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**CHAPTER 12**

**MINIMUM STANDARDS HOUSING CODE**

[Revised 10/27/08]

**12.01 TITLE AND SCOPE**

This code shall be known and may be cited and referred to as the Minimum Standards Housing Code, Town of Menasha. This code establishes minimum standards governing the condition and maintenance of dwellings occupied by a person or persons exclusive of the owner; establishes minimum standards governing utilities and facilities and other conditions essential to make such dwellings safe, sanitary and fit for human habitation; fixes certain responsibilities and duties of owners, operators and occupants of such dwellings and dwelling units; authorizes the inspection of such dwellings and the condemnation of such dwellings unfit for human habitation; and provides penalties for violations.

**12.02 INTERPRETATION**

The provisions of the chapter shall be held to be the minimum requirements to protect the health, safety, morals and welfare of the people of the Town of Menasha and where this ordinance imposes stricter requirements than imposed by other provisions of law or ordinance, the provisions of this chapter shall control. If any of the provisions of this ordinance are in conflict with the Wisconsin Uniform Dwelling Code, the Wisconsin Uniform Dwelling Code shall take precedence. If any of the provisions of this ordinance are in conflict with the Wisconsin Commercial Code, the Wisconsin Commercial Code shall take precedence.

**12.03 DEFINITIONS**

For the purposes of this chapter, in regards to one- or two-family homes, definitions in addition to those in this section shall be as per the Wisconsin UDC Comm 20.07. For the purposes of this chapter, in regards to structures containing three or more dwelling units, definitions in addition to this section shall be as per the International Building Code as adopted and amended by the Wisconsin Commercial Code. Certain words or terms in this ordinance 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", "rooming house", "rooming unit", or "premises" include the words "or any part thereof."

**Approved:** Approved by the Building Official.

**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.

**Bedroom:** A habitable room within a dwelling unit which is used or intended to be used primarily for the purpose of sleeping, but not including any kitchen or dining room.

**Building Official:** The Building Official or designees for the Town of Menasha.

**Dwelling:** Any building or structure, or part thereof, which is used, designed or intended to be used for human habitation.

**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.

**Extermination:** The control or elimination of insects, rodents or other pests by eliminating their harborage places, by removing or marking 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 a health officer of the Winnebago County Health Department pursuant to the appropriate ordinances.

**Family:** Any number of persons living together on the premises as a single housekeeping unit.

**First story:** That story of a dwelling at or next above the average grade of adjoining ground.

**Floor area:** Floor area of rooms shall be measured by interior dimensions unless otherwise noted.

**Garbage:** The animal and/or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

**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, utility rooms, storage spaces, and similar spaces not used by persons frequently or during extended periods.

**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.

**Health Officer:** A Health Officer of the Winnebago County Health Department.

**Hotel:** A place where sleeping accommodations are offered for pay to transients, in five or more rooms, and all related rooms, buildings and areas. It does not include rooming houses.

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

**Kitchen:** A room within a dwelling unit used for cooking or the preparation of meals.

**Motel:** A hotel that furnishes on-premise parking for motor vehicles of guests as part of the room charge, without extra cost, and that is identified as a “motel” rather than a “hotel” at the request of the operator. It does not include rooming houses.

**Multiple Dwelling or Multiple Residence:** Three (3) or more dwelling units in one (1) structure.

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

**Operator:** Any legally responsible person who has charge, care or control of a building or part thereof in which dwelling units are leased or let.

**Owner:** Any legally responsible person who, alone or jointly or severally with others:

- (1) Has legal title to any dwelling with or without actual possession thereof; or,
- (2) Has charge, care or control of any dwelling as owner or agent of the owner, or as executor, administrator, 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 ordinance to the same extent as if he were the owner.

**Person:** An individual, firm, corporation, association, partnership or organization of any kind.

**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.

**Premises:** A platted or unplatted lot or parcel of land, either occupied or unoccupied by any dwelling, and including any such accessory structure or other structure thereon.

**Room:** A space within a building completely enclosed except for openings for light, ventilation, ingress or egress.

**Rooming Unit:** 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.

**Rooming House:** Any dwelling, or that part of any dwelling, containing one (1) or more rooming units, in which space is let by the owner or operator.

**Rubbish:** Combustible or noncombustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke and other combustible material, paper rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, leaves, tin

cans, metals, mineral matter, glass, crockery or dust.

**State of Wisconsin requirements:** For one- or two-family dwellings, per Wisconsin Uniform Dwelling Code; for multiple dwelling structures, per Wisconsin Commercial Code.

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

**Tourist or Transient:** A person who travels from place to place away from his or her permanent address for vacation, pleasure, recreation, culture, business or employment.

## 12.04 COMPLIANCE WITH REQUIREMENTS

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

## 12.05 REQUIREMENTS FOR SANITATION

### (1) Sink, Flush Water Closet, Lavatory Basin and Bathtub or Shower in Dwellings.

(a) Every dwelling unit shall contain:

- (1) A kitchen sink in good working condition, located in the room in which food is cooked or prepared, and properly connected to an approved water and sewer system.
- (2) A flush water closet, and lavatory basin, in good working condition, and properly connected to an approved water and sewer system. The flush water closet shall be in a room affording privacy, and the lavatory basin shall be located in the same room as or in a room adjacent to the flush water closet.
- (3) A bathtub or shower in good working condition, and properly connected to an approved water and sewer system. The bathtub or shower shall be located within the same room as the flush water closet or in a separate room affording privacy,

(b) No water closet shall be of the flush hopper, frost-proof hopper, privy or similar type where a sewer system is available to the property; and where no sewer is available, then such facilities shall be used only when approved by the Building Official.

### (2) Access to Bathrooms and Water Closets.

Access to each bathroom or water closet compartment shall be provided without requiring passage through a sleeping room, bathroom or water closet compartment of another dwelling unit.

(3) **Floors and Ventilation of Bathrooms and Water Closets.**

- (a) Every water closet compartment and bathroom shall be floored with a surface which is reasonably impervious to water and which can be easily kept in a clean and sanitary condition.
- (b) Every bathroom and water closet compartment shall be provided with adequate ventilation as required per State of Wisconsin requirements.

(4) **Piped Hot and Cold Running Water.**

- (a) Every kitchen sink, lavatory basin and bathtub or shower required under this ordinance shall be connected and supplied with hot and cold running water. Water shall be supplied in accordance with State of Wisconsin requirements.
- (b) Every dwelling shall have supplied water-heating facilities which are properly installed and connected to water lines maintained in safe and good working condition and of a sufficient capacity to supply an adequate amount of water at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 120 degrees Fahrenheit. Such water facilities shall be capable of meeting the requirements of this subsection when the heating facilities of the dwelling or dwelling unit required under the provisions of 12.06(5) are not in operation.

**12.06 REQUIREMENTS FOR LIGHT, VENTILATION AND HEATING**

(1) **Window Area and Ventilation**

- (a) Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area in every sleeping room shall be per State of Wisconsin requirements.
- (b) Every habitable room shall have at least one window which can easily be opened or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall equal at least 45 percent of the minimum window area required by this Section.

(2) **Screening**

- (a) All openable windows as required by Subsection (2) of this section shall be effectively screened, and screen doors shall be self-closing. Screens and screen doors shall be maintained in good condition. Double- and triple-glazed windows do not require storm windows.

- (b) Every basement window used for ventilation, and every other opening to a building which might provide an entry for rodents, shall be supplied with a screen or such other device as will effectively prevent their entrance.

(3) **Electrical Outlets.**

- (a) Every habitable room shall contain at least:
  - (1) one floor-or-wall type electric convenience outlet and one ceiling electric lighting fixture, or
  - (2) two electric convenience outlets.
- (b) Every water closet compartment, bathroom or hall, furnace room or laundry room shall contain at least one wall-or-ceiling type electric light fixture.
- (c) Every electrical outlet and fixture shall be properly installed and maintained in good and safe working condition and connected to an approved source of electric power in a safe, approved manner.

- (4) **Public Hall Lighting.** Every public hall and stairway in every multiple dwelling shall be illuminated per State of Wisconsin requirements.

- (5) **Heating Facilities.** Every dwelling shall have heating facilities which are properly installed and vented, are maintained in safe operating condition, and are capable of heating all habitable rooms, bathrooms and water compartments in each dwelling unit therein to a temperature as required per State of Wisconsin requirements.

**12.07 REQUIREMENTS FOR FLOOR SPACE AND GENERAL OCCUPANCY**

- (1) No dwelling unit shall be occupied by more than one family.

(2) **Floor Space**

- (a) Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant, in addition to the floor area included in water closet compartments, bathrooms, halls or passageways.
- (b) Every room occupied for sleeping purposes shall contain at least 70 square feet of floor space for one occupant or 50 square feet of floor space for each occupant if more than one.

- (3) **Access to Sleeping Rooms.** No dwelling unit shall be so located or arranged that access thereto requires passage through a habitable room of another dwelling unit.
- (4) **Ceiling Height of Habitable Rooms.** At least one-half of the floor area of every habitable room shall have a ceiling height per State of Wisconsin requirements. The floor area of any part of a room where the ceiling height is less than five (5) feet shall not be considered as part of the required floor area.
- (5) **Basement or Half-Basement Occupancy.**
  - (a) No basement space may be used as a habitable room or dwelling unit, except as hereinafter provided.
    - (1) The basement space must be insulated against dampness, and the floors and walls shall be impervious to leakage or underground and surface run-off water.
    - (2) Access to the habitable room shall be gained to the unit without passage through a furnace room.
    - (3) Basement utilized for sleeping.
      - (a) At least two (2) exits conforming to State of Wisconsin requirements shall be required.
      - (b) The space to be so used shall comply with all the requirements of this code for habitable rooms.

- (d) **Stairs and Porches.** Every inside and outside stair and handrail, and every porch and porch rail 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 Building Official may require a handrail for each stair if deemed necessary.
- (e) **Handrails.** Every stairway of more than 3 risers must have a handrail of construction corresponding to State of Wisconsin requirements and be safely enclosed to handrail height.
- (2) **Plumbing.** All plumbing shall be properly installed and maintained in sanitary condition free from defects, leaks and obstructions in accordance with the Town of Menasha 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 State of Wisconsin requirements and the ordinances of the Town of Menasha.
- (4) **Smoke Detectors.** All dwelling units subject to the provisions of this code shall be provided with smoke detectors per State of Wisconsin requirements. The owner shall be responsible for installing and maintaining the smoke detectors in good working order. Tenants shall be responsible for informing the owner of any smoke detector malfunction, including the need for a new battery. The owner shall check batteries at the beginning of a new lease and shall replace the battery at least annually.
- (5) **Effectiveness.** Every supplied facility, piece of equipment, or utility which is required under this ordinance shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

**12.08 REQUIREMENTS FOR SAFE AND SANITARY MAINTENANCE OF DWELLING AND DWELLING UNITS**

- (1) **Structural Soundness.**
  - (a) **Members.** Every foundation, door, outer wall, ceiling and roof shall be weather tight, watertight, and rodent-proof, shall be capable of affording privacy, and shall be kept in good repair. Every interior partition wall, floor and ceiling shall be capable of affording privacy, kept in a good state of repair and maintained so as to permit it to be kept in a clean and sanitary condition.
  - (b) **Openings.** Every window, exterior door and basement hatchway or stairway shall be weather tight, watertight, and rodent-proof and shall be kept in good working condition and repair.
  - (c) **Rain Water Drainage from Roof.** All rainwater shall be so drained and conveyed from every roof so as not to cause dampness in the walls, ceilings or floors of any habitable room, or any bathroom, or any toilet room.

**12.09 REQUIREMENTS FOR CLEANLINESS AND GARBAGE AND TRASH DISPOSAL**

- (1) **Owner or Owner-Occupant Responsibility**
  - (a) 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.
    - (1) Garbage and rubbish disposal facilities or containers in every multiple dwelling.
    - (2) 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 reasonably rat proof or insect-proof condition.

- (3) All other facilities, utilities, service or conditions required by this ordinance.

**(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. Garbage and rubbish shall be disposed of or stored in proper containers in a neat and sanitary manner unless disposed of or stored by the owner or owner-occupant as provided in paragraph 1 above.

**12.10 ROOMING HOUSES**

No person shall operate a rooming house, or shall occupy or let to another for occupancy any rooming unit in any rooming house, except in compliance with the provisions of this Section.

**(1) Rooming House Licenses.**

- (a) **License Required.** No person shall operate a rooming house unless he holds a valid rooming house license issued by the office of the Town Clerk in the name of the operator and for the specific dwelling unit. This license shall be displayed in a conspicuous place within the rooming house at all times. No such license shall be transferable. Every person holding such a license shall give notice in writing to the office of the Town Clerk and the Building Official within twenty-four (24) hours after having sold, transferred, given away or otherwise disposed of ownership of, interest in or control of any rooming house. Such notice shall include the name and address of the person succeeding to the ownership or control of such rooming house. Every rooming house license shall expire at the end of one year following its date of issuance, unless sooner suspended or revoked as hereinafter provided.
- (b) **Denial of License.** Any person whose application for a permit to obtain a license to operate a rooming house has been denied may request and shall be granted a hearing on the matter, under the procedure provided in this chapter.
- (c) **Notice of Violation.** Whenever upon inspection of any rooming house the Health Officer or Building Official finds that conditions or practices exist which are in violation of any provision of this chapter, the Health Officer or Building Official, as the case may be, shall give

notice in writing to the operator of such rooming house that unless such conditions or practices are corrected within a reasonable time, to be determined by the Health Officer or Building Official, respectively, the operator's rooming house license will be suspended. At the end of such period the Health Officer or Building Official, as the case may be, shall reinspect such rooming house, and if he finds that such conditions or practices have not been corrected, he shall give notice in writing to the operator that the latter's license has been suspended. Upon receipt of notice of suspension, such operator shall immediately cease operation of such rooming house, and no person shall occupy for sleeping or living purposes any room therein.

- (d) **Suspension of License.** Any person whose license to operate a rooming house has been suspended, or who has received notice from the Health Officer or Building Official that his license is to be suspended unless existing conditions or practices at his rooming house are corrected, may request and shall be granted a hearing on the matter before the Board of Public Health (or other designated body) as the case may be, under the procedure provided in this ordinance; provided that if no petition for such hearing is filed within ten (10) day following the day on which such license was suspended, such license shall be deemed to have been automatically revoked.

**(2) Minimum Housing Regulations for Rooming Houses.**

- (a) **General Provisions.** Every rooming house shall comply with the minimum standards for dwellings and dwelling units set forth in this code in the following sections and chapters:
  - (1) Section 12.06 on minimum standards for light, ventilation and heat.
  - (2) Section 12.07 on minimum standards for floor space and general occupancy.
  - (3) Section 12.08 on minimum standards for safe and sanitary maintenance of dwellings and dwelling units.
  - (4) Section 12.09 on minimum standards for cleanliness and garbage and trash disposal.
- (b) **Sanitary Facilities.** At least one (1) flush water closet, one (1) lavatory basin and one (1) bathtub or shower, properly connected to a water and sewer system approved by the Building Official and in good working condition, shall be supplied for each eight (8) persons or fraction thereof residing within a rooming house, including members of the operator's family wherever they share the use of the said facilities, provided that

in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half of the required number of water closets. All such facilities shall afford privacy and be separate from the habitable rooms, shall be so located within the dwelling as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities, and shall not be more than one story removed from the rooming unit of any occupant intended to share the facilities. Every lavatory basin and bathtub or shower shall be supplied with hot water at all times. No such facilities shall be located in a basement except by written approval of the Health Officer or Building Official.

- (c) **Linens and Towels.** The operator of every rooming house shall change supplied bed linen and towels therein at least once each week, and prior to the letting of any room to any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.
- (d) **Exits.** Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the laws of the State of Wisconsin and the Town of Menasha.
- (e) **Maintenance.** The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floor and ceilings, and for maintenance of a sanitary condition in every other part of the rooming house; and shall be further responsible for the sanitary maintenance of the entire premises where the entire structure of building is leased or occupied by the operator.
- (f) **On-Site Operator Required.** If a rooming house has more than six available rental rooms, an on-site operator or manager is required. The on-site manager may be a tenant living on the premises. In the case where no on-site operator is required, the owner or operator of said rooming facility shall provide to the tenants the owner or operator's telephone number, and shall also post in a place accessible to all tenants a listing of telephone numbers for all emergency and maintenance service needs.
- (g) **Smoke Detectors.** Every floor level, including the basement, and every rooming unit shall be protected with an approved smoke detector.
- (h) **Fire Extinguishers.** An approved fire extinguisher shall be provided on each floor level including the basement.
- (i) **Garbage and Rubbish.** Adequate garbage disposal facilities or garbage storage containers shall be supplied by the rooming house operator. The operator shall be responsible for the disposal

of all garbage in a clean and sanitary manner.

- (j) **Applicability to Hotels and Motels.** Every provision of this ordinance which applies to rooming houses shall also apply to hotels and motels, except to the extent that any such provision may be found in conflict with the WI Stats. or with the lawful regulations of any state board or agency.

#### 12.11 EMERGENCY DISCONTINUANCE OF SERVICE OR UTILITIES

No owner, operator 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 Building Official. Upon the 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 Building Official 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 Building Official or any other authorized officials.

#### 12.12 DANGEROUS DWELLINGS

- (1) All dwellings or parts thereof which have any of the following defects shall be deemed "dangerous dwellings" and shall be condemned as unfit for human habitation.
  - (a) Those whose interior or exterior bearing walls or other vertical structural members list, lean or buckle to such an extent as to weaken the structural support they provide.
  - (b) Those which, excluding the foundation, show 33 percent or more of damage or deterioration of the supporting member or members, or 50 percent or more of damage or deterioration of the non-supporting enclosing or outside walls or covering.
  - (c) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
  - (d) Those which have been damaged by fire, wind or other causes so as no longer to provide shelter from the elements and which have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the Town of Menasha.

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- (e) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or vermin-infested or obsolete that they are likely to cause sickness or disease, or injury to the health, morals, safety or general welfare of those living therein or of the people at large.
- (f) Those which lack light, air and sanitation facilities as required by this ordinance to protect the health, morals, safety or general welfare of persons living therein.
- (g) Those which lack the facilities required by this ordinance for egress in case of fire or panic or those which have insufficient stairways, elevators, fire escapes, or other means of ingress and egress required herein.
- (h) Those whose parts are so attached that they may fall and injure occupants or the public or other property.
- (i) Those whose general condition or location causes such buildings to be unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.

**(2) Declaration of Nuisance and Orders**

- (a) All "Dangerous Dwellings" or parts thereof within the terms of this ordinance are hereby declared to be public nuisances and unfit for human habitation, and shall be vacated and repaired or demolished in accordance with the provisions of Section 12.14 of this chapter.
- (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 this ordinance, it shall be ordered vacated and demolished in accordance with the provisions of Section 12.14 of this chapter.

**12.13 ENTRY AND INSPECTION OF DWELLINGS**

- (1) **Authorization.** The Building Official is hereby authorized and directed to make inspections to determine the condition of dwellings, dwelling units and premises located within the Town of Menasha 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 Building Official 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 Building Official free access thereto for the purpose of such inspection.

- (2) **Owner's Access for Repairs.** Every occupant of a dwelling shall give the owner thereof, or his agent or employee, access to any part of such dwelling, dwelling unit or 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 ordinance or any lawful order issued pursuant thereto.
- (3) **Town Personnel Not to be Liable.** No officer, agent or employee of the Town of Menasha shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this ordinance. Any suit brought against any officer, agent or employee of the Town of Menasha as a result of the proper discharge of his duties under this ordinance shall be defended by the Town of Menasha Town Attorney until final determination of the proceedings therein.

**12.14 ENFORCEMENT: SERVICE OF NOTICES AND ORDERS: HEARINGS**

- (1) **Applicability.** In accordance with and to carry out the stated purposes of this Housing Code, the enforcement and interpretation of the provisions of this Chapter with respect to violations thereof shall be vested solely in the discretion and judgment of the Building Official.

**(2) Notices of Violation**

- (a) **General Non-Compliance Violations.** Whenever the Building Official determines that there has been a violation of any provision of this ordinance he shall give notice of such violation to the person or persons responsible therefor and order compliance with the ordinance as hereinafter provided. Such notice and order shall:

- (1) Be in writing on an appropriate form.
- (2) Include a description of the real estate sufficient for identification.
- (3) Include a list of the violations, with reference to the Section of this ordinance violated.
- (4) Include an order as to the remedial action required to effect compliance with this Chapter.
- (5) Include specification of a reasonable time for compliance.
- (6) Include a copy of the appeals process.



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(7) Be served upon the owner, occupant or agent in person; provided, however, that the notice and order shall be deemed to be properly served if such owner, occupant or agent is sent a copy thereof by U.S. Postal Service to his last known address and a copy is posted in a conspicuous place in or on the dwelling affected.

(b) **Dangerous Dwelling Violations.** Whenever the Building Official determines that a dwelling is a "dangerous dwelling" as defined in Section 12.12, he shall:

(1) Affix upon the door or entrance to such dwelling a printed placard declaring that such dwelling which has been condemned as unfit for human habitation and placarded as such. The Building Official shall remove the placard whenever the defect or defects upon which the condemnation and placarding were based have been eliminated.

(2) 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 12.12 that the owner and occupant or lessee shall vacate said building, and the owner shall cause said building to be repaired or demolished in accordance with the terms of the notice of this Chapter.

(2) **Hearings**

(a) Any person affected by a notice and order issued in connection with the enforcement of this ordinance may request and shall be granted a hearing on the matter before the Housing Appeals Board, provided such person shall file in the office of the Building Official 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 on or before thirty days after the date the notice and order are served. Upon receipt of the petitions, the Building Official 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 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 ordinance have

been complied with, and the petitioner and the Building Official 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 in the office of the Building Official. Such record shall also include a copy of every notice and order issued in connection with the case.

(3) **Orders to Vacate**

(a) **Issuance.** Where a notice of violation and order to comply have been served pursuant to this ordinance 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 Building Official may order the dwelling, or parts thereof affected by the continued violations, vacated in accordance with the following procedure:

(1) Dwellings shall be vacated within a reasonable time, not to exceed 30 days.

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

(3) Vacated dwellings shall not again be used for human habitation until written approval is secured from the Building Official.

(b) **Noncompliance With Orders to Vacate.** If a dwelling or part thereof is not vacated within the time specified in the order of vacation, the Building Official 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 Building Official 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 provision of this ordinance such order shall take affect and shall be complied with immediately. Upon petition to the Housing Appeals Board, the petitioner shall be afforded a hearing pursuant to paragraph (2) of this section

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(5) **Vacation and Demolition**

- (a) If the owner, occupant, or lessee fails to comply with the order of the Building Official or the action of the Housing Appeals Board after hearing, the Building Official 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 Town of Menasha Town 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 at 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 Building Official 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 (5)(a) above.
- (c) Demolition procedures shall comply with the provisions of Chapter 13.53 of the Town of Menasha Building Code.

(6) **Placard**

No person shall interfere with, obstruct, mutilate, conceal, deface or remove any official notice or placard posted by the Building Official on any dwelling or dwelling unit which has been condemned as unfit for human habitation. Removal of such official notice or placard shall only be performed by the Building Official.

**12.15 HOUSING APPEALS BOARD**

- (1) A Housing Appeals Board is hereby created as authorized by this chapter.
  - (a) Membership-the Board shall consist of five members. One member shall be the Town Attorney (permanent appointment), and the remaining members shall be qualified by experience or training to pass on matters pertaining to building construction. The Building Official shall be an ex-officio member of the Board and shall act as secretary, but shall not vote.
- (2) The members of the Board shall be appointed by the Town Chairman subject to confirmation by the Town Board for a term of three years. Each member shall serve until his successor is appointed. To be eligible for appointment to said Board, a person shall be a citizen of the United States and a taxpayer or resident of the Town of Menasha.

- (3) The Board shall elect a Chairman from its members. The Housing Appeals Board shall:

- (a) Adopt rules of procedure not inconsistent with this chapter, elect its own officers, 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 and personal or financial interest. Three members of the Board in attendance at any meeting shall constitute a quorum.
- (b) Interpret the intent of the chapter in specific cases where, upon appeal, it clearly appears that, by reason of special conditions, undue hardship would result from literal application of any section of the chapter. 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 provision of the chapter 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.

- (4) Section 12.15, as herein created, shall have full application and authority as the Chapter 13, Building Code, Town of Menasha, as shall Section 12.14 on enforcement.

**12.16 PENALTIES**

Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute forfeiture. Any person who violates any provision of this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined an amount set forth in Appendix C Fines and Penalties, reference this code section, and upon failure to pay such forfeiture, be imprisoned in the County Jail until the forfeiture is paid; and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.