials. Every interior wall and ceiling shall be maintained in a tight, waterproof condition. Toxic paints or materials with a lasting toxic effect shall not be used. Every toilet room and bathroom floor surface shall be capable of being easily maintained.
- D. Rodent Infested Buildings: Buildings found to be rodent infested shall be made rodent resistant. All openings in the exterior walls, foundations, basements, ground or first floors and roofs which have one-half foot (1/2') diameter or larger openings shall be rodent proofed in an approved manner. Interior floors or basements, cellars and other areas in contact with the soil shall be paved with concrete or other rodent impervious material.
- E. Fences: All fences shall conform to Chapter 12-7 of this code. (Amended Ord. 314 10-4-2005)
- F. Accessory Structures: Accessory structures shall be structurally sound and be maintained in good repair. The exterior of such structures shall be made weather resistant through the use of decay resistant materials such as paint or other preservatives. All accessory structures shall conform to Chapter 12-6 of this code. (Amended Ord. 314, 10-4-2005)
- G. Safe Building Elements: Every foundation, roof, floor, exterior and interior wall, ceiling, inside and outside stair, every porch and balcony, and every appurtenance thereto, shall be safe to use and capable of supporting normal structural loads.
- H. Facilities To Function: All equipment or utilities required under city ordinances and every chimney and flue shall function effectively in a safe and working condition.
- I. Grading And Drainage: Every yard, court, or passageway on the premises on which a dwelling stands shall be graded and drained so as to be free of standing water that constitutes a detriment to health and safety.
- J. Yard Maintenance: Every yard of a premises on which a dwelling stands shall be maintained to prevent dust and erosion. (Ord. 267, 7-20-1999)

9-9-12: **CONSTRUCTION REQUIREMENTS:** Every dwelling within the city shall conform to the Andover Building Code. (Ord. 267, 7-20-1999; amd. 2003 Code, Amended Ord. 314 10-4-2005)

9-9-13: **MAXIMUM DENSITY, MINIMUM SPACE FOR RENTAL UNITS:**

No person shall permit or let to be occupied any rental dwelling for the purpose of living therein which does not comply with the following requirements:

- A. Permissible Occupancy Of Dwelling Unit: The maximum permissible occupancy of any rental dwelling unit shall be determined as follows:
 - 1. For the first occupant, one hundred fifty (150) square feet of habitable room floor space and for every additional occupant thereof, at least one hundred (100) square feet of habitable room floor space.
 - 2. In no event shall the total number of occupants exceed two (2) times the number of habitable rooms, less the kitchen, in the dwelling unit.
- B. One Family Per Dwelling Unit: Not more than one family, except for temporary guests, shall occupy a dwelling unit. (Ord. 267, 7-20-1999)

9-9-14: **ADMINISTRATION AND ENFORCEMENT OFFICIAL;
INSPECTIONS:**

- A. The Building Official shall administer and enforce the provisions of this chapter when reason exists to believe that a violation of the provisions of this chapter has been or is being committed. Inspections shall be conducted during reasonable hours, and the Building Official shall present evidence of his/her official capacity to the owner or occupant in charge of the dwelling unit. The Building Official shall keep confidential all evidence, exclusive of the inspection record, which he/she may discover or obtain in the course of an inspection made pursuant to this section, and such evidence shall be considered privileged.
- B. If any owner, occupant, or other person in charge of a dwelling, dwelling unit, rooming unit, or of a multiple dwelling fails or refuses to permit free access and entry to the structure or premises under his control, or any part thereof, with respect to which an inspection authorized by this chapter is sought to be made, the Building Official may, upon a showing that probable cause exists for the inspection and for the issuance of an order directing compliance with the inspection requirements of this section with respect to such dwelling, dwelling unit, rooming unit, or multiple dwelling, petition and obtain such order from a court of competent jurisdiction. (Ord. 267, 7-20-1999)

9-9-15: **UNFIT CONDITIONS:**

- A. Unfit For Human Habitation:

1. Any dwelling, dwelling unit or rooming unit or portion thereof which is damaged, decaying, dilapidated, unsanitary, unsafe, vermin or rodent infested or which lacks provision for basic illumination, ventilation or sanitary facilities to the extent that the defects create a hazard to the health, safety or welfare of the occupants or of the public may be declared unfit for human habitation. Whenever any dwelling, dwelling unit or rooming unit has been declared unfit, the Building Official shall order same vacated within a reasonable time and shall post a placard on same indicating that it is unfit for human habitation, and any operating license previously issued for such dwelling shall be revoked pursuant to law.
 2. It shall be unlawful for such dwelling, dwelling unit or rooming unit or portion thereof to be used for human habitation until the defective conditions have been corrected and written approval has been issued by the Building Official. It shall be unlawful for any person to deface or remove the declaration placard from any such dwelling unit.
- B. Unfit And Vacant Dwellings To Be Secured: The owner of any dwelling, dwelling unit or rooming unit which has been declared unfit for human habitation or which is otherwise vacant for a period of sixty (60) days or more shall make the same safe and secure so that it is not hazardous to the health, safety and welfare of the public and does not constitute a public nuisance. Any vacant dwelling open at doors, windows, or wall opening, if unguarded, shall be deemed to be a hazard to the health, safety and welfare of the public and is a public nuisance within the meaning of this chapter.
- C. Hazardous Building Declaration: In the event that a dwelling has been declared unfit for human habitation and the owner has not remedied the defects within a prescribed reasonable time, the dwelling may be declared a hazardous building and may be removed, razed or corrected pursuant to the provisions of Minnesota Statutes Sections 463.15 to 463.261. (Ord. 267, 7-20-1999)

9-9-16: **COMPLIANCE ORDER; APPEALS; PENALTY:**

A. Issuance; Contents: Whenever the Building Official determines that any dwelling, dwelling unit or rooming unit or portion thereof is in violation of this chapter or any other ordinance, he/she may issue a compliance order setting forth violations of this chapter or any other ordinance and ordering the owner, occupant, operator or agent to correct such violations. This compliance order shall:

1. Be in writing.
2. Describe the location and nature of the violations of this chapter.
3. Establish a reasonable timeframe, not to exceed sixty (60) days, to correct such violation and notify the owner of his appeal recourse.
4. Be served upon the owner, operator and occupant, or any of them; provided, that such notice shall be deemed to be properly served upon such owner, operator, or occupant if a copy thereof is:
 - a. Served to him/her personally; or
 - b. Sent by registered mail to his/her last known address;
 - c. Upon failure to effect notice through Subsection A4a or A4b of this section, service may be made pursuant to Minnesota Statutes Section 463.17, Subdivision 2, which reads as follows:

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

(Ord. 267, 7-20-1999; amd. 2003 Code) B. Appeals:

1. When it is alleged by any person to whom a compliance order is directed that such compliance order is based upon erroneous interpretation of this chapter, or upon a misstatement or mistake of fact, such person may appeal the compliance order to the City Council. Such appeal must be accompanied by a filing fee as designated by the City Council in cash or cashier's check and must be filed with the Building Official within five (5) business days after service of the compliance order. The filing of an appeal shall stay all proceedings in furtherance of the

action appealed from unless such stay would cause imminent peril to life, health or property.

2. Upon at least five (5) business days' notice to the appellant of the time and place for hearing the appeal and within thirty (30) days after said appeal is filed, the City Council shall hold a hearing thereon. The City Council shall find that the order be reversed, modified or affirmed in whole or in part.

- C. **Restrictions On Transfer Of Ownership During Pending Compliance Order:** It shall be unlawful for the owner of any dwelling, dwelling unit or rooming unit upon whom a pending compliance order has been served to sell, transfer, mortgage or lease or otherwise dispose thereof to another person until the provisions of the compliance order have been complied with, unless such owner shall furnish to grantee, lessee or mortgagee a true copy of any notice of violation or compliance order and shall obtain and possess a receipt of acknowledgment. Anyone securing an interest in the dwelling, dwelling unit or rooming unit who has received notice of the existence of a compliance order shall be bound by same without further service of notice upon him/her and shall be liable to all penalties and procedures provided by this chapter.
- D. **Execution Of Compliance Orders By Public Authority:** Upon failure to comply with a compliance order within the time set therein, and no appeal having been taken, or upon failure to comply with a modified compliance order within the time set therein, the criminal penalty established hereunder notwithstanding, the City Council, after due notice to the owner, may by resolution cause the cited deficiency to be remedied as set forth in the compliance order. The cost of such remedy shall be a lien against the subject real estate and may be levied and collected as a special assessment in the manner provided by Minnesota Statutes Chapter 429 for any reasons set forth in Section 429.101, Subdivision 1, and specifically for the removal and elimination of public health or safety hazards from private property, but the assessment shall be payable in a single installment. It is the intent of this section to authorize the city to utilize Minnesota Statutes Section 429.101 to promote the public health, safety and general welfare.
- E. **Violation A Misdemeanor:** Any person who fails to comply with a compliance order after a right of appeal has expired and any person who fails to comply with a modified compliance order within the time set therein, upon conviction thereof, shall be guilty of a misdemeanor. (Ord. 267, 7-20-1999)