

CHAPTER 14
BUILDINGS AND STRUCTURES

SECTION 1

1401.000. ADOPTION OF THE MINNESOTA STATE BUILDING CODE.

1401.001. CODE ADOPTED BY REFERENCE. The Minnesota State Building Code, as adopted by the Commissioner of Administration pursuant to Minnesota Statutes Chapter 16B.59 to 16B.75, including all of the amendments, rules and regulation established, adopted and published from time to time by the Minnesota Commissioner of Administration, through the Building Codes and Standards Division is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this Ordinance. The Minnesota State Building Code is hereby incorporated in this Ordinance as if fully set out herein.

1401.002. APPLICATION, ADMINISTRATION AND ENFORCEMENT. The application, administration and enforcement of the code shall be in accordance with Minnesota Rules Chapter 1300. The code shall be enforced within the extraterritorial limits permitted by Minnesota Statutes, 16B.62, Subdivision 1, when so established by this Ordinance.

1401.003. PERMIT AND FEES. The issuance of permits and the collection of fees shall be as authorized in Minnesota Statutes, 16B.62, Subdivision 1.

Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by mutual agreement with the contracted Building Inspection Services and the City of Winsted. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minnesota Statute 16B.70.

1401.004. VIOLATIONS AND PENALTIES. A violation of the code is a misdemeanor (Minnesota Statute 16B.69) and Minnesota Rules, Chapter 1300.

1401.005. REPEAL. To the extent Ordinance 63-04, 68-02, 81-03, 95-02, 99-01, 03-01, and any other Ordinances of the City of Winsted which is inconsistent with this Ordinance and the Minnesota State Building Code, which is being adopted by reference hereby, the same are repealed.

1401.006. EFFECTIVE DATE OF ORDINANCE. The effective date of this Ordinance shall be after its adoption and publication, according to law.

1401.007. HISTORY OF OTHER REPEALS. Ordinance 63-04 repealed Ordinances 10, 12, 22, 27, 36, 38 and 48.

SECTION 2

1402.000. FENCE REGULATIONS.

1402.001. INTENT. The purpose of the Ordinance is to regulate minimum standards for the construction, erection and placement of fencing to ensure orderly and attractive development in the City of Winsted.

1402.002. DEFINITION OF FENCE. The word FENCE shall be construed to mean a partition made from rails, timbers, chain link, boards, stone walls, hedges, vinyl or any other materials.

1402.003. PERMIT REQUIRED. No person or other entity shall construct or erect any fence without first obtaining a building permit from the Zoning Administrator of the City of Winsted. Fence Permit fees shall be established annually by the City Council.

1402.004. LOCATION. All fences must be located entirely upon the private property of the person or entity constructing or causing the fence to be constructed or erected. Fences shall not encroach on any public right-of-way. The Zoning Official of the City of Winsted may require an applicant for fence permit to establish a true boundary line by a survey thereof to be made by a registered land surveyor. The City does not provide or pay for surveying services.

1402.005. RESIDENTIAL AND COMMERCIAL FENCING. All fencing located within any residential and/or commercial zone as defined by the City of Winsted's zoning ordinance shall be subject to the conditions contained herein.

A. All fencing located within the front yard, shall not exceed four (4) feet in height. Fences located within the front yard setback may not be chain link. Fences located on the side or back yards may not exceed six (6) feet in height.

B. Fences shall not exceed thirty (30) inches in height within a corner light ASight Triangle@. A ASight Triangle@ is defined by the ASight Triangle@ drawing appearing at the end of this section of the City Code.

C. The finished side of the fence shall face neighboring properties or the street. The finished side is described as the side of the fence without exposed supports or posts.

D. Approved residential fences include: stone, brick, finished wood, vinyl and chain link.

1402.006. INDUSTRIAL FENCING. Industrial fences are subject to all of the conditions mentioned in 1402.005 regulating residential and commercial fencing. In addition thereto, industrial fencing is subject to the following:

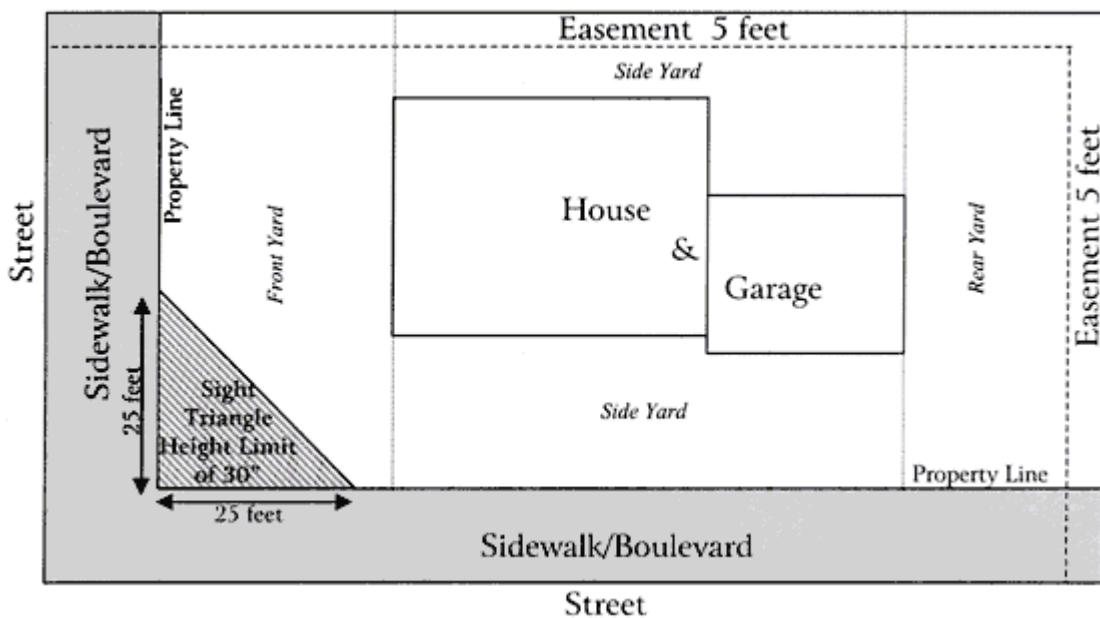
- A. An industrial chain link fence may be constructed with three (3) strands of barbed wire when used above a height of eight (8) feet and provided the barbed wire projects over the property on the exterior side (i.e. applicant=s side) of the fence. A Conditional Use Permit must be obtained from the City Council prior making application to installing barbed wire fencing. Barbed wire may not be used when the industrial use immediately borders an adjacent residential use. Conditional Use Permits will be reviewed under the guidelines set forth in the Winsted Zoning Ordinance.

1402.007. PROHIBITED FENCES. The following fences are prohibited in all zoning districts: fences utilizing electric current; fences utilizing razor wire; fences utilizing barbed wire (except as allowed in an industrial zone, as specified in 1402.006).

1402.008. VIOLATION. The Zoning Administrator may deem any fence which through lack of repair, type of construction or which otherwise imperils life, health, property, or aesthetic quality of a neighborhood shall be deemed a violation of this Ordinance subject to the penalties prescribed hereinbelow.

1402.009. PENALTY. Violation of any provisions of this Ordinance will be a Misdemeanor. Each day that the violation is permitted to exist shall constitute a separate offense.

1402.010. CONFLICT. To the extent this Ordinance conflicts with any other Ordinance or portions of Ordinances, this shall control.



SECTION 3

1403.000. MINIMUM REQUIREMENTS FOR SMOKE DETECTION IN ALL EXISTING APARTMENT BUILDINGS, DUPLEXES, SINGLE FAMILY RENTAL PROPERTY AND LODGING AND ROOMING HOUSES.

1403.001. AUTHORIZATION. This Ordinance is promulgated by the City of Winsted pursuant to Minnesota Statutes 299, The National Fire Protection Association Code 101 and the Uniform Fire Code Appendix 1A.

(Ord. 94-01, Sec. 1, 2/4/94)

1403.002. DEFINITIONS. The following terms, for the purposes of this Ordinance, shall have the meanings given in this section.

- A. Apartment Buildings - Includes buildings containing three or more living units with independent cooking and bathroom facilities, whether designated as apartment house, tenement, garden apartment, or by any other name.
- B. Code Enforcement Office - Means a licensed peace officer, fire chief or building official designated with the power to cite property owners for non-compliance with this Ordinance and/or federal or state mandates.
- C. Duplexes - Includes buildings or structures which are already in existence on the date when this Ordinance becomes effective.
- D. Existing - Includes buildings or structures which are already in existence on the date when this Ordinance becomes effective.
- E. Living Unit - Includes those structures, areas, rooms or combinations of rooms in which a person or persons lives. This does not include common usage areas in multiple living unit buildings such as corridors, lobbies, basements, etc.
- F. Single Family Rental Property - Includes buildings containing one living unit with independent cooking and bathroom facilities, whether designated as a dwelling, house, mobile home or by any other name.

(Ord. 94-01, Sec. 2, 1/4/94)

1403.003. DETECTION REQUIREMENTS. Approved single station or multiple station smoke detectors, continuously powered by the building's electrical service, shall be installed in accordance with Section 6 of this Ordinance in

every living unit within existing apartment buildings, existing duplexes, existing single family rental property and in every sleeping room within existing lodging and rooming houses regardless of the number of stories or number of living units or sleeping units. When activated, the detector(s) shall initiate an alarm that is audible in the sleeping rooms of that living unit or in the sleeping areas of that sleeping

room. The living unit or sleeping room detector(s) shall be in addition to any sprinkler system or other detection system that may be installed in the building. (Exception - single station smoke detection is not required where the building is equipped with a total automatic smoke detection system throughout, such as a centralized system.)

(Ord. 94-01, Sec. 3, 1/4/94)

1403.004. TYPE. Said detector shall be of a type that consists of a superior quality that uses alternating current power.

(Ord. 94-01, Sec. 4, 1/4/94)

1403.005. EXISTING PROPERTIES. Apartments, duplexes, single family rental units, lodging and rooming houses shall be required to install smoke detectors by no later than December 31, 1994. After that date, the Code Enforcement Officer may inspect any property for non-compliance.

(Ord. 94-01, Sec. 5, 1/4/94)

1403.006. INSTALLATION. Single station or multiple station smoke detectors shall be installed in accordance with NFPA 74, "Standard For the Installation, Maintenance, And Use of Household Fire Warning Equipment, and Appendix 1A of the Uniform Fire Code." If, due to the configuration of the living unit or sleeping room, two or more smoke detectors are required within the living unit or sleeping room, they shall be arranged so that the activation of any detector causes the operation of an alarm that shall be clearly audible throughout the living unit or sleeping room over background noise with all intervening doors closed. The detector(s) shall sound an alarm only within an individual living unit or sleeping room and shall not activate the building protective signaling and control system, if any.

(Ord. 94-01, Sec. 6, 1/4/94)

1403.007. PRE-EMPTION. If any model fire prevention, life safety, or building code or standard recognized in or by the State of Minnesota is or becomes more stringent or restrictive than the requirements of this Ordinance, the requirements of such code or standard shall be added to and/or supersede the requirements of this Ordinance.

(Ord. 94-01, Sec. 7, 1/4/94)

1403.008. TAMPERING. Whoever tampers with any smoke detector installed pursuant to this Ordinance so as to render the same inoperable for a period of time longer than is necessary to repair same or for such period of time to disable the detector while the same is making an audible noise due to heat or smoke while someone is in the living unit and cooking, which said cooking causes the detector to go off, is guilty of a petty misdemeanor.

(Ord. 94-01, Sec. 7A, 1/4/94)

1403.009. ENFORCEMENT. The Code Enforcement Officer shall be directed to cite property owners without smoke detection equipment in accordance with the section penalties.

(Ord. 94-01, Sec. 8, 1/4/94)

1403.010. PENALTY. Whenever an act of omission is declared in this code to be a petty misdemeanor, any person violating the provision will, upon conviction, be subject to the penalties specified by state law for a petty misdemeanor.

(Ord. 94-01, Sec. 9, 1/4/94)

1403.011. SEVERABILITY. If any provisions or section of this Ordinance are found invalid by any court of law, such a decision does not invalidate any other provisions of this Ordinance not specifically included in such a decision.

(Ord. 94-01, Sec. 10, 1/4/94)

SECTION 4

1404.000. PLACEMENT AND INSTALLATION OF MAILBOXES AND PROHIBITING OTHER BOXES.

1404.001. INTENT. The intent of this Ordinance is to regulate mail box locations and eliminate paper box locations on city streets and to improve the looks of the streets. The intent of the right-of-way is to provide room for snow storage and removal, utilities, sidewalks and other city uses.

1404.002. DEFINITION. Whenever referred to herein, Aboxes@ shall refer to all mail boxes placed for the use of residents of the City.

1404.003. PROHIBITION OF PAPER BOXES. Any paper boxes, such as those used for newspaper or advertising shall be prohibited within the City of Winsted.

1404.004. HEIGHT REQUIREMENTS. Height requirements shall be designated by the Postmaster but no more than 38" to 40" from the bottom of the box to the road.

1404.005. SET BACK LOCATION. Boxes shall be set back in the right-of-way so as to be flush with the back **edge of the curb**. Said location must place the boxes so they are accessible and shall not extend to the front, street side of the curb.

1404.006. LOCATION OF BOXES ON REGULAR STREETS. All boxes located on regular streets shall be placed on one side (i.e. the side which is determined by the Postmaster.) Boxes may not be placed upon personal property of another without prior written consent of the property owner. Boxes may not be attached to utility poles or street lights.

1404.007. CUL-DE-SACS. Group boxes shall not be located in cul-de-sacs, all boxes for houses in a cul-de-sac shall be grouped at the intersecting street, a minimum of **20** feet from corner.

1404.008. INTERSECTIONS. Boxes shall be a minimum of **25** feet from any intersecting street or corner.

1404.009. RESPONSIBILITIES. Maintenance of the boxes shall be the responsibility of the property owners. Street maintenance, including snow removal, is done with care, in spite of this, property damage does happen. Boxes should be constructed sturdily enough to withstand snow rolling off a plow or wing. Box damage resulting from snow removal is the responsibility of the property owners. Snow removal requirements from and around the boxes, established by the Postmaster, shall apply and be the responsibility of the property owners, not the City, even though the snow may have been placed in the area during removal.

1404.010. EXISTING BOXES. All existing boxes, newspaper or advertising boxes shall be in compliance with this Ordinance within **three (3)** months of its adoption and passage.

1404.011. NEWSPAPER AND ADVERTISING MATERIALS. Newspapers and advertising materials delivered to individual dwelling units and residential areas of the City of Winsted must be deposited upon the steps or inside the exterior door of each dwelling unit.

1404.012. PENALTY. Any person violating any provision of this Ordinance shall be punished by a fine of not more than **\$1,000.00** or imprisonment in the County Jail for not more than ninety (90) days, or both, plus the cost of prosecution in the case.

SECTION 5

RENTAL DWELLING UNITS

1405.000. STATUTORY AUTHORIZATION AND PURPOSE

- A. Statutory Authorization.** This Section 5 is enacted pursuant to Minnesota Statutes, Section 145A.05, subd. 1 and subd. 7; and Minnesota Statutes, Section 375.51; or successor statutes.
- B. Purpose.** The purpose of this Section 5 is to establish minimum standards for rental dwelling units in the City of Winsted. The general objectives include the following:
1. Protect the character and stability of residential areas;
 2. Correct and prevent housing conditions that adversely affect, or are likely to adversely affect, the life, safety, general welfare and health of the renting public, including the physical, mental and social well-being of persons occupying a rental dwelling unit;
 3. Provide minimum standards for cooking, heating and sanitary equipment necessary to the health and safety of occupants of rental dwelling units;
 4. Provide minimum standards for light necessary to health and safety;
 5. Prevent the overcrowding of dwellings by providing minimum space standards per occupant for each rental dwelling unit;
 6. Provide minimum standards for the maintenance of existing rental residential buildings and to prevent slums and blight;
 7. Preserve the value of land and buildings.
 8. With respect to rental disputes, except as otherwise provided, it is not the intent of the City Council to intrude upon the fair and accepted contractual relationship between tenant and owner. The City Council does not intend to intervene as an advocate for either party, to act as an arbiter or to be receptive to complaints from tenant or owner which are not specifically and clearly relevant to the provisions of this Section 5. 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 City Council's intervention. By enacting this Section 5, the City Council does not intend to interfere or permit interference with legal rights to personal privacy.

(Ord. 08-03, Sec. 1, 02/19/08)

1405.002. GENERAL PROVISIONS

- A. Jurisdiction.** This Section 5 shall be applicable to all rental dwelling units within the legal boundaries of the City of Winsted. Every building and its premises used in whole or in part as a rental dwelling unit, for a single family or person, and every building used in whole or in part as a rental dwelling unit having two or more persons or families living in separate units shall conform to the requirements of this Section 5, irrespective of when such building may have been constructed, altered or repaired. This Section 5 establishes minimum standards for rental dwelling units and related premises.
- B. Severability.** The provisions of this Section 5 shall be severable. In the event any section, paragraph, sentence, clause, phrase or portion of this Section 5 is declared invalid for any reason, the remainder of this Section 5 shall not be affected thereby.
- C. Interpretation and Application.** The provisions of this Section 5 shall be considered minimum requirements and shall be liberally construed in favor of the City of Winsted and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

(Ord. 08-03, Sec. 2, 02/19/08)

1405.003. DEFINITIONS

- A. Accessory Structure-** A subordinate structure on the same lot as the principal dwelling or dwellings, and which is not used nor authorized to be used for living or sleeping by human occupants.
- B. City Council -** Shall mean the City of Winsted City Council.
- C. Board of Adjustment-** Shall mean the City of Winsted City Council.
- D. Building-** Any structure having a roof intended for the shelter, housing or enclosure of any person, animal, goods or materials of any kind or nature.
- E. Building Inspector -** Any duly authorized representative charged with the administration and enforcement of this Section 5.
- F. Dwelling -** A building or portion thereof, designed or used predominantly for residential occupancy of a continued nature, including single family dwellings, two-family dwellings and multiple family dwellings, but not including hotels and motels.
- G. Dwelling Unit -** A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.
- H. Efficiency Living Unit -** A room having cooking facilities and used for combined living, dining and sleeping purposes.

- I. Garbage** - The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.
- J. Habitable Space** - Space in a structure for living, sleeping, eating or cooking, bathrooms, toilet rooms, furnace rooms, unfurnished basements (i.e., those without required ventilation, electric outlets and exit facilities), pantries, closets, corridors, stairways, storage spaces, workshops, hobby and recreation areas in parts of the structure below ground level or in attics and any similar areas are not considered habitable space.
- K. Heated Water** - Water heated to a temperature between 120 and 130 degrees Fahrenheit measured at the faucet outlet.
- L. Kitchen** - A space which contains a sink with counter working space, adequate space for installing cooking and refrigeration equipment and adequate space for the storage of cooking utensils.
- M. Multiple Family Dwelling** - A dwelling, or portion thereof, containing four or more dwelling units.
- N. Occupant** - Any person living or sleeping in a building or having possession of a space within a building.
- O. Operator** - Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.
- P. Owner** - Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court. Any such person representing the actual owner shall be bound to comply with the provisions of this Section 5 to the same extent as the owner.
- Q. Permissible Occupancy** - The maximum number of persons permitted to reside in a dwelling unit or rooming unit.
- R. Person** - An individual, firm, partnership, association or corporation; the term may extend and be applied to bodies corporate and politic and to partnerships and other unincorporated associations.
- S. Premises** - A lot or parcel of land, including any structures thereon.
- T. 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.
- U. Rental Dwelling or Dwelling Unit** - A dwelling or dwelling unit let for rent or

lease.

V. Rodent Harborage - Any place where rodents can live, nest or seek shelter.

W. Rooming Unit - Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

X. Rubbish - Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and other similar materials.

Y. Structure - That which is built or constructed or a portion thereof.

Z. Tenant - A person, whether or not the legal owner of record, occupying a building, or portion thereof, as a unit.

AA. Toilet Room - A room containing a water closet or urinal but not a bathtub or shower.

(Ord. 08-03, Sec. 3, 02/19/08)

1405.004. RESPONSIBILITIES

A. Permit Required. No owner or other person shall occupy or rent to another person any dwelling, dwelling unit or rooming unit unless it and the premises are clean, sanitary, fit for human occupancy and comply with all applicable legal requirements of the State, County and City, including the following requirements.

No owner or other person shall occupy or rent to another person any dwelling or dwelling unit unless they have first obtained a permit from the City of Winsted. A separate permit is required for each dwelling unit to be used as a rental housing unit. Permits are valid for five (5) years from their date of issuance. Permits may be revoked for failure to adhere to this Section 5 requirements for rental housing. Permits shall be good for a period of five (5) years. Permit fees shall be established annually by resolution of the City Council.

Transfer of Ownership: In the event of a transfer of ownership of rental property, the transferor of the property shall notify the city within 30 days of the change of ownership. The transferee will need to provide the city with information including name, address, and telephone number. If the rental license for the property is current and valid, the permit may be transferred for the existing term once the required information has been provided and the transfer fee (set in the city's fee schedule) has been paid.

B. Shared or Public Areas. Every owner of a dwelling containing two or more

dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises.

- C. **Occupied Areas.** Every occupant of a dwelling, dwelling unit or rooming unit shall maintain in a clean and sanitary condition that part or those parts of the unit and premises that the occupant occupies and controls.
- D. **Garbage and Rubbish Storage and Disposal.** Every occupant of a rental dwelling, dwelling unit or rooming unit shall store and dispose of all garbage and rubbish in a clean, sanitary and safe manner as provided by law. Every owner of a rental dwelling, dwelling unit or rooming unit shall supply facilities for the sanitary and safe storage and/or disposal of garbage and rubbish. That cost may be part of the occupant's expense as provided by agreement of the parties.
- E. **Storm and Screen Doors and Windows.** The owner of a rental dwelling unit shall be responsible for maintaining in good repair all screens, storm doors and storm windows when required under the provisions of this Section 5, except where there is written agreement otherwise between the owner and occupant and except for the intentional or neglectful action of the occupant.
- F. **Pest Extermination.** Every occupant of a rental 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 rental dwelling containing more than one dwelling unit shall be responsible for such extermination whenever occupant's dwelling unit is the only one infested. Whenever infestation is caused by the failure of the owner to maintain a rental dwelling in a reasonable rodent-proof or reasonable vermin-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any rental dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.
- G. **Rodent Harborages and Food.** No owner or occupant of a rental dwelling unit shall accumulate or be allowed to accumulate boxes, lumber, wood, scrap metal or any other similar materials in such a manner that may provide a rodent harborage in or about any rental dwelling unit. Stored materials shall be stacked neatly in piles at least ten (10) feet away from any dwelling unit and one (1) foot above the ground. No owner or occupant of a rental dwelling unit shall store, place or be allowed to accumulate any materials that may serve as food for rodents in a site accessible to rodents.
- H. **Fixtures and Facilities.** Every occupant of a rental dwelling unit shall keep all supplied fixtures and facilities in a safe, clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.
- I. **Snow and Ice Removal.** The owner of a multiple family dwelling shall be responsible for the removal of snow and ice from the parking lots, driveways, steps and walkways on the premises within a reasonable amount of time to

provide access for fire and medical personnel.

- J. Minimum Exterior Lighting.** The owner of a multiple family rental dwelling shall be responsible for providing and maintaining effective illumination in all exterior parking lots and walkways.
- K. Driving and Parking Areas.** The owner of a multiple family rental dwelling unit shall be responsible for providing and maintaining in good condition parking areas and driveways for tenants.
- L. Yards.** The owner of a multiple family rental dwelling shall be responsible for providing and maintaining premises in a safe and sanitary manner.

(Ord. 08-03, Sec. 4, 02/19/08; Ord. 14-04, 8/19/14)

1405.005. MINIMUM STANDARDS. No person shall rent to another for occupancy any dwelling unit, for the purpose of living, sleeping, cooking or eating which does not comply with the following requirements.

A. Kitchen Facilities. Every rental dwelling unit shall have a room or portion of a room in which food may be prepared and/or cooked, which shall have adequate circulation and which shall be equipped with the following:

1. A kitchen sink in working condition and 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 sanitary sewer system.

2. Cabinets and/or shelves for the storage of eating, drinking and cooking equipment and utensils and for food that does not require refrigeration; and a counter or table for food preparation. Cabinets and/or shelves and counter or table shall be adequate for the permissible occupancy of the rental dwelling unit and shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food.

3. A stove or similar device for cooking food and a refrigerator or similar device for the safe storage of food, which are properly installed with all necessary connections for safe, sanitary and efficient operation. Provided that such stove, refrigerator or similar device need not be installed when a rental dwelling unit is not occupied and when the occupant is expected to provide same on occupancy, in which case sufficient space and adequate connections for the installation and operation of said stove, refrigerator or similar device must be provided.

B. Toilet Facilities. There shall be a non-habitable room that is equipped with a flush water closet in working condition. In a rental dwelling unit, such room shall have an entrance door that affords privacy. A 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 shall be connected to an approved sanitary sewer system.

- C. Lavatory Sink.** Within every rental dwelling unit, there shall be a lavatory sink. Said lavatory sink may be in the same room as the flush water closet. 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 working condition, shall be properly connected to an approved water supply system, shall provide at all times an adequate amount of heated and unheated running water under pressure and shall be connected to an approved sanitary sewer system.
- D. Bathtub or Shower.** Within every rental dwelling unit, there shall be a nonhabitable room that is equipped with a bathtub or shower in working condition. In a rental dwelling unit, such room shall have an entrance door that affords privacy. Said bathtub or shower may be in the same room as the flush water closet or in another room, shall be properly connected to an approved water supply system, shall provide proper ventilation (i.e. fan or operable window), shall provide at all times an adequate amount of heated and unheated water under pressure, and shall be connected to an approved sanitary sewer system.
- E. Stairways, Porches and Balconies.** Every stairway, porch or balcony shall be kept in safe condition and of sound repair, free of deterioration. No flight of stairs shall have rotting, loose or deteriorating supports. Stairways shall be capable of supporting a live load of 100 pounds per square foot of horizontal projection. Decks shall be able to support 40 pounds per square foot live load and 10 pounds per square foot dead load.
- F. Access to Rental Dwelling Units.** Access to or egress from each rental dwelling unit shall be provided without passing through any other dwelling unit.
- G. Door Locks.** No owner shall occupy nor let to another for occupancy any dwelling unit unless all exterior doors of the rental dwelling unit are equipped with safe, functioning locking devices. Multiple family dwellings shall also be furnished with door locks as follows: Every door that is designed to provide ingress or egress for a dwelling unit within a multiple family rental dwelling shall be equipped with an approved locking device, provided, however, that such door shall be operable from the inside without the use of a key or any special knowledge or effort.
- H. Light.** No person shall rent to another for occupancy any dwelling unit for the purposes of living therein which does not comply with the following requirements:
- I. Electrical Equipment.** All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with all applicable laws, including the Minnesota State Electrical Code. All electrical equipment shall be of an approved type. Every habitable room shall contain at least two (2) supplied

electric convenience outlets or one such convenience outlet and one supplied electric fixture. Every toilet room, bathroom, furnace room, laundry room and public hallway shall contain at least one supplied electric light fixture.

- J. Windows.** Every habitable space shall have at least one window facing directly outdoors that can be opened easily, one of which must provide egress.
- K. Emergency Escape Openings.** Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grills, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.
- L. Heating.** No person shall rent to another for occupancy any dwelling or dwelling unit, for the purposes of living therein, which does not have heating facilities which are properly installed, which are not maintained in safe working condition and which are not capable of safely and adequately heating all habitable rooms, bathrooms and toilet rooms in every dwelling unit located therein. 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. Portable heating equipment employing flame and the use of liquid fuel do not meet the requirements of this Section and are prohibited. 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.
- M. Maximum Occupancy.** Every dwelling unit shall contain at least 200 square feet of floor space for the first occupant and at least 100 additional square feet of floor space for every additional occupant. The floor space shall be calculated on the basis of total habitable room area, inside measurements. No floor space shall be included in the determination of habitable room area over which the ceiling is less than seven (7) feet above the floor.
- N. Water Supply.** Each rental dwelling unit shall be supplied with drinking water which meets all local, state and federal drinking water standards.
- O. Handrails and Guardrails.** Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches above the floor or grade below shall have guards. Handrails shall not be less than 30 inches high or more than 42 inches high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 30 inches high above the floor of the landing, balcony, porch, deck, or ramp or other walking

surface. Exception: Guards shall not be required where exempted by the adopted building code.

(Ord. 08-03, Sec. 5, 02/19/08; Ord. 12-09; Sec. 5, 11/20/12)

1405.006. REQUIREMENTS. No person shall rent to another for occupancy a 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 water tight, protected against mold, 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 visible mold, deterioration, holes, breaks, loose or rotting timbers and any other condition which 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. Roof drainage shall be adequate to prevent rainwater from dampness in the walls. All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by paint or other protective covering or treatment.
- B. Windows, Doors and Screens.** Every window, exterior door and hatchway shall be substantially tight and shall be kept in sound condition and repair. Every window, other than a fixed window or storm window, shall be capable of being easily opened. Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction as to completely exclude rain, wind, vermin and rodents from entering the building.
- C. Floors, Interior Walls and Ceilings.** Every floor, interior wall and ceiling shall be adequately protected against the passage and harborage of vermin and rodents, free of visible mold growth, and shall be kept in sound condition and good repair. Every floor shall be free of loose, warped, protruding or rotted flooring materials. Every interior wall and ceiling shall be free of holes, large cracks, loose plaster, visible mold growth or flaking lead paint and shall be maintained in a tight weatherproof condition. Toxic paint and materials with a lasting toxic effect shall not be used. Every toilet room and bathroom floor surface shall be capable of being easily maintained in a clean and sanitary condition.
- D. Rodent Proof.** Every dwelling and accessory structure and the premises upon which they are located shall be maintained in a rodent-free and rodent-proof condition. All openings in exterior walls, foundations, basements, ground or first floors and roofs that have a ½ inch diameter or larger opening shall be rodent-proofed in an approved manner.
- E. Safe Building Elements.** Every foundation, roof, floor, exterior and interior wall, ceiling, inside and outside stair, every porch and balcony, and every appurtenance shall be safe to use and capable of supporting normal loads.

- F. **Facilities to Function.** Every supplied facility, piece of equipment or utility required by this Section 5 and every chimney and flue shall be installed and maintained and shall function effectively in a safe, sound and working condition.
- G. **Discontinuance of Service of Facilities.** No owner or occupant shall cause any service, facility, equipment or utility which is required under this Section 5 to be removed from, shut off from, or discontinued for, any occupied rental dwelling unit, except for such temporary interruptions as may be necessary while actual repairs or alterations are in process, or during temporary emergencies.
- H. **Fire and Carbon Monoxide Protection.** All rental dwelling units shall have working fire/smoke alarms in all bedrooms and corridors leading to bedrooms. All rental dwelling units shall have a working fire extinguisher inside the unit. Additionally, all rental dwelling units shall be supplied with a functioning carbon monoxide detector, unless granted a waiver from the State of Minnesota.
- I. **Clandestine Drug Labs.** Prior to offering a rental dwelling unit for rent or for sale, the owner of a rental dwelling unit that has been found to contain a clandestine drug lab shall, at their expense, contract with appropriate environmental hazard testing and cleaning firms that are determined by the Minnesota Department of Health to be competent for conducting a detailed on-site assessment to determine sample and testing needs, clean up and mitigation operations, follow up testing and determination that the property risks are sufficiently reduced to allow protection of the public and human occupancy of the rental dwelling unit.

(Ord. 08-03, Sec. 6, 02/19/08)

1405.007. INSPECTION AUTHORITY. The City Building Inspector shall be the Building Inspector who shall administer and enforce the provisions of this Section 5. The Building Inspector is authorized to cause inspections every five (5)-years or on a complaint basis for rental dwelling units, or otherwise when reason exists to believe that a violation of this Section 5 has been or is being committed. Re-inspection is also required upon a change of ownership in the property. Inspections shall be conducted during daylight hours and the Building Inspector shall present evidence of official capacity to the occupant or owner in charge of a respective dwelling unit.

- A. **Inspection Access.** When an owner, occupant or other person in charge of a rental dwelling unit refuses to permit free access and entry to the structure or premises under their control for inspection pursuant to this Section 5, the City of Winsted may seek a court order authorizing inspection.
- B. **Vacation of Building.** Any rental dwelling unit which is damaged, decayed, 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 the public, may be declared unfit for human habitation by the Building Inspector who

shall then order the same vacated within a reasonable timeframe and shall post a placard on the rental dwelling unit indicating that it is unfit for human habitation.

- C. **Reoccupation.** It shall be unlawful for a rental dwelling unit to be used for human habitation until the defective conditions have been corrected and written approval has been issued by the Building Inspector. It shall be unlawful for any person to deface or remove the declaration placard from any such rental dwelling unit.
- D. **Secure Units and Vacated Dwellings.** The owner of any rental dwelling unit which has been declared unfit for human habitation, or which is otherwise vacant for a period of 60 days or more, shall make the premises safe and secure so that it is not hazardous to the health, safety or welfare of the public and a public nuisance within the meaning of this Section 5.
- E. **Hazardous Building Declaration.** In the event that a rental dwelling unit has been declared unfit for human habitation and the owner has not remedied the defects within the prescribed time, the dwelling may be declared a public health nuisance and treated consistent with the provisions of Minnesota Statutes, Section 145A.04; or successor statutes.
- F. **Malicious Complaints.** The Building Inspector may charge back to the complainant the costs of investigating complaints made on any rental dwelling unit if it is determined that the complaint is invalid.

(Ord. 08-03, Sec. 7, 02/19/08)

1405.008. COMPLIANCE ORDER

- A. **Issuance.** Whenever the Building Inspector determines that any rental dwelling unit, or the premises surrounding any rental dwelling, fails to meet the provisions of this Section 5, a Compliance Order may be issued setting forth the violations and ordering the owner, occupant, operator or agent to correct such violation. This Compliance Order shall: be in writing, describe the location and nature of the violations of this Section 5 and establish a reasonable timeframe for the correction of such violation and notify of appeal recourse. Be served upon the owner and occupant. Such notice shall be deemed to be properly served upon such owner and occupant, if a copy of the Order is:
 - (1) served personally; or
 - (2) sent by registered mail to last known address; or
 - (3) upon failure to place notice through (1) and (2) as set out in this Section, posted at a conspicuous place in or about the dwelling that is affected by the order.
- B. **Right of Appeal.** When it is alleged by any person to whom a Compliance Order is directed that such Compliance Order is based upon an erroneous interpretation of this Section 5, such person may appeal the Compliance Order to the City Council within thirty (30) days of the receipt of a Compliance Order.

- C. **Reinspection.** The Building Inspector shall re-inspect the property to determine if the owner has complied with the Compliance Order. If compliance has not been completed upon reinspection, the owner or occupant shall be assessed a reinspection fee, in an amount determined by the City Council for that reinspection and each subsequent reinspection for compliance. Failure to pay the reinspection fee shall constitute a failure to comply with this Section 5.
- D. **Execution of Compliance Orders.** Upon the failure to comply with a Compliance Order within the time set and no appeal having been taken, or upon failure to comply with a modified Compliance Order within the time set, any criminal penalty notwithstanding, the City Council may cause the cited deficiency to be remedied as set forth in the Compliance Order. If the cost of cleanup is not paid, the City Council may certify to the County Auditor-Treasurer by November 30th all unpaid, outstanding costs of cleanup, including staff costs of operating machinery and materials needed to complete a cleanup and a description of the lands against which the costs arose. It shall be the duty of the County Auditor-Treasurer, upon order of the City Council, to extent the assessments with interest not to exceed the interest rate provided for in Minnesota Statutes, section 279.03, Subd. 1; or successor statutes, upon the tax roles of the county for the taxes of the year in which the assessment is filed. For each year ending November 30, the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected of real and/or personal property taxes in accordance with the provisions of the laws of the State of Minnesota. The assessment, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the State of Minnesota. This action shall not preclude the City Council from seeking civil or criminal penalties from persons responsible.

(Ord. 08-03, Sec. 8, 02/19/08)

- 1405.009. EMERGENCY ORDERS.** Whenever the Building Inspector finds that an emergency exists which requires immediate action to protect the public's health, it may, without notice or hearings, issue an order reciting the existence of an emergency and require that such action be taken as deemed necessary to meet the emergency. Notwithstanding the other provisions of this Section 5, such order shall be effective immediately. Any person to whom an emergency order is directed shall comply therewith immediately.

(Ord. 08-03, Sec. 9, 02/19/08)

- 1405.010. PENALTIES.** Any person, firm or corporation who violates any of the provisions of this Section 5, or who fails, neglects or refuses to comply with the provisions of this Section 5, including violations of conditions, safeguards Compliance Orders or Emergency Orders, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not to exceed \$1,000.00 or by imprisonment not to exceed 90 days, or both. Each day that a violation exists shall constitute a

separate offense.

In the event of a violation or threatened violation of this Section 5, the Building Inspector may, in addition to other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct or abate such violations or threatened violations. It shall be the duty of the City of Winsted Attorney to commence such action.

(Ord. 08-03, Sec. 10, 02/19/08)

1405.011. **EXEMPTION.** The City, in its discretion, may exempt any entity or person required to otherwise undergo inspection or licensing provisions herein as long as the City is provided with evidence of a recent similar inspection that is satisfactory to the City.

(Ord. 08-03, Sec. 11, 02/19/08)

1405.012. **EFFECTIVE DATE.** This Section 14 shall be in full force and effect after its passage and publication as provided by law. Application for a rental housing permit must be received by the City of Winsted within 120 days of adoption of this Section 14.

(Ord. 08-03, Sec. 12, 02/19/08)

SECTION 6

1406.000. DOCKS ON WINSTED LAKE

1406.001. PERMIT REQUIRED. No person shall construct, install or maintain a dock, wharf, or similar structure on public property or upon public waters abutting public property without first obtaining a permit from the City of Winsted.

(Ord. 08-04, Sec. 1, 05/06/08)

1406.002. TERM. Permits shall be issued on an annual basis and shall expire on November 31st of each year.

(Ord. 08-04, Sec. 2, 05/06/08)

1406.003. INSPECTION. All docks shall be subject to an annual inspection by the City of Winsted. If a dock does not meet the minimum requirements as listed in this ordinance, it shall be immediately brought into compliance by the permit holder or the permit shall be revoked.

(Ord. 08-04, Sec. 3, 05/06/08)

1406.004. FEE. Application fees for dock permits shall be set annually by the Winsted City Council.

(Ord. 08-04, Sec. 4, 05/06/08)

1406.005. APPLICATION. An application for a permit must include the following:

- 1) Name, Address and Telephone number of the dock owner.
- 2) Signature upon application binding the applicant to defend, indemnify and hold the City of Winsted harmless for claims arising out of the existence of the dock.
- 3) Provide proof of liability insurance as required in this ordinance.

(Ord. 08-04, Sec. 5, 05/06/08)

1406.006. RESTRICTED PLACEMENT. No private docks will be allowed on public property or allowed to be accessed through public property, except for the following location:

Property owners along Kingsley Street, from McLeod Avenue to Sherman Avenue, may place a dock along Winsted Lake, accessing said dock from the east

right-of-way of Kingsley Street by submitting an application for a dock permit. Docks must be positioned directly across from the applicant's property on the west side of Kingsley Street.

(Ord. 08-04, Sec. 6, 05/06/08)

1406.007. REQUIREMENTS.

The following requirements must be provided and in place prior to the issuance of a dock permit.

The following requirements must be provided and in place prior to the issuance of a dock permit.

- 1) The permit holder must provide and install warning signs in English and Universal symbols indicating "NO SWIMMING" and "NO DIVING". Additionally, the permit holder must provide and install a warning sign in English and universal symbols indicating "Private Property" or "No Trespassing".
- 2) The permit holder must at all times during the period of the permit maintain liability insurance naming the City of Winsted as an additional insured in a minimum amount of \$1,000,000 (per Minnesota State Statute). The permit holder must immediately notify the City of Winsted if this insurance is cancelled or lapses for any reason.
- 3) The permit holder must defend, indemnify and hold the City of Winsted harmless for claims arising out of the existence of the dock.
- 4) Docks must be structurally secure, being free of rotting, decaying or severely distressed materials.
- 5) Permit holders are required to sufficiently maintain the lake bank from Kingsley Street to their access.
- 6) No permanent or temporary structures may be located along the lake bank (examples include, but are not limited to boat houses, fish houses, etc...)
- 7) The permit holder must have their permit affixed to their dock at all times.

(Ord. 08-04, Sec. 7, 05/06/08)

1406.008. WINSTED LAKE AND WATERSHED ASSOCIATION (WLWA). Nothing in this ordinance shall prohibit the WLWA from placing a dock in any location in the areas permitted as long all requirements under this ordinance are followed.

(Ord. 08-04, Sec. 8, 05/06/08)

1406.009. **GRANDFATHER CLAUSE.** The Current property owner of 261 Sherman Avenue West placed a dock in Winsted Lake on public property along Kingsley Avenue, in 2007. The owner of this property is allowed to apply for a permit like other Kingsley property owners may apply herein.

(Ord. 08-04, Sec. 9, 05/06/08)

1406.010 **REMOVAL.** In the event that any permit holder or non-permit holder is in violation of this ordinance, the City of Winsted shall have the right to remove a dock or other personal property from the lake or public right-of-way after providing seven (7) days notice to the owner.

The City of Winsted shall be entitled to remove the dock and have all removal and storage costs reimbursed by the offending party. Costs may be either assessed to the violating property owner or in some cases the City of Winsted may bring a cause of action against the violating party.

(Ord. 08-04, Sec. 10, 05/06/08)

1406.011. **ENACTMENT.** Property owners seeking to place a dock must make application for a permit within sixty (60) days of the adoption of this ordinance by the City Council.

(Ord. 08-04, Sec. 11, 05/06/08)

1406.012. **DURATION AND EFFECT.** This ordinance does not provide anyone with any rights, other than those stated herein, on an annual basis. Each dock permit must be renewed by a separate application in each calendar year that terminates (as indicated above) on November 31 of each said year. The City of Winsted has unlimited discretion and right, to not allow the installation of docks on the public property hereinabove stated at any time hereafter, except that if such decision to not allow docks is made during a calendar year prior to November 30, the City shall give the permittee 60 days prior written notice to remove it's dock.

(Ord. 08-04, Sec. 12, 05/06/08)

1406.013. **EFFECTIVE DATE.** This Section 1406 shall be in full force and effect after its passage and publication as provided by law. Application for a rental housing permit must be received by the City of Winsted within 120 days of adoption of this Section 1406.

(Ord. 08-04, Sec. 13, 05/06/08)

SECTION 7

1407.000. LANDSCAPING REQUIREMENTS AND STANDARDS.

1407.001. INTENT. The intent of this Section is to regulate the minimum landscaping requirements for parcels of land located in various zones in the City of Winsted.

1407.002. LANDSCAPING REQUIRED. In all zoning districts, the lot area remaining after providing for buildings, parking areas, driveways, loading areas, sidewalks or other structures must be planned and maintained in grass, shrubs, trees, other acceptable vegetation and/or landscaping materials, suitable for the type of use of the property.

1407.003. RESIDENTIAL. Any new residential construction which requires a building permit shall require the applicant to submit cash, certified check or credit escrow payment acceptable to the city in the sum of \$1,500 to secure installation of the required landscaping.

1407.004. R2, RM, COMMERCIAL AND INDUSTRIAL ZONES. Any applicant for a building permit in these other zones of the city shall submit cash, certified check, or credit escrow payment in the amount of 125% of the estimated landscaping cost as determined by the city, for the site to secure installation of the required landscaping.

1407.005. REFUNDING OF ESCROW. The escrow shall be returned in full to the applicant upon the building or zoning official certifying that the landscaping improvements have been made and fully established on the property. Escrow funds will be forfeited to the City of Winsted in the event the required landscaping is not completed prior to twelve (12) months after the date the certificate of occupancy is issued.

1407.006. EFFECT. This ordinance shall be in full force and effect and override any other portions of the Municipal Code to the contrary.

(Ord. 09-09, 10/6/09)

CHAPTER 14

SECTION 8

FLOODPLAIN ORDINANCE – WINSTED, MINNESOTA

TABLE OF CONTENTS

Subsection	Title of Section or Subdivision	Page
1408.000	Title	14-28
1408.001	Statutory Authorization, Findings of Fact and Purpose	14-28
A	Statutory Authorization	14-28
B	Purpose	14-28
1408.002	General Provisions	14-28
A	How to Use This Ordinance	14-28
B	Lands to Which Ordinance Applies	14-28
C	Incorporation of Maps by Reference	14-29
D	Regulatory Flood Protection Elevation	14-29
E	Interpretation	14-29
F	Abrogation and Greater Restrictions	14-29
G	Warning and Disclaimer of Liability	14-29
H	Severability	14-29
I	Definitions	14-29
J	Annexations	14-32
1408.003	Establishment of Zoning Districts	14-32
A	Districts	14-32
B	Compliance	14-32
1408.004	Floodway District	14-33
A	Permitted Uses	14-33
B	Standards for Floodway Permitted Uses	14-33
C	Conditional Uses	14-34
D	Standards for Floodway Conditional Uses	14-34
1408.005	Flood Fringe District	14-35
A	Permitted Uses	14-35
B	Standards for Flood Fringe Permitted Uses	14-35
C	Conditional Uses	14-36

	Subsection	Title of Section or Subdivision	Page
	D	Standards for Flood Fringe Conditional Uses	14-36
1408.006		General Floodplain District	14-38
	A	Permitted Uses	14-38
	B	Procedures for Floodway and Flood Fringe Determinations	14-38
1408.007		Land Development Standards	14-39
	A	In General	14-39
	B	Subdivisions	14-39
	C	Building Sites	14-40
1408.008		Public Utilities, Railroads, Roads, and Bridges	14-40
	A	Public Utilities	14-40
	B	Public Transportation Facilities	14-40
	C	On-Site Water Supply and Sewage Treatment Systems	14-40
1408.009		Manufactured Homes, Manufactured Home Parks and Recreational Vehicles	14-40
	A	Manufactured Home Parks	14-40
	B	Placement of Manufactured Homes	14-40
	C	Recreational Vehicles	14-41
1408.010		Administration	14-42
	A	Zoning Administrator	14-42
	B	Permit Requirements	14-42
	C	Variances	14-43
	D	Conditional Uses	14-45
1408.011		Nonconformities	14-45
	A	Continuance of Nonconformities	14-45
1408.012		Penalties and Enforcement	14-46
	A	Violation Constitutes a Misdemeanor	14-46
	B	Other Lawful Action	14-46
	C	Enforcement	14-47
1408.013		Amendments	14-47
	A	Floodplain Designation – Restrictions on Removal	14-47
	B	Amendments Require DNR Approval	14-47
	C	Map Revisions Require Ordinance Amendments	14-47

SECTION 8

1408.000. FLOODPLAIN.

1408.001. STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

A. **Statutory Authorization:** The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Winsted, Minnesota, does ordain as follows:

B. Purpose:

1. This section regulates development in the flood hazard areas of Winsted, Minnesota. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this section to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
2. National Flood Insurance Program Compliance. This section is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
3. This section is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

1408.002. GENERAL PROVISIONS

A. **How to Use This Section:** This section adopts the floodplain maps applicable to the City of Winsted and includes three floodplain districts: Floodway, Floodway Fringe, and General Floodplain.

1. Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 1408.004 or 1408.005 will apply, depending on the location of a property.
2. Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain district, the Floodway District standards in Section 1408.004 apply unless the floodway boundary is determined, according to the process outlined in Section 1408.006. Once the floodway boundary is determined, the Flood Fringe District standards in Section 1408.005 may apply outside the floodway.

B. **Lands to Which Section Applies:** This section applies to all lands within the jurisdiction of Winsted, Minnesota shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts.

1. The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this section. In case of a conflict, the more restrictive standards will apply.
- C. **Incorporation of Maps by Reference:** The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and in this Chapter 14, Section 8. The attached material includes the Flood Insurance Study for McLeod County, Minnesota, and Incorporated Areas, and the Flood Insurance Rate Map panels therein numbered 27085C0080E, 27085C0085E, and 27085C0095E; all documents being dated July 7, 2014 and prepared by the Federal Emergency Management Agency. These materials are on file at Winsted City Hall located at 201 First Street North Winsted, Minnesota.
- D. **Regulatory Flood Protection Elevation:** The regulatory flood protection elevation (RFPE) is an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.
- E. **Interpretation:** The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map.
1. Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.
 2. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence.
- F. **Abrogation and Greater Restrictions:** It is not intended by this section to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this section imposes greater restrictions, the provisions of this section prevail. All other sections inconsistent with this section are hereby repealed to the extent of the inconsistency only.
- G. **Warning and Disclaimer of Liability:** This section does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This section does not create liability on the part of the City of Winsted or its officers or employees for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.
- H. **Severability:** If any section, clause, provision, or portion of this section is adjudged unconstitutional or invalid by a court of law, the remainder of this section shall not be affected and shall remain in full force.
- I. **Definitions:** Unless specifically defined below, words or phrases used in this section must be interpreted according to common usage and so as to give this section its most reasonable application.

1. Accessory Use or Structure – a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
2. Base Flood Elevation – The elevation of the “regional flood.” The term “base flood elevation” is used in the flood insurance survey.
3. Basement – any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
4. Conditional Use – a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:
 - a. Certain conditions as detailed in the zoning section exist.
 - b. The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.
5. Development – any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
6. Equal Degree of Encroachment – a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
7. Farm Fence – A fence as defined by Minn. Statutes Section 344.02, Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this section. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this section.
8. Flood – a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
9. Flood Frequency – the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
10. Flood Fringe – that portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for McLeod County, Minnesota
11. Flood Prone Area – any land susceptible to being inundated by water from any source (see “Flood”).
12. Floodplain – the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
13. Floodproofing – a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
14. Floodway – the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

15. Lowest Floor – the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.
16. Manufactured Home – a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”
17. Obstruction – any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
18. Principal Use or Structure – all uses or structures that are not accessory uses or structures.
19. One Hundred Year Floodplain – lands inundated by the “Regional Flood” (see definition).
20. Reach – a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
21. Recreational Vehicle – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this section, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”
22. Regional Flood – a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.
23. Regulatory Flood Protection Elevation (RFPE) - an elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.
24. Repetitive Loss – Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.
25. Special Flood Hazard Area – a term used for flood insurance purposes synonymous with “One Hundred Year Floodplain.”

- 26. Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 1408.009.C.1. and other similar items.
 - 27. Substantial Damage - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
 - 28. Substantial Improvement - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:
 - a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
 - b. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this section, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.
- J. **Annexations:** The Flood Insurance Rate Map panels adopted by reference into Section 1408.002.C. above may include floodplain areas that lie outside of the corporate boundaries of the City of Winsted at the time of adoption of this section. If any of these floodplain land areas are annexed into the City after the date of adoption of this section, the newly annexed floodplain lands will be subject to the provisions of this section immediately upon the date of annexation.

1408.003. ESTABLISHMENT OF ZONING DISTRICTS

A. Districts:

- 1. Floodway District. For lakes, wetlands and other basins, the Floodway District shall include those areas designated as Zone A on the Flood Insurance Rate Map panels adopted in Section 1408.002.C. that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
- 2. Flood Fringe District. For lakes, wetlands and other basins, the Flood Fringe District shall include those areas designated as Zone A on the Flood Insurance Rate Map panels adopted in Section 1408.002.C. that are below the 1% annual chance flood elevation (100-year flood elevation) but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
- 3. General Flood Plain District. The General Flood Plain District shall include those areas designated as Zone A on the Flood Insurance Rate Map adopted in Section 1408.002.C., which are not subject to criteria mentioned in 1408.003.A.1. and 1408.003.A.2 above.

- B. **Compliance:** Within the floodplain districts established in this section, the use of any land, the use, size, type and location of structures on lots, the installation and maintenance of

transportation, utility, water supply and waste treatment facilities, and the subdivision of land must comply with the terms of this section and other applicable regulations. All uses not listed as permitted uses or conditional uses in Sections 1408.004, 1408.005 and 1408.006., respectively, are prohibited.

In addition, a caution is provided here that:

1. New and replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this section and specifically Section 1408.009.
2. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this section and specifically Section 1408.011.
3. As-built elevations for elevated or floodproofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this section and specifically as stated in Section 1408.010.

1408.004. FLOODWAY DISTRICT (FW)

A. **Permitted Uses:** The following uses, subject to the standards set forth in Section 1408.004.B., are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

1. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial-commercial loading areas, parking areas, and airport landing strips.
3. Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
4. Residential lawns, gardens, parking areas, and play areas.
5. Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit, and that the standards in Sections 1408.004.D1., 1408.004.D.3.a and 1408.004.D.6. are met.

B. **Standards for Floodway Permitted Uses:**

1. The use must have a low flood damage potential.
2. With the exception of the uses listed in Section 1408.004.A.5, the use must not obstruct flood flows or increase flood elevations and must not involve structures, fill, obstructions, excavations or storage of materials or equipment.
3. Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

C. **Conditional Uses:** The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 1408.010.D. and further subject to the standards set forth in Section 1408.004.D., if otherwise allowed in the underlying zoning district or any applicable overlay district.

1. Structures accessory to the uses listed in 1408.004.A. above and the uses listed in Sections 1408.004.C.2. – 1408.004.C.7. below.
2. Extraction and storage of sand, gravel, and other materials.
3. Marinas, boat rentals, docks, piers, wharves, and water control structures.
4. Storage yards for equipment, machinery, or materials.
5. Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined in Section 1408.002.I.7, are permitted uses.
6. Travel-ready recreational vehicles meeting the exception standards in Section 1408.009.C.
7. Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

D. **Standards for Floodway Conditional Uses:**

1. All Uses. A conditional use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.
2. Fill; Storage of Materials and Equipment:
 - a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - b. Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
 - c. Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the City Council has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.
3. Accessory Structures:
 - a. Accessory structures must not be designed for human habitation.
 - b. Accessory structures, if permitted, must be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:
 - (1) Whenever possible, structures must be constructed with the longitudinal axis parallel to the direction of flood flow; and
 - (2) So far as practicable, structures must be placed approximately on the same flood flow lines as those of adjoining structures.
 - c. Accessory structures must be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the State Building

Code. All floodproofed accessory structures must meet the following additional standards:

- (1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls; and
 - (2) Any mechanical and utility equipment in the structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.
- d. As an alternative, an accessory structure may be internally/wet floodproofed to the FP-3 or FP-4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. A detached garage may only be used for parking of vehicles and limited storage. All structures must meet the following standards:
- (1) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (2) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
4. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.
 5. A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.
 6. Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

1408.005. FLOOD FRINGE DISTRICT (FF)

A. **Permitted Uses:** Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Section 1408.005.B. If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

B. Standards for Flood Fringe Permitted Uses:

1. All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.
 - (a) As an alternative to elevation on fill, an accessory structure that constitutes a minimal investment and that does not exceed 576 square feet in size may be internally floodproofed in accordance with Section 1408.004.D.3.

2. The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 1408.005.B.1., or if allowed as a conditional use under Section 1408.005.C.3 below.
3. The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.
4. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
5. Fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
6. All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning /emergency evacuation plan acceptable to the City Council.
7. Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.
8. Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.
9. Flood fringe developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
10. Manufactured homes and recreational vehicles must meet the standards of Section 1408.009.

C. **Conditional Uses:** The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in Section 1408.010.D. Conditional uses must meet the standards in Sections 1408.005.B.4. through 1408.005.B.10. and Section 1408.005.D.

1. Any structure that is not elevated on fill or floodproofed in accordance with Section 1408.005.B.1.
2. Storage of any material or equipment below the regulatory flood protection elevation.
3. The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 1408.005B.1.

D. **Standards for Flood Fringe Conditional Uses:**

1. The standards listed in Sections 1408.005.B.4. through 1408.005.B.10. apply to all conditional uses.
2. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade,

enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an enclosed area is considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. These alternative elevation methods are subject to the following additional standards:

- a. Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment, including ductwork, and other service facilities are placed at or above the regulatory flood protection elevation or are designed to prevent flood water from entering or accumulating within these components during times of flooding.
 - b. Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood. The design plans must stipulate:
 - (1) A minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There must be a minimum of two openings on at least two sides of the structure and the bottom of all openings must be a maximum of one foot above grade. The automatic openings must have a net area of at least one square inch for every square foot of enclosed area subject to flooding, unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters without any form of human intervention; and
 - (2) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and will be used solely for building access, parking of vehicles, or storage.
3. Basements, as defined by Section 1408.002.I.3., are subject to the following:
 - a. Residential basement construction is not allowed below the regulatory flood protection elevation.
 - b. Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with Section 1408.005.D.4.
 4. All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures wet floodproofed to the FP-3 or FP-4 classification are not permitted.

5. The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
 - a. The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.
 - b. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council.
 - c. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
6. Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.

1408.006. GENERAL FLOODPLAIN DISTRICT (GF)

A. Permitted Uses:

1. The uses listed in Section 1408.004.A., Floodway District Permitted Uses, are permitted uses.
2. All other uses are subject to the floodway/flood fringe evaluation criteria specified in Section 1408.006.B. below. Section 1408.004. applies if the proposed use is determined to be in the Floodway District. Section 1408.005. applies if the proposed use is determined to be in the Flood Fringe District.

B. Procedures for Floodway and Flood Fringe Determinations:

1. Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.
2. If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in 1408.006.B.3. below.
3. The determination of floodway and flood fringe must include the following components, as applicable:
 - a. Estimate the peak discharge of the regional (1% chance) flood.
 - b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - c. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.
4. The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District

boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.

5. Once the Floodway and Flood Fringe District Boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of Section 1408.004. and 1408.005.

1408.007. LAND DEVELOPMENT STANDARDS

A. **In General:** Recognizing that flood prone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within *the* City of Winsted.

B. **Subdivisions:** No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this section.

1. All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.
2. All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City Council. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.
3. For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
4. In the General Floodplain District, applicants must provide the information required in Section 1408.006.B. to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.
5. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:
 - a. All such proposals are consistent with the need to minimize flood damage within the flood prone area,
 - b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
 - c. Adequate drainage is provided to reduce exposure of flood hazard.

C. **Building Sites:** If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

- a. Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- b. Constructed with materials and utility equipment resistant to flood damage,
- c. Constructed by methods and practices that minimize flood damage, and
- d. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

1408.008. PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

- A. **Public Utilities:** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.
- B. **Public Transportation Facilities:** Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 1408.004. and 1408.005. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- C. **On-site Water Supply and Sewage Treatment Systems:** Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they must not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State’s current statewide standards for on-site sewage treatment systems is considered to be in compliance with this Section.

1408.009. MANUFACTURED HOMES, MANUFACTURED HOME PARKS, AND RECREATIONAL VEHICLES.

- A. **Manufactured Homes:** New manufactured home parks, expansions to existing manufactured home parks, and new or replacement manufactured home units on lots of record are prohibited in the Floodway District. If allowed in the Flood Fringe District, these uses are subject to the requirements of Section 1408.005. and the following standards.
- B. **Placement of Manufactured Homes:** New and replacement manufactured homes in the Flood Fringe District must comply with the following standards:
 1. New and replacement manufactured homes must be elevated in compliance with Section 1408.005. and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

2. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Section 1408.007.B.2.
- C. **Recreational Vehicles:** Placement of recreational vehicles in the floodplain must meet the exemption criteria below or be treated as new structures meeting the requirements of this section.
1. Recreational vehicles are exempt from the provisions of this section if they are placed in any of the following areas and meet the criteria listed in Section 1408.009.C.2.:
 - a. Individual lots or parcels of record.
 - b. Existing commercial recreational vehicle parks or campgrounds.
 - c. Existing condominium-type associations.
 2. Criteria for Exempt Recreational Vehicles:
 - a. The vehicle must have a current license required for highway use.
 - b. The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
 - c. No permanent structural type additions may be attached to the vehicle.
 - d. The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.
 - e. Accessory structures are not permitted within the Floodway District. Any accessory structure in the Flood Fringe District must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in Section 1408.009.B.2.
 - f. An accessory structure must constitute a minimal investment
 3. Recreational vehicles that are exempt in Section 1408.009.C.2. lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and floodproofing requirements of Section 1408.005. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.
 4. New commercial recreational vehicle parks or campgrounds, subdivisions or condominium associations, and the expansion of any similar existing use exceeding five (5) units or dwelling sites may be allowed subject to the following:
 - a. On any new or replacement recreational vehicle site in the Flood Fringe District, the recreational vehicle and its contents must be placed on fill at or above the regulatory flood protection elevation and adequate road access to the site must be provided in accordance with Section 1408.007.B.2.
 - b. Any new or replacement recreational vehicle site located in the Floodway District or as an alternative to (a) above in the Flood Fringe District, may be allowed as a conditional use in accordance with the following provisions and the provisions of Section 1408.010.D.

- (1) The applicant must submit an emergency plan for the safe evacuation of all vehicles and people acceptable to the City Council, as specified in Section 1408.007.B.2. The plan must demonstrate that adequate time and personnel exist to carry out an evacuation, and that the exemption provisions of Section 1408.009.C.1. will be met; and
- (2) All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 1408.008.C.
- (3) Any fill placed in the floodway to meet the requirements of this section must not increase the flood stage of the regional (1% chance) flood.

1408.010. ADMINISTRATION

A. **Zoning Administrator:** A Zoning Administrator or other official designated by the City Council must administer and enforce.

B. Permit Requirements:

1. Permit Required. A permit must be obtained from the Zoning Administrator prior to conducting the following activities:
 - a. The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this Chapter 14, Section 8..
 - b. The use or change of use of a building, structure, or land.
 - c. The construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence as defined in this Chapter 14, Section 8.
 - d. The change or extension of a nonconforming use.
 - e. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
 - f. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
 - g. Relocation or alteration of a watercourse, unless a public waters work permit has been applied for.
 - h. Any other type of “development” as defined in this Chapter 14, Section 8.
2. Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:
 - a. A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
 - b. Location of fill or storage of materials in relation to the stream channel.
 - c. Copies of any required municipal, county, state or federal permits or approvals.

- d. Other relevant information requested by the Zoning Administrator as necessary to property evaluate the permit application.
3. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements in this Chapter 14, Section 8.
4. Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions in this Chapter 14, Section 8. Floodproofing measures must be certified by a registered professional engineer or registered architect.
5. Record of First Floor Elevation. The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.
6. Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
7. Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

C. Variances:

1. Variance Applications. An application for a variance to the provisions of this section will be processed and reviewed in accordance with applicable state statutes and Section 1501.018 of the zoning section of the City of Winsted's Municipal Code.
2. Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
3. Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
 - a. Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - b. Variances may only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting

of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or sections.

- c. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Flood Insurance Notice. The Zoning Administrator must notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and 2) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.
5. General Considerations. The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:
 - a. The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
 - b. The danger that materials may be swept onto other lands or downstream to the injury of others;
 - c. The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
 - d. The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
 - e. The importance of the services to be provided by the proposed use to the community;
 - f. The requirements of the facility for a waterfront location;
 - g. The availability of viable alternative locations for the proposed use that are not subject to flooding;
 - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
 - i. The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;
 - j. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
6. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The City Clerk must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

7. Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
8. Record-Keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

D. Conditional Uses:

1. Administrative Review. An application for a conditional use permit under the provisions of this section will be processed and reviewed in accordance with Section 1501.017 of the zoning section of the City of Winsted's Municipal Code.
2. Factors Used in Decision-Making. In passing upon conditional use applications, the City Council must consider all relevant factors specified in other sections of this section, and those factors identified in Section 1408.010.C.5.
3. Conditions Attached to Conditional Use Permits. The City Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this section. Such conditions may include, but are not limited to, the following:
 - a. Modification of waste treatment and water supply facilities.
 - b. Limitations on period of use, occupancy, and operation.
 - c. Imposition of operational controls, sureties, and deed restrictions.
 - d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
 - e. Floodproofing measures, in accordance with the State Building Code and this section. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
4. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The City Clerk must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
5. Submittal of Final Decisions to the DNR. A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

1408.011. NONCONFORMITIES

A. Continuance of Nonconformities: A use, structure, or occupancy of land which was lawful before the passage or amendment of this section but which is not in conformity with the provisions of this section may be continued subject to the following conditions. Historic structures, as defined in Section 1408.002.I.28.b., are subject to the provisions of Sections 1408.011.A.1. – 1408.011.A.5. of this Municipal Code.

1. A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its nonconformity. Expansion or

enlargement of uses, structures or occupancies within the Floodway District is prohibited.

2. Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 1408.011.A.3 and 148.011.A.7. below.
3. The cost of all structural alterations or additions to any nonconforming structure over the life of the structure may not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must meet the standards of Section 1408.004. or 1408.005. for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.
4. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this section. The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.
5. If any nonconformity is substantially damaged, as defined in Section 1408.002.I.27., it may not be reconstructed except in conformity with the provisions of this section. The applicable provisions for establishing new uses or new structures in Sections 1408.004. or 1408.005. will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.
6. If any nonconforming use or structure experiences a repetitive loss, as defined in Section 1408.002.I.24., it must not be reconstructed except in conformity with the provisions of this section.
7. Any substantial improvement, as defined in Section 1408.002.I.28., to a nonconforming structure requires that the existing structure and any additions must meet the requirements of Section 1408.004. or 1408.005. for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.

1408.012. PENALTIES AND ENFORCEMENT

- A. **Violation Constitutes a Misdemeanor:** Violation of the provisions of this section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.
- B. **Other Lawful Action:** Nothing in this section restricts the City from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation and will be prosecuted accordingly.

- C. **Enforcement:** Violations of the provisions of this section will be investigated and resolved in accordance with the provisions of Section 1501.020 of the zoning section of the Winsted Municipal Code. In responding to a suspected violation, the Zoning Administrator and City Council may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

1408.013. AMENDMENTS

- A. **Floodplain Designation – Restrictions on Removal:** The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.
- B. **Amendments Require DNR Approval:** All amendments to this section must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.
- C. **Map Revisions Require Section Amendments.** The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 1408.002.C.

(Ord. 87-05; Ord. 89-01; Ord. 89-05; Ord. 14-03, 6/3/14)