

CHAPTER 10

BUILDING REGULATIONS  
(Repealed and recreated Ord. #01-2015)

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12-2015

**10.01 AUTHORITY.** These regulations are adopted under the authority granted by Section 101.65, Wisconsin Statutes.

**10.02 PURPOSE.** The purpose of this chapter is to promote the general health, safety, and welfare and to maintain required local uniformity with the administrative and technical requirements of the Wisconsin Uniform Dwelling Code and Commercial Building Code.

**10.03 SCOPE.** The scope of this ordinance includes the construction, remodeling and inspection of commercial buildings and one- and two-family dwellings.

**10.04 WISCONSIN UNIFORM DWELLING CODE ADOPTED.** (Ord. Amend. #03-2015) The Wisconsin Building Code, Chs. DSPS 320-25 AND Chs DSPS 360-366 of the Wisconsin Administrative Code, and all amendments thereto, is adopted and incorporated by reference and shall apply to all buildings within the scope of this ordinance.

**10.05 BUILDING INSPECTOR.** There is hereby created the position of Building Inspector, who shall administer and enforce this ordinance and shall be certified by the Division of Safety & Professional Services, as specified by Wisconsin Statutes, Section 101.66(2), in the category of Commercial Buildings & Uniform Dwelling Code Construction Inspector. Additionally, this or other assistant inspectors shall possess the certification categories of UDC and Commercial HVAC, Electrical, and Plumbing. This position may, at the City Council's discretion, be filled by a qualified employee of the City or by a qualified independent contractor.

**10.06 BUILDING PERMIT REQUIRED.** No person shall build, add onto or alter any dwelling within the scope of this ordinance, in excess of \$1,000.00 value in any twelve month period, without first obtaining a building permit for such work from the building inspector. Any structural changes or major changes to mechanical systems that involve extensions shall require permits.

**10.07 BUILDING PERMIT FEE.** The current building permit fee for new construction shall be set by City Council Board. Application forms and fees shall be submitted directly to the Building Inspector. The seal fee (currently \$33.00) is included in the aforementioned fee, and shall be forwarded by the building inspector to the Wisconsin Department of Safety and Professional Services for a UDC permit seal that shall be assigned to all new dwellings.

**10.08 PENALTIES.** The enforcement of this section and all other laws and ordinances relating to building shall be by means of the withholding of building permits, imposition of forfeitures and injunctive action. Forfeitures shall not be less than \$25.00 nor more than \$500.00 for each day of noncompliance.

The purpose of this subchapter is to ensure that residential rental properties conform to minimum safety, health and maintenance standards. This chapter shall include all one and two-family residential rental properties within the City of Darlington.

**(2) Definitions and word usage.**

A. The following definitions will apply in the interpretation and enforcement of this chapter:

**1. BASEMENT**

A space of full-story height below the first floor which is not designed or used primarily for year-round living accommodations. Space, partly below grade, which is designed and finished as habitable space is not defined as basement space.

**2. BUILDING INSPECTOR**

The City of Darlington Building Inspector or his authorized representative.

**3. CELLAR**

A portion of a building located partly or wholly underground and having 2/3 or more of its clear floor-to-ceiling height below the average grade of the ground. (See "basement" for reference.)

**4. DWELLING**

Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

**5. DWELLING UNIT**

Any 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, cooking and eating.

**6. EXTERMINATION**

The control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials which may serve as their food, by poisoning, spraying, fumigating or trapping or by other recognized and legal pest elimination methods approved by the Health Officer.

**7. GARBAGE**

The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food

**8. HABITABLE ROOM**

A room or other 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 corridors, closets and storage space.

**9. HEALTH OFFICER**

The City of Darlington Health Officer or his duly authorized representative.

**10. INFESTATION**

The presence within or around a dwelling of any insects, rodents or other pests.

**11. LANDLORD**

The building owner or his authorized agent or person authorized to rent or lease the building.

**12. MULTIPLE DWELLING**

Any dwelling containing more than two dwelling units.

**13. OCCUPANT OR TENANT**

Any person living, sleeping, cooking or eating in or having actual possession of a dwelling unit or rooming unit.

**14. OPERATOR**

Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are offered for rent.

**15. ORDINARY MINIMUM WINTER CONDITIONS**

The temperature which is 15° F. above the lowest recorded temperature for the previous ten year period.

**16. OWNER**

Any person who, alone or jointly or severally with others:

- (1) Shall have legal or equitable title to any dwelling unit, with or without accompanying actual possession thereof, provided that whenever the dwelling or dwelling unit is subject to a conditional sales contract, lease with option to purchase or any other form of written contract under the terms of which any person is entitled to a conveyance of legal title upon payment of a specified sum, "owner" shall mean the person who shall have such a contractual right, as well as the person who is holding the legal title; or

- (2) Shall have charge, care or control of any dwelling or dwelling unit as executor, executrix, trustee, receiver or guardian of the owner as defined in Subsection (1). Any such person thus representing the actual owner shall be bound to comply with the chapter to the same extent as if he were the owner. Any

person acting as the agent of the owner shall not be construed to be the owner within the terms of this chapter but shall be bound to notify the owner, by means of a registered letter addressed to the owner at this last known address, of any order or notice to be issued by the Building Inspector relating to the property of the owner.

**17. PERSON**

Includes any individual, firm, corporation, association or partnership.

**18. PLUMBING**

Includes all of the following supplied facilities and equipment: Gas pipes, gas-burning equipment, water pipes, garbage disposal equipment, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents, floor drains, laundry traps, drinking fountains, gutters, downspouts, area drains, lines, sanitary and storm sewer systems and also subsoil drainage and any other supplied fixtures, together with all connections to water, sewer or gas lines.

**19. RENTAL PROPERTY**

That property which is rented or leased to any person other than the owner or members of his immediate family.

**20. 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 or eating purposes.

**21. 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, trimmings, leaves, tin cans, metals, mineral matter, glass, crockery or dust.

**22. SUPPLIES**

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

B. Whenever the words “dwelling,” “dwelling unit,” “rooming house,” “rooming unit” and “premises” are used in this chapter, they shall be construed as though they were followed by the words “or any part thereof.”

**10.11 Inspections**

(1) TO BE MADE BY THE BUILDING INSPECTOR. The Building Inspector shall make inspections to determine the condition of dwelling units, rooming units, and premises located within the City and may

enter any building during reasonable hours in the discharge of the duties; and any person who interferes with the Building Inspector in the discharge of the duties shall be in violation of this chapter. The Building Inspector shall have proper identification and shall show same when making such inspections.

(2)ACCESS OF OWNER OR OPERATOR. Every occupant of a dwelling, dwelling unit, or rooming unit shall give the owner or operator thereof, or an agent or employee, access to any part of such dwelling, dwelling unit, or rooming unit or its premises at all reasonable times for the purpose of maintenance or making such repairs or alterations as are necessary to effect compliance with this chapter or with any lawful rule or regulation adopted, or any lawful notice or order issued, pursuant to the provisions of this chapter.

#### **10.12 Notice of violation; hearings; emergency orders.**

- (1) Notice. Whenever the Building Inspector determines that there are reasonable grounds to believe that violations of this chapter exist, it shall give notice of such alleged violation to the person or persons responsible therefor and to any known agent of such person, as hereinafter provided. Such notice shall:
  - (a) Be put in writing.
  - (b) Include a statement of the grounds for issuance.
  - (c) Allow a reasonable time for the performance of any act which such notice requires.
  - (d) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter.
  - (e) Be served upon the owner or this agent or the occupant, as the case may require; provided, however, that such notice shall be deemed to be properly served upon such owner or agent or upon such occupant if a copy thereof is served upon his personally or if a copy thereof is sent by registered mail to his last known address or if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice or if he is served with such notice by any other method authorized or required under the laws of this state.
- (2) Hearing. Any persons affected by any such notice issued by the Building Inspector may request and shall be granted a hearing on the matter before the Common Council, provided that such person shall file in the office of the Building Inspector within 10 days after service of the notice, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. Upon receipt of such petition, the Building Inspector shall arrange a time and place for such hearing and shall give the petitioner written notice thereof. Such hearing shall be held as soon as practicable after the receipt of request therefor. At such hearing the petitioner shall be given an opportunity to be heard and to show cause why such notice should not be complied with.

- (3) Action after hearing. After such hearing the Common Council shall sustain, modify or withdraw the notice, depending upon its findings as to whether the provisions of this chapter have been

complied with. If the Common Council shall sustain or modify such notice, it shall be deemed to be an order.

- (4) Notice to be order if not appealed. Any notice served pursuant to Subsection (1) shall automatically become an order if a written petition for a hearing is not filed in the office of the Building Inspector within 10 days after such notice is served.
- (5) Record of hearing. The proceedings at such hearing, including the findings and decision of the Common Council, shall be summarized, reduced to writing and entered as a matter of public record. Such record shall also include a copy of every notice or order issued in connection with the matter.
- (6) Appeal to court. Any person aggrieved by the decision of the Common Council may seek relief therefrom in any court of competent jurisdiction as provided by the laws of this state.
- (7) Emergency orders. Whenever the Building Inspector finds that an emergency exists which requires immediate action to protect the public health it may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. Notwithstanding any other provisions of this chapter, such order shall be effective immediately, but upon petition to the Building Inspector the person subject to the order shall be afforded a hearing as soon as possible in the manner provided in Subsection (2). After such hearing, depending upon the findings as to whether the provisions of this chapter have been complied with, the Common Council shall continue such order in effect or modify it or revoke it.

#### **10.13 Basic equipment and facilities.**

No person shall lease, rent or otherwise 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 following requirements:

- (1) Smoke alarms.
  - (a) Every dwelling unit under the jurisdiction of this chapter shall have approved smoke alarms installed in each sleeping area on each floor level and at the head of every open stairway.
  - (b) It shall be the responsibility of the tenant to notify the landlord of smoke alarm malfunctions or dead batteries.
  - (c) It shall be the landlord's responsibility to effect timely repairs or replacement of smoke alarms when notified by the tenant.
  - (d) The landlord shall serve written notice upon the tenant of the landlord's responsibility concerning smoke alarms. For the purposes of this section, written notice may consist of a notice conspicuously posted within the dwelling unit.
- (2) Kitchen sink. Every dwelling unit shall contain a kitchen sink in good working condition and properly connected to a water and sanitary sewer system approved by the Building Inspector.

- (3) Bathroom. Every dwelling unit shall contain a room within its walls, separate from the habitable rooms, which affords privacy to a person within said room and which is equipped with a flush



water closet, a lavatory basin and a bathtub or shower and the necessary fixtures and accessories therefor in good working condition and properly connected to hot and cold waterlines and a sanitary sewer system.

- (4) Connection of facilities. Every tub or shower required under this chapter and every kitchen sink, lavatory basin and bath shall be properly connected with waterlines and sewer lines.
- (5) Egress.
  - (a) Every dwelling unit shall have two safe, unobstructed means of egress, as required by the laws of the State of Wisconsin.
  - (b) Every building which is remodeled into a duplex, after the effective date of this chapter, shall provide at least two approved exits from every occupied floor level.

#### **10.14 Light, heating and ventilating.**

No person shall lease, rent or otherwise let to another for occupancy any dwelling or dwelling unit for the purpose of living therein which does not comply with the following requirements:

- (1) Bathrooms and water closets. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in bathrooms and water closet compartments equipped with a mechanical ventilation system per Federal Housing Administration regulations.
- (2) Heating facilities. Every dwelling shall contain heating facilities which are properly installed in accordance with standards adopted herein and are maintained in safe and good working condition and are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling located therein to a temperature of at least 70° F., at a distance of 30 inches above floor level, under ordinary minimum winter conditions.
- (3) Proper venting required. All gas-fired heating units and appliances shall be vented into a chimney or gas vent in accordance with adopted standards. No gas appliance shall be vented into an unlined masonry chimney.
- (4) Lighting. Every hallway and stairway in every multiple or rental dwelling shall be adequately lighted in conformity with the current issue of the National Electrical Code and Federal Housing Administration regulations.
- (5) Basement windows. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with a screen or such other device as will effectively prevent their entrance.

#### **10.15 Maintenance and sanitation.**

No person shall lease, rent or otherwise let to another for occupancy any dwelling or dwelling unit for the purpose of living therein which does not comply with the following:

- (1) Foundations, floors, ceilings and roofs. Every foundation, floor, wall, ceiling and roof shall be reasonably weathertight and rodentproof, shall be capable of affording privacy and shall be kept in good repair. Every roof shall be kept in good repair and watertight.
- (2) Skylights, exterior doors, basement hatchways and windows. Every window, skylight, exterior door and basement hatchway shall be reasonably weathertight, watertight and rodentproof and shall be kept in sound working condition and good repair.
- (3) Security of ground floor windows and doors. All ground floor windows and doors shall have an approved locking device installed which provides a means of securing the door or window.
- (4) Stairs, porches and appurtenances. Every inside and outside stair, every porch and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting any load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair.
- (5) Plumbing fixtures and water waste pipes. Every plumbing fixture and water waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstructions.
- (6) Bathroom and floor surfaces. Every water closet compartment floor surface and bathroom floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
- (7) Safe installation required. Every supplied facility, piece of equipment or utility which is required under this section shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
- (8) Rented premises to be fit for human occupancy. No owner shall occupy or let to any other occupant any vacant dwelling unit unless it is clean, sanitary and fit for human occupancy.

**10.16 Minimum space, use and location requirements.**

No person shall rent or otherwise let to another for occupancy any dwelling unit for the purpose of living therein which does not comply with the following requirements:

- (1) Gross floor area. Every dwelling unit shall contain a minimum gross floor area of not less than 150 square feet for the first occupant and 100 square feet for each additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.
- (2) Sleeping rooms. In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall be able to accommodate at least a single bed and dresser, and every room occupied for sleeping purposes by more than one occupant shall contain sufficient room for a double bed or bunk bed or suitable sleeping to accommodate the number of persons per area.
- (3) Basement dwelling. No basement or cellar space shall be used as a dwelling unit unless it complies with the minimum requirements of this chapter.

**10.17 Water-heating facilities; electrical outlets; screening.**

- (1) Water-heating facilities. Every dwelling unit shall be supplied with water-heating facilities which are installed in an approved manner, properly maintained and capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub, shower and laundry facility or other similar units at a temperature of not less than 120° F. at any time needed.
- (2) Electrical outlets. Every habitable room of a dwelling unit shall contain at least two separate and remote outlets, one of which may be a ceiling or wall-type electric light fixture. Every bathroom, laundry room or furnace room shall contain at least one electric light fixture. In addition, every bathroom and laundry room shall be provided with at least one electric outlet.
- (3) Screen requirements. Every window or other device with openings to outdoor space used or intended to be used for ventilation shall be supplied with screens.

#### **10.18 Property maintenance.**

- (1) Exterior property. All exterior property areas shall be maintained in a condition free from debris, rubbish, garbage, physical hazards, rodent harborage and infestation.
- (2) Noxious weeds. All exterior property areas shall be kept free from noxious weeds.
- (3) Protection from elements; appearance. All exterior surfaces of buildings made of materials not inherently resistant to deterioration shall be periodically coated with paint or another suitable preservative which provides adequate resistance to weathering and maintains a neat and attractive appearance.
- (4) Remove snow and ice. All outdoor walkways and parking areas serving multiple dwellings shall be kept free from snow, ice or other hazardous weather conditions.
- (5) Commons areas. All shared or public areas of a building containing multiple dwellings shall be maintained in a safe and sanitary condition.
- (6) Garbage containers. In buildings containing more than four dwellings units, garbage disposal facilities or garbage storage containers shall be provided and periodically emptied.
- (7) Infestations. Where rodent or insect infestation exists in two or more dwelling units in a building or in the shared or public parts of any dwelling containing two or more dwelling units or in one dwelling unit where caused by the owner's failure to maintain the dwelling in a rodentproof or reasonable insectproof condition, the owner shall be responsible for their extermination.

#### **10.19 Responsibilities of owners and occupants.**

- (1) Public areas. Every owner of a structure containing more than three dwelling units shall be responsible for maintaining in a clean, safe and sanitary condition the shared or public area of the dwelling and premises thereof.
- (2) Duty to keep in clean, safe and sanitary condition. Every occupant of a dwelling or dwelling unit shall keep in a clean, safe and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he or she occupies and controls.
- (3) Rubbish disposal. Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in the rubbish container.

- (4) Garbage disposal. Every occupant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste which might provide food for rodents in a clean and sanitary manner by placing it in the garbage storage containers and it shall be the responsibility of the occupant to furnish such facilities or containers.
- (5) Extermination of pests. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding such provisions, whenever infestation is caused by failure of the owner to maintain a dwelling in a rodentproof or reasonable insectproof condition, extermination shall be the responsibility of the owner.
- (6) Plumbing fixtures. Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

#### **10.20 Unfit dwellings; condemnation procedure.**

- (1) Requirements to condemn. The designation of dwellings or dwelling units as unfit for human habitation and the procedure for the condemnation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements. Any dwelling or dwelling unit which shall be found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the Building Inspector.
  - (a) One which is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.
  - (b) One which lacks electrical illumination, ventilation or sanitary facilities adequate to protect the health or safety of the occupants or of the public.
  - (c) One which because of its general condition or location is unsanitary or otherwise dangerous to the health or safety of occupants or of the public.
- (2) Vacating premises. Any dwelling or dwelling unit condemned as unfit for human habitation and so designated and placarded by the Building Inspector shall be vacated within 60 days as ordered by the Health Officer or Building Inspector.
- (3) Reoccupation of premises. No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Building Inspector. The Building Inspector shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.
- (4) Defacing or removing placards. No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as provided in Subsection 3.

- (5) Hearing. Any person affected by any notice or order relating to the condemning and placarding of a dwelling or dwelling unit as unfit for human habitation may request and shall be granted a hearing of the matter before the Common Council under the procedure set forth in §10.12.

**10.21 Violations and penalties.**

Any person who shall violate any provision of this chapter or fail to comply with any order, rule or regulation made hereunder shall be subject to the penalty provisions of §25.04 of the City Code.

**10.22 Adoption of standards.**

The following standards are hereby adopted and made a part of this Code as if set forth completely herein:

- (1) NFPA 54, National Fuel Gas Code.
- (2) NFPA 86, Standard for Ovens and Furnaces.
- (3) NFPA 90B, Standard for the Installation of Warm Air Heating and Air-Conditioning Systems.