

Section 425 – Rental Housing Maintenance Code

CITY OF BRAINERD
RENTAL HOUSING MAINTENANCE CODE

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ARTICLE I. GENERALLY

425.10 Title. These regulations shall be known as the Rental Housing Maintenance Code of the City of Brainerd.

425.20 Scope. The provisions of this Code shall apply to all rental housing structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

425.30 Findings. The Council finds there exists in the City numerous rental housing properties that are substandard in one or more important features of structure, equipment, maintenance, or occupancy. Such conditions adversely affect public health and safety and lead to the continuation, extension, and aggravation of blight. Adequate protection of public health, safety and welfare therefore requires the establishment and enforcement of minimum property maintenance standards.

425.35 Intent It is not the intention of the City to intrude upon the fair and contractual relationship between landlord and tenant. The City shall not intervene as an advocate of either party, or act as an arbiter, nor be receptive to complaints from tenant or landlord, which are not specifically and clearly relevant to the provisions of this Ordinance.

(Added Ord. 1331 – 2009)

425.40 Definitions. The following words and phrases when used in the Rental Housing Maintenance Code shall have the meanings respectively ascribed to them in this section:

Approved: Approved by the Housing Inspector pursuant to applicable provisions of this Code of Ordinances and other ordinances and regulations.

Attic story: Any story situated wholly or partly in the roof, so designed, arranged or built as to be used for business, storage or habitation.

Basement: Any area of a structure, including crawl spaces, having its floor or base sub grade (below ground level) on at least three sides, regardless of the depth of excavation below ground level.

Bath: A bathtub or shower bath.

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

Clean: The condition of being free from readily noticeable dirt, soil, stain, left-over food particles, or other material not intended to be a part of the object in question.

Communal: Used or shared by, or intended to be used or shared by the occupants of two or more rooming units.

Communicable disease: The following diseases, for the purposes of the Rental Housing Maintenance Code, are deemed communicable: Chicken pox, diphtheria, hepatitis, poliomyelitis, smallpox, tuberculosis, typhoid fever and fevers with rash.

Dead bolt locks: A locking bolt which, when in the locked position, can only be moved positively by turning a knob, key, sliding bolt, or by a mechanism activated by working a combination.

Dining room: A habitable room used or intended to be used for the purpose of eating but not for cooking or the preparation of meals.

Dwelling: Any building or structure, or portion thereof, except temporary housing, which is wholly or partly used or intended to be used for living or sleeping by human occupants. There are three principal types:

- (1) Single-Family: A freestanding (detached) residence structure designed for or occupied by one family only.

- (2) Two-Family: A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each, referred to commonly as a duplex.
- (3) Multiple Family: Three or more dwelling units in one structure.
Dwelling Unit: A residential building or portion thereof intended for occupancy by a single-family but not including hotels, motels, boarding or rooming houses or tourist homes.

Efficiency Unit: A dwelling unit with one (1) primary room which doubles as a living room, kitchen, and bedroom.

Emergency: Any condition or combination of conditions which in the opinion of the County Health Authority, Housing Inspector, or the Fire Chief requires immediate action for the protection of health, safety, or welfare of the occupants of a dwelling or of the public.

Extermination: The control or elimination of insects, rodents, vermin or other pests.

Family: Two (2) or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than four (4) persons not so related maintaining a common household and using common cooking and kitchen facilities.

Fire escape: An emergency means of egress. A fire escape shall not constitute a required stairway.

Fire chief: The legally authorized Fire Chief or authorized representative.

Fire-resistive construction: Construction to resist the spread of fire, details of which are specified in the State Building Code as adopted in Section 400 of the Code of Ordinances.

Garbage: The term “garbage” means and includes organic refuse resulting from the preparation of food, and decayed and spoiled matter from any source.

Habitable floor area: An area that has a ceiling height of seven (7) feet throughout. However, on floors above the first floor the habitable area shall have a minimum ceiling height of seven (7) feet over fifty (50) per cent or more of its area, and no part of any floor having a ceiling height of less than five (5) feet shall be considered as part of the habitable floor area; and further, dwellings shall have a minimum ceiling height of not less than seven (7) feet over fifty (50) per cent of the floor area. See Section 425.800 for ceiling height exceptions.

Habitable room: Any room meeting the requirements of this code for sleeping, living, cooking or dining purposes excluding such enclosed spaces as closets, pantries, bath or toilet rooms, service rooms, recreation rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms and similar spaces.

Hazardous heating installations: All heating installations except those which conform with the applicable laws regulating the installation of such space heating in effect now or at the time of installation and which have been maintained in good repair and working condition and are being used in a safe manner.

Hazardous plumbing: All plumbing except that which conforms with the applicable laws regulating the installation of such plumbing in effect now or at the time of installation and which has been maintained in good condition and which is free of cross connections and siphonage between fixtures.

Hazardous wiring: All wiring except that which conforms with the applicable laws regulating the installation of such wiring in effect now or at the time of the installation, and which has been maintained in good condition and is being used in a safe manner.

Housing inspector: The legally authorized Housing Inspector of the City or authorized representative.

Infestation: The presence of any insects, rodents, vermin, or other pests within a dwelling or on the dwelling premises.

Kitchen: A habitable room used or intended to be used for cooking or the preparation of meals.

License Actions: Deny – Withhold or refuse to grant a license
Revoke – Take back, withdraw, annul, or cancel the license
Suspend – Prohibit for a period of time, the privilege of the use of the license

Living room: A habitable room within a dwelling unit, which is used or intended to be used primarily for general living purposes.

Non-dwelling structure: Any structure, except a dwelling, used or intended to be used for the shelter or enclosure of any animal or property of any kind.

Occupant: Any person over one year of age, including an owner or operator, living, sleeping, cooking or eating in, or having actual possession of a dwelling, dwelling unit, rooming unit or hotel unit.

Operator: Any person who has charge, care or control of a building, or part thereof, in which dwelling units, rooming units or hotel units are let.

Owner: The person who is the last owner of record or the fee owner or the contract purchaser or the agent of the aforementioned person.

Plumbing system: The plumbing system of a building includes the water supply distributing pipes; the fixtures and fixture traps; the soil, waste and vent pipes; the building drain and building sewer; the storm water drainage, with their devices and appurtenances; and connections within the building and outside the building within the property line.

Premises: A platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or non-dwelling structure.

Professional: Whenever the words "professional state of maintenance and repair" are used in this Code, they shall mean that such maintenance and repair shall be made in a reasonably skillful manner

Public Way. A street, alley, or other parcel of land open to the outside air leading to a street, that has been deeded, dedicated to or otherwise appropriated to the public for public use and which has a clear width and height of not less than 10 feet.

Recyclables or recyclable materials: Recyclables are former items of rubbish, which have been cleaned so as not to cause health or nuisance problems. *Recyclables* shall include the following: paper, glass, plastic containers (with a neck), aluminum cans, metal cans, and other materials defined by agreement between the Hauler and City. Collection of recyclables shall be made at least twice a month. The Hauler shall be responsible for picking up and disposing of recyclable materials at an approved Recycling Center. Any of the above items which are not properly cleaned, prepared or stored such that they pose the threat of health, environmental or nuisance problems shall remain the responsibility and property of the individuals or household from which the materials originated.

Rehabilitation center: A "rehabilitation center" is one operated by a lawfully established and existing philanthropic or charitable organization or agency operating on a statewide or national basis and which employs personnel of demonstrated competency in the fields of social, spiritual and physical rehabilitation, and has and operates under its own charter, regulations, rules and standards. In order to qualify, such agency must furnish adequate proof of the soundness of its governing charter, regulations and code and of its prior successful existence and practice.

Rent or Rental Charge: Any consideration paid, either monetary, including payment of utilities (in all or in part), or “in lieu of payments” such as but not limited to maintenance or repair (cutting grass, shoveling snow, painting, etc.). A usually fixed periodical return made by the tenant or occupant for the possession and use thereof in whole or in part of the dwelling unit.

Exception: Rental license registration is not required for occupancy of dwelling units by immediate family members/relatives, defined as spouse, parent, child, brother, sister, grandparent, or grandchild.

Roomer: An occupant of a rooming house who is not a member of the family of the operator of that rooming house, and shall also mean an occupant of a dwelling unit who is not a member of the family occupying the dwelling unit. This shall not be construed as to include temporary nonpaying guests of the operator.

Rooming house: Any dwelling, or that part of any dwelling, containing one or more rooming units, with or without meals.

Rooming unit: Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking of meals.

Rubbish: The term “rubbish” means and includes all inorganic refuse matter such as tin cans, glass, paper, ashes, sweepings, and similar substance.

Sanitary: The condition of being clean, free from infective, physically hurtful, diseased, poisonous, unwholesome, or otherwise unhealthful substances or influence and being completely free from rodents or arthropods, from the traces of either, and from an environment conducive to the growth of either.

Shared bath dwelling: A dwelling unit which does not contain a water closet and a hand lavatory and a bathtub or shower for the exclusive use of the occupants of the unit.

Solid Waste: Discarded materials other than fluids.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under floor space is more than six (6) feet above grade, as defined herein, for more than fifty (50) per cent of the total perimeter, or is more than twelve (12) feet above grade, as defined herein, at any point, such basement, cellar or unused under floor space shall be considered a story.

Story, first: The lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade, as defined herein, for more than fifty (50) per cent of the total perimeter, or more than eight (8) feet below grade, as defined herein, at any point.

Superficial floor area: Clear floor space, exclusive of fixed or built-in cabinets or appliances.

Supplied: Furnished, provided by, or under the control of, the owner, operator or agent.

Temporary housing: Any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not permanently attached to the ground or to another structure.

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

Wood-frame construction: As applied to dwelling shall mean that type of construction in which the load bearing portions of the exterior walls or a portion thereof are of wood.

(Amended Ord. 1320 – 2008, Ord. 1331 – 2009)

425.50 Meaning of Certain Words.

- (a) Whenever the words "dwelling," "dwelling units," "shared bath dwelling," "shared bath units," "rooming house," "rooming unit," or "premises" are used, they shall be construed as though they were followed by the words "or any part thereof."
- (b) Whenever the words "professional state of maintenance and repair" are used they shall mean that such maintenance and repair shall be made in a reasonably skillful manner.
- (c) Whenever the words "properly installed," "properly maintained," "properly connected" or "properly constructed" are used they shall mean in conformance with such ordinances of the city applicable now or at the time of such installation which governed such installations, maintenance connections or construction.

425.60 Temporary Housing Prohibited Exception.

- (a) Unless otherwise provided in this Section, no camp car, house trailer, automobile, tent, or other temporary structure may be parked or placed upon any public street or on any public or private premises or street in the city and used as a shelter or enclosure of persons and their effects for the purpose of living therein.
- (b) The Housing Inspector may issue a permit to allow for temporary housing when a specified emergency creates the need to allow for such housing. A permit may be issued only when the emergency creating the need is an act of nature, a technological failure or malfunction, a terrorist incident, a public health emergency, an industrial accident, a hazardous material accident, or destruction caused by a civil disturbance.
- (c) When the Housing Inspector issues a permit to allow for temporary housing, the Housing Inspector shall provide that the permit will expire after a specific period of time, not to exceed six (6) months. The Housing Inspector shall attempt to set the expiration date to coincide with the elimination of the need for temporary housing. The Housing Inspector may grant one (1) six-month extension of this permit.
- (d) The Housing Inspector may set conditions on the use of the permit to mitigate the negative impacts of the permit. These conditions may include compliance with applicable statutes, ordinances and/or rules, including but not limited to the Brainerd Fire Code, County Health Code, Brainerd Building Code, Brainerd Rental Housing Maintenance Code, and the Brainerd Zoning Ordinance. In addition, the Housing Inspector may impose any additional appropriate conditions to the use of the temporary housing permit.
- (e) The Housing Inspector may revoke the permit if the need for such temporary housing ends, or if the permit holder fails to comply with the conditions set by the Housing Inspector as to the use of the temporary housing permit.

425.70 Continuing Violations. Each day's continuance of any violation of the Rental Housing Maintenance Code after due notice has been served in accordance with the terms and provisions of Chapter 425 of the City Code of Ordinances shall be deemed a separate offense.

425.80 Enforcement by Suit. Refer to Minnesota Statute 504B. Landlord And Tenant, and the pamphlet entitled "Landlords And Tenants: Rights And Responsibilities" from the office of the Attorney General, regarding disputes between landlords and tenants.

425.90 Powers Declared Additional. The powers conferred on the Housing Inspector shall be in addition to the power already conferred upon said Housing Inspector and shall not be construed as in any way limiting these powers.

ARTICLE II. ENFORCEMENT

425.120 Officers Authorized. The Housing Inspector or authorized City representative shall enforce the provisions of the Rental Housing Maintenance Code.

425.130 Inspections Required; Powers. Pursuant to provisions of this Code of Ordinances, as set forth herein, the Housing Inspector shall make inspections to determine the condition of dwellings, dwelling units, shared bath dwellings, rooming units, and premises located within the City for the purpose of enforcing the provisions of the Rental Housing Maintenance Code. The Housing Inspector, or authorized representative, may enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises after obtaining consent from an occupant of the premises. In the event that an occupant of the premises does not consent to entry by the Housing Inspector or authorized representative, and if there is probable cause to believe that an inspection is warranted, then application may be made to the court for an administrative or other search warrant for the purpose of inspecting the premises. No person shall refuse entrance or impede an authorized City representative, in the performance of emergency duties. In case of emergency every such Housing Inspector or authorized City representative shall have the right to enter, examine and survey all premises, grounds, erections, structures, dwellings and buildings and every part thereof in the City at all times.

425.140 Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Rental Housing Maintenance Code is declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Code, which shall continue in full force and effect, and to this end the provisions of this Rental Housing Maintenance Code are hereby declared to be severable.

425.150 Notice of Violations. Whenever the County Health Department, the Housing Inspector, or authorized City representative determines that there has been a violation, or that there are reasonable grounds to believe that there has been a violation, of any provision of this Code, notice of such violation or alleged violation shall be given to the person or persons responsible therefore. Such notice shall:

- (a) Be in writing;
- (b) Include a description of the real estate sufficient for identification;
- (c) Specify the violation which exists and remedial action required;
- (d) Allow a reasonable time for the performance of any act it requires;
- (e) Be served upon the owner, or the operator, or the occupant, as the case may require. Such notice shall be deemed to be properly served upon such owner, or upon such operator, or upon such occupant if a copy thereof is served upon such owner, operator or occupant personally; or if a copy is left at such

owner's, operator's or occupant's usual place of residence with a person of suitable age and discretion; or by depositing in the United States Post Office, the notice addressed to such owner's, operator's or occupant's last-known address with postage prepaid thereon; or if service cannot be made by any one of the above means then such notice shall be deemed served if a copy of such notice is posted and kept posted for twenty-four (24) hours in a conspicuous place on the premises affected by such notice. Notwithstanding the other provisions of this section, a notice of violation shall not be required for violation of sections.

425.160 Emergency Orders. When, in the opinion of the Building Official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the Code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Code Official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and its Occupancy has been Prohibited by the Code Official". It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or of demolishing the same.

425.170 Warning Notice of Unsanitary Condition. The Housing Inspector or authorized City representative shall take note of any unsanitary conditions caused by accumulation of garbage, rubbish, or other debris upon any premises observed by them. A "warning notice" of such conditions shall be served upon the owner and occupant of the premises, either by mail or by leaving such notice in a conspicuous place on the premises. Such notice shall be on a form to be prepared by the Housing Inspector of the City and a record of all such notices served shall be transmitted to the Housing Inspector or authorized City representative for further inspection and enforcement of the provisions of the Rental Housing Maintenance Code. The service of any notice pursuant to this Section shall not in any way supersede or affect any other order, tag, or notice of violation duly issued or served pursuant to any other ordinance.

425.180 Enforcement by the City Attorney. The City Attorney may enforce any provisions of this Chapter, including any order to vacate condemned dwellings and apartments, by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction.

(Added Ord. 1331 – 2009)

425.185 Violations. Any person who violates any of the provisions of this Ordinance will be guilty of a misdemeanor. Each violation of this Ordinance will constitute a separate offense. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Added Ord. 1331 – 2009)

ARTICLE III. EQUIPMENT AND FACILITIES

425.260 Compliance Required. No person shall occupy as owner-occupant or let or allow another to occupy any dwelling, dwelling unit, or other structure for the purpose of living, sleeping, cooking, or eating therein which does not comply with the requirements set forth in this article.

425.270 Liability for Utility Service Payments. This Section covered by State Statute 504B.

425.280 Tenant to be Given Copy of Lease.

425.285 Tenant to be Notified of Entry. These Sections covered by State Statute 504B.

425.290 Dwelling Plumbing Facilities Required. Every dwelling unit shall contain a kitchen sink, a water closet, a bathtub or shower, and hand lavatory all in good working condition, and properly connected to a water supply and sewage system. The water closet and shower or bathtub shall be located within a room that affords privacy to a person within said room. The hand lavatory shall be placed in the same room as the water closet, or if located in another room, shall be located in close proximity to the door leading directly into the room in which said water closet is located. Doors of bath or toilet rooms shared by persons other than members of a family, as defined in this Code, shall be provided with an approved locking device.

425.300 Shared Bath Dwelling Unit Plumbing Facilities Required. Every shared bath dwelling unit shall contain a kitchen sink in good working condition and properly connected to a water supply and sewage disposal system and shall have available to its occupants a water closet, a hand lavatory, and a bathtub or shower. The occupants of not more than two (2) shared bath dwelling units may share a single water closet, a single hand lavatory and a single bathtub or shower if:

- (a) The number of occupants sharing a water closet, hand lavatory and bathtub or shower does not exceed four (4) persons.
- (b) Such water closet, hand lavatory, bathtub or shower shall be in good working condition and properly connected to a water and sewer system.

- (c) The room or rooms within which the water closet, hand lavatory, and bath are contained is located not more than one floor distant from the dwelling units whose occupants share the use of such facilities.

425.310 Basement Water Closet. A water closet may be located in a basement when required for a legal dwelling unit or shared bath unit within such basement. A water closet may be located in a basement when such water closet is supplementary to water closets required by the Rental Housing Maintenance Code. A first floor dwelling unit should not have to go to the basement for its required water closet.

425.320 Hot and Cold Water. Every kitchen sink, hand lavatory, and bathtub or shower shall be properly connected with both potable hot and cold running water and shall, with normal use, have an adequate supply of both hot and cold water.

425.330 Water Heating Facilities. Every dwelling shall have supplied water-heating facilities properly installed and maintained in a safe and good working condition and properly connected with the hot water lines required under the provisions of Section 425.320. An approved combination temperature and pressure valve and relief valve discharge pipe shall be properly installed and maintained on water heaters. The discharge pipe shall be full size and run to within eighteen (18) inches from the floor or a safe place for disposal. The hot water heating facilities required by this section shall be of a capacity and so maintained and operated as to permit, with normal use, an adequate supply of water to be drawn at any required kitchen sink, hand lavatory, bathtub or shower and to maintain the temperature of said water at not less than one hundred twenty (120) degrees Fahrenheit at the fixture.

425.340 Sewer and Water Connections. All dwellings located on a lot or plot of ground adjacent to or abutting a street or alley in which such street or alley a City sanitary sewer and City water line exists shall have all the plumbing facilities properly connected in a non-hazardous manner to such sewer and water systems. If no City water or sewer system exists in the abutting or adjacent street or alley, then such water and sewer systems as the County Health Authority shall order must be installed.

425.350 Solid Waste Storage. Every dwelling unit, rooming unit, and shared bath unit shall be provided with an adequate number of containers to hold the solid waste accumulated by such units until said solid waste is removed from the premises. These containers shall be made of metal or approved plastic and be equipped with tight-fitting covers. An owner, operator, or agent utilizing private solid waste collection shall provide both the required solid waste containers and the removal service. Unobstructed walkways shall be maintained to the required solid waste containers. Such walkways shall lead from the public way and shall also be accessible to and usable by the occupants of the dwelling for which the containers are provided. Snow, whether natural, piled or accumulated, to a depth greater than six (6) inches shall be deemed to constitute an obstruction if not removed within a twenty four-hour time period after snow has ceased to fall.

When in the opinion of the Housing Inspector it has proven necessary to protect the health, safety, and welfare of the public, the Housing Inspector may require owners of dwellings at specific addresses to provide large dumpster-type solid waste containers. Said dumpster-type containers must be rodent-proof, well maintained, bear identification of the solid waste hauler supplying the containers, including the phone number, and be provided with metal or approved plastic covers that the tenants can operate with no unusual physical effort. The solid waste haulers providing the dumpster service must provide collection service at least once every week and the dumpster or dumpsters shall be of sufficient size to handle the accumulation of solid waste between pickup periods from the address where the dumpster-type container is required. Large dumpster-type solid waste containers shall be required after conditions at a specific address have resulted in the issuance of two (2) written orders for overflowing solid waste within any twelve-month period.

When dumpster type containers are used as the solid waste containers on a regular basis, they shall be screened from the view of the street public right-of-way. Where screening is required, such screening shall be six (6) feet in height and at least ninety-five (95) percent opaque throughout the year, unless otherwise specified.

ARTICLE IV. LIGHT, VENTILATION, AND HEATING

425.410 Light and Ventilation. Habitable rooms shall be provided with natural light by means of windows or skylights with a glazed area of not less than eight (8) percent of the floor area of such rooms with a minimum of eight (8) square feet. All bathrooms, water closet compartments, and similar rooms shall be provided with natural ventilation by means of openable exterior openings with an area of not less than one-twentieth (1/20) of the floor area of such rooms with a minimum of one and one-half (1 1/2) square feet. Not less than one-half (1/2) of the required window or skylight area shall be openable to provide natural ventilation. Exceptions to the requirements for windows are:

- (a) The glazed areas need not be openable where the opening is not required by this Section and an approved mechanical ventilation system capable of producing 0.35 air change per hour in the room is installed or a whole-house mechanical ventilation system is installed capable of supplying outdoor ventilation air of 15 cubic feet per minute (cfm) per occupant computed on the basis of two occupants for the first bedroom and one occupant for each additional bedroom.
- (b) The glazed areas need not be installed in rooms where Exception 1 above is satisfied and artificial light is provided capable of producing an average illumination of 6 foot-candles) over the area of the room at a height of 30 inches above the floor level.

Windows shall not be required in kitchens of dwelling units when such kitchen has an opening of at least twenty (20) square feet into an adjoining habitable room and when such kitchen is

provided with an approved mechanical ventilation system. In addition, the window area of the adjoining habitable room referred to above shall be of sufficient size so as to provide for the light and ventilation requirements of the kitchen area as well as for said adjoining habitable room.

425.411 Emergency Escape and Rescue Required. Basements with habitable space and every sleeping room shall have at least one openable emergency escape and rescue window or exterior door opening for emergency escape and rescue. Due to various differences regarding measurements and clearances, refer to the Minnesota State Department of Public Safety, State Fire Marshal Division SFMD Fact Sheet INS-FACT-16 (for structures with more than two dwellings), and to SFMD Fact Sheet INS-FACT-02 (for one and two family dwellings), for this subject, as well as any other emergency egress openings measurements, window wells, bulkhead enclosures, stairways, handrails, railings. These fact sheets are available at www.dps.state.mn.us/fmarshal/FireCode/FireCode.html under the Fact/Information Sheets or at Brainerd City Hall.

425.420 Electric Outlets and Fixtures. In all existing dwellings now or hereafter supplied with electric service, every habitable room with one hundred twenty (120) square feet of floor space or less shall be provided with two (2) separate floor or wall type duplex electric convenience outlets, and an additional duplex electric convenience outlet shall be required for each additional eighty (80) square feet, or fraction thereof, of floor space. Required outlets shall, insofar as possible, be spaced equal distances apart. Kitchens and rooms with kitchen areas shall have one duplex electric convenience outlet in addition to the number herein required for other habitable rooms. One ceiling-type electric light fixture or one wall-type electric light fixture controlled by a remote switch may be supplied in lieu of one required electric convenience outlet in each habitable room. Every public hall, water closet compartment, bathroom, laundry room and furnace room shall contain at least one supplied electric light fixture. All general use cellar or basement areas shall be provided with sufficient artificial light so as to provide one foot-candle of light at all floor areas. All electric outlets and fixtures shall be installed, maintained and energized by a source of electric power in a manner complying with the State Electrical Code applicable now or at the time such outlets or fixtures were or are installed. The electric service and all wiring shall be maintained in good condition and used in a safe manner. All hazardous wiring and all disconnected, exposed wiring shall be removed. Any and all substandard work shall be repaired to present day State Electrical Code requirements.

425.430 Heating Facilities. The owner of every building containing habitable rooms shall provide heating facilities and shall be required to see that said heating facilities are properly installed, safely maintained, and in good working condition, and that said facilities are capable of safely and adequately heating all habitable rooms, bathrooms and toilet rooms located therein to a temperature of at least sixty-eight (68) degrees Fahrenheit, measured at a distance of thirty-six (36) inches above floor level, and not closer than thirty-six (36) inches from any wall at all times when the outside temperature is at minus twenty (-20) degrees Fahrenheit. The owner or operator shall furnish heat to the occupants thereof whenever the outside temperature is sixty-(60) degrees Fahrenheit or below for any continuous twenty-four-hour period. Cooking appliances shall not be used to heat any dwelling unit.

425.440 Exit Illumination. The means of egress, including the exit discharge, shall be illuminated at all times the building space served by the means of egress is occupied. Exit illumination is not required inside individual dwelling units. The means of egress illumination shall not be less than one-foot candle at the floor level. Every exterior stairway shall be adequately illuminated at floors, landings and treads.

425.450 Screens. Openable windows in each habitable room shall be supplied with a screen. Such screens shall have a mesh of not less than number fourteen (14). Other such screening may be required by the Housing Inspector when deemed necessary for insect control or safety of persons.

ARTICLE V. MAINTENANCE BY OWNER

425.490 Compliance Required. No person shall occupy any building or other structure or portion thereof, which does not comply with the requirements set forth in this article.

425.500 Foundations, Roofs, Exterior Walls, and Surfaces.

- (a) All exterior surfaces shall be of a material manufactured or processed specifically for use in such a weather-exposed location, including redwood and other naturally suitable materials, and every exterior wall, chimney, foundation and roof shall be reasonably weather tight, watertight and rodent proof; and shall be kept in a professional state of maintenance and repair. Exterior walls shall be maintained and kept free from dilapidation by cracks, tears or breaks or from deteriorated plaster, stucco, brick, wood or other material that is extensive and gives evidence of long neglect.
- (b) The protective surface on exterior walls of a building above ground level shall be maintained in good repair so as to provide a sufficient covering and protection of the structural surface underneath against its deterioration. Without limiting the generality of this section, a protective surface of a building shall be deemed to be out of repair if:
 - (1) The protective surface has paint which is blistered, cracked, flaked, scaled or chalked away including window trim, cornice members, porch railings and other such areas.
 - (2) The pointing of any chimney or the pointing of any brick or stone wall is loose or has fallen out.
- (c) Any exterior surface or plane required to be repaired under the provisions of this section shall be repaired in its entirety.

425.510 Pest Extermination. Every owner of a dwelling shall be responsible for the extermination of insects, rodents, vermin or other pests on the premises. The Housing Inspector may order the extermination done by a person licensed to do such work when in the housing inspector's opinion the infestation is widespread and severe.

425.515 Other Pests Constituting Nuisance. Whenever it shall appear to the Housing Inspector that rats, skunks, snakes, starlings, grackles, common wild pigeons, or bats which are creating an offensive, nauseous, hurtful, dangerous, unhealthful, or uncomfortable condition to or for any person or persons or to the neighborhood, said Housing Inspector is authorized to decree such conditions a public nuisance and said Housing Inspector or an authorized representative shall issue a written notice to the owner or person in charge of or in control of the premises to remove, exterminate or otherwise rid the premises of the cause of such public nuisance within a reasonable period of time. Where the owner of the premises or the person in charge or control thereof cannot be found after due diligence, the written notice referred to in this section may be posted upon the premises with the same force and effect as though served upon the owner.

425.520 Interior.

- (a) Every interior partition, wall, floor, door, window, trim surface, radiator, and ceiling shall be kept in a professional state of repair. Interior partitions, walls and ceilings shall be provided with an interior finish material specifically manufactured for, and intended to be used as an interior finished surface. Walls, floors, and ceilings that are required to be fire rated by new construction regulations shall be maintained and repaired to prevent a lowering of the resistance to fire or the spread of fire. In addition, maintenance and repairs to walls, floors and ceilings separating dwelling units, or dwelling units from public corridors or stairways shall be done in a manner which will not reduce the sound transmission class of such walls, floors, or ceilings. Dwelling unit doors leading to communal, shared, or public areas, when replaced, shall be replaced with an approved solid core door not less than one and three-eighths (1 3/8) inches in thickness. For the purposes of this Section, professional state of repair shall apply to the repair and application of interior finishes. Interior finishes shall meet the flame spread classification set forth in Chapter 8 of the State Building Code as adopted in Section 400 of the Code of Ordinances when such interior finishes are hereafter altered, refinished, repaired or replaced.
- (b) No interior wall of any dwelling or building accessory thereto shall have paint that is blistered, cracked, flaked, scaled or chalked away.

425.525 Rainwater Drainage. All rainwater shall be so drained and conveyed from every roof so as not to cause dampness in the walls, ceilings, or floors of any portion of the dwelling or of any adjacent building or structure. Gutters and downspouts, if provided, shall be kept in a professional state of repair and in compliance with the provisions of Section 425.500.

425.530 Windows, Exterior Doors, Hatchways. Every window, exterior door, and basement hatchway shall be reasonably weather tight, watertight, and rodent proof; and shall be kept in a professional state of maintenance and repair. Every exterior window or door of habitable rooms, bath, and toilet rooms shall be supplied with a storm window or storm door or the equivalent for ventilation, light, and insulation. Unless otherwise provided for by written agreement, the owner or operator shall install such storm windows and storm doors not later than November first of each year. Such written agreements shall be applicable only to one- and two-family dwellings. All exterior doors of dwellings, except those, which are required to be out swinging based on occupant load, shall be provided with a storm door unless the principal door has an "R" value of two (2) or more. The following energy conservation measures are required:

- (a) Install weather-stripping between exterior operable window sash and frames and between exterior doors and frames. Exception: Weather-stripping not required on storm doors or storm windows.
- (b) Caulk, gasket or otherwise seal exterior joints between foundation and rim joist, around window and door frames, between wall and roof, between wall panels, at penetrations for utility services through walls, floors, and roofs and all other openings in the exterior envelope.

425.540 Shades, Drapes. Every window of every room let to another for sleeping purposes and the windows of bath and toilet rooms used in conjunction with such sleeping rooms shall be supplied with shades, draw drapes, or other devices or materials which when properly used will afford privacy to the occupant of the room. However, upon written agreement of the owner and the occupant, said shades, drapes or devices need not be provided.

425.550 Stairways and Porches.

- (a) Construction and maintenance generally live load. Every inside or outside stairways attached to a dwelling, every porch and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in a professional state of maintenance and repair. Normal use live load shall be the uniform load as set out in the state building code, one hundred (100) pounds per square foot.
- (b) Handrails. Every inside or outside stairways attached to a dwelling that have four (4) or more risers shall have at least one handrail, and all such stairways which are forty-four (44) inches or more in width, or which are open on both sides, shall have a handrail on each side. If a stairway is open on one side, the required handrail shall be placed on the open side, when required by the housing inspector. Stairways required to be more than eighty-eight (88) inches in width shall be provided with an intermediate handrail. However, only one handrail shall be required when such an outside stairway serves a

one- or two-family dwelling and the stairway is not more than forty-two (42) inches above the adjacent surface. All handrails shall be not less than thirty (30) inches or more than forty-two (42) inches vertically above the nose of the stair treads or stairway platforms.

(Amended Ord. 1331 – 2009)

- (c) To be kept clean of snow, etc. Required means of egress that are exposed to the elements shall be kept clear at all times of rubbish, snow, ice, or other obstructions when such egress serves a multiple dwelling.

425.555 Guardrails. All accessible doorways, unenclosed floor and roof openings, open stairs, porches, balconies, walkways and landings which are more than thirty (30) inches above grade or the surface below shall be protected by an approved guardrail. New installations or replacements of guardrails shall be in compliance with the state building code.

425.560 Plumbing Fixtures. Every supplied plumbing fixture and all water and waste pipes shall be installed in a non-hazardous manner and maintained free from defects, leaks, or obstructions. Water closets shall be provided with seats, which can be maintained in a sanitary condition.

425.570 Bathroom and Toilet Floors. Every toilet room floor and bathroom floor shall be so constructed and maintained as to be reasonably impervious to moisture and all such floor and floor coverings shall be kept in a clean and sanitary condition.

425.580 Supplied Facilities. Every supplied facility, piece of equipment, or utility which is required under the rental property maintenance code shall be so constructed and installed that it will function safely and effectively, and shall be kept in a professional state of maintenance and repair. Appliances used for cooking, air conditioning, laundry, dishwashing, or refrigeration, when supplied by the lessor, shall be installed and maintained so they will function safely and effectively.

(Amended Ord. 1320 – 2008)

425.590 Discontinuance of Required Services. Refer to State Statute 504B.

425.620 Vacant Dwelling Units. No owner shall occupy or permit any other person to occupy any vacant dwelling unit or rooming unit unless it is clean, sanitary, and complies with all provisions of the Rental Housing Maintenance Code. The owner of any dwelling shall be responsible for the removal of all garbage, rubbish, and other discarded debris left on the premises where the dwelling unit is vacant.

425.630 Hanging of Screens. Every owner of a dwelling let to another shall be responsible for hanging all screens whenever the same are required under the provisions of this Code. Screens shall be hung not later than the first day of May of each year. This provision shall not preclude the owner and tenant from agreeing by written contract to have said tenant hang the screens as required above for other than multiple dwellings. Nothing in this Section shall be construed to prevent the owner from engaging a tenant, caretaker, or any person from hanging the screens for remuneration.

425.640 Prohibited Uses. No person shall use or permit the use of any dwelling or any building or any lot or premises for any use not permitted by said Zoning Ordinance.

425.650 Numbering Units. All habitable units let to another in a multiple dwelling shall be numbered or lettered in an approved and conspicuous manner on each passage door leading from such unit. All passage doors from each unit shall have the same number or letter and no two (2) units shall bear the same number or letter. Cross reference Numbering of buildings, Section 425.970.

425.655 Mailboxes. Every owner shall provide a suitable mail deposit box for each rental unit. Such mail deposit box shall be approved by the United States Postal Service.

425.660 Changing or Altering Locks. No person shall change or alter any keyed lock, or place such a new lock on the entrance of a dwelling unit without first providing the tenant or owner of that dwelling unit with a suitable functional key to operate such a lock. A tenant shall obtain permission of the owner, in writing, before installing permanent locks.

425.670 Doorbells or Buzzers. Every multiple dwelling of eleven (11) or more dwelling units or eleven (11) or more rooming units shall be equipped with an operable system of bells, buzzers or other signaling devices which operate from the exterior of a locked entryway and signal either within each dwelling unit and rooming unit or in the hallway or common area of each floor of the building.

425.675 Secured Egress and Ingress to be Provided for Certain Multiple Dwellings. All multiple dwellings containing eleven (11) or more dwelling units or eleven (11) or more rooming units existing now or hereafter created shall provide the following security measures: all doorways leading to the exterior or to an exterior vestibule or entry must be secured by a locking device approved by the Housing Inspector. The locking devices provided for required egress doorways shall be of a type that will engage and lock automatically when the door is in the closed position within the frame provided. Further, locks on such required egress doors shall be openable from the exterior by the use of a key or other approved device. A key box of a type approved by the Brainerd Fire Department shall be installed for access by Public Safety agencies of the City of Brainerd, namely, the Fire Department and Police Department. All locking common entry/egress doors on buildings with fewer than 11 units shall meet the key box requirement of this ordinance. All doors, whether required egress doors or auxiliary, shall be openable from the inside without the use of a key or any special knowledge or effort. All

locking devices required by this section shall be kept in a professional state of maintenance and repair.

(Amended Ord. 1320 – 2008)

ARTICLE VI. MAINTENANCE BY OCCUPANTS

425.690 Cleanliness. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling unit, and premises thereof, which that person occupies or controls.

425.695 Residential Storage Standards. This Section applies to any dwelling as well as appurtenant porches, decks, and stairways whether or not enclosed and to garages which are an accessory use to the dwelling. Storage standards. With the exceptions noted herein; other than furniture, all wood products, paper and paper products, clothing, bedding, towels, linens, tablecloths, drapes, area rugs, maintenance supplies, and additionally, all materials of any kind which are flammable or which may be subject to infestation by rodents or arthropods or other pests, shall when not in actual use, at a minimum and in addition to all other requirements imposed by law, meet each of the following storage standards:

- (a) All materials must be stored off the floor in shelves, cabinets, or other sturdy storage device not made of paper or paper products.
- (b) Storage of materials shall not impede free access to all walls, windows, doors, and heating and other fixtures.
- (c) Each shelf, cabinet, or other sturdy storage device other than built-in storage devices shall have such free space around it so access without moving the material can be obtained and a visual inspection made for combustibility, rodents, arthropods and other pests, and other health and safety hazards.

425.700 Disposal of Solid Waste. Every occupant of a dwelling or dwelling unit shall dispose of all solid waste in a clean and sanitary manner by placing it in the containers required by Section 425.350 of this Code. Occupants shall place their solid waste only in containers that have been assigned to their dwelling or dwelling units by a private solid waste hauler contracted to provide collection service to a building. Failure to comply with this requirement shall constitute a violation of this Section. Prior to placement in the containers required by Section 425.350, solid waste may be stored within the dwelling, but only temporarily. It shall be stored in sturdy baskets or containers which are not made of paper or paper products and which will be consistent with the other requirements of City ordinances. The amount of solid waste temporarily stored shall not exceed three (3) cubic feet of volume in any one room. In order to be counted as a separate room for the purposes of this Section, the enclosed area involved must be able to be closed off completely from other rooms of the dwelling. The term "temporarily" as used in this Section means for a period not to exceed nine (9) calendar days.

425.720 Use of Storm Windows and Operation of Mechanical System Controls. Every occupant of a dwelling supplied with storm windows and doors shall use the storm windows and doors provided in a reasonable and energy-saving manner. This shall include the proper utilization of combination storms supplied by the owner during the periods of time when it is necessary to heat the dwelling unit. Every occupant shall also operate all mechanical system controls intended to be operated by the occupant in a reasonable and energy efficient manner. The occupant shall not adjust mechanical system controls not intended to be operated by the occupant, nor take any actions that impair the operation of the mechanical systems.

425.740 Supplied Plumbing Fixtures. Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein clean and sanitary and shall be responsible for the exercise of reasonable care in their proper use and operation.

425.750 Plumbing Fixtures or Appliances Furnished by Occupant. Every plumbing fixture or appliance furnished by the occupant shall be properly installed and shall be maintained in good working condition, shall be clean and sanitary, and free from defects, leaks or obstructions.

425.760 Damaging Property. No person shall willfully or wantonly damage, mutilate or deface any part of residential real estate, supplied fixtures, equipment, including smoke detectors, furnishings or any other property of another.

ARTICLE VII. SPACE, USE, AND LOCATION

425.790 Compliance Required. No person shall occupy or let or allow another to occupy any building or other structure for the purpose of living therein which does not comply with the requirements set forth in this article.

425.800 Ceiling Height. At least one-half of the floor area of every habitable room shall have a ceiling height of seven (7) feet. However, in dwellings one story and attic in height, attic type bedrooms may be located above the first floor of each dwelling unit if such attic type bedrooms have a minimum ceiling height of not less than seven (7) feet over fifty (50) per cent of its floor area and shall be provided with a stairway in full compliance with the Building Code. The floor area of that part of any room where the ceiling height is less than five (5) feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

Exception: Habitable rooms existing at the time of adoption of this Code having a ceiling height of not less than 6 feet 8 inches (2033mm) with not less than 6 feet 4 inches (1932mm) of clear height under beams, girders, ducts and similar obstructions.

425.810 Required Space in Dwelling Units. Every dwelling unit shall contain a minimum superficial floor area of not less than one hundred fifty (150) square feet for the first occupant, seventy (70) additional square feet for the second occupant and one hundred (100) square feet for each additional occupant in excess of two (2). The floor area shall be calculated on the basis of

the total habitable floor area of all habitable rooms. Single room dwelling units shall not be occupied by more than four (4) persons. Rooms used exclusively for sleeping purposes shall have the following minimum superficial floor area, seventy (70) square feet for one person, ninety (90) square feet for two (2) persons and the required superficial floor area shall be increased at the rate of fifty (50) square feet for each occupant in excess of two (2). However, occupancy of a sleeping room shall not exceed four (4) persons. Habitable rooms having a multiple use shall have not less than one hundred fifty (150) square feet of superficial floor area. Other habitable rooms shall have not less than seventy (70) square feet of superficial floor area, except kitchens. No habitable room other than a kitchen shall be less than seven (7) feet in any dimension. Multi-roomed dwelling units, when let to another, shall include a kitchen room. The floor area of such required kitchen room is not to be included when calculating floor area for the purposes of determining occupant load.

425.820 Dwelling Unit to be Occupied by One Family. No dwelling unit shall be occupied by more than one family. However, unrelated persons may occupy a dwelling unit when such occupancy is permitted and authorized. When, in the opinion of the Housing Inspector, it is necessary for the protection of the health, safety, and welfare of the occupants, the owner or agent of dwelling units let to another may be required to post in a conspicuous place, with a transparent cover, a card issued by the Housing Inspector setting forth the maximum number of persons who may lawfully occupy such a dwelling unit. Said card shall be posted inside the dwelling unit at eye level on, or within four (4) feet of, the main entrance door.

425.830 Arrangement of Rooms. No dwelling or dwelling unit containing two (2) or more sleeping rooms shall have such room arrangements that access to a bathroom or toilet room intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or toilet room.

425.850 Basement Space May be Habitable. No basement space shall be used as a habitable room or dwelling unit unless:

- (a) The floor and walls are impervious to leakage of underground and surface runoff water.
- (b) The total window area in each room is equal to at least the minimum window area sizes as required in Section 425.410.
- (c) The total openable window area or mechanical ventilation in each room is equal to at least the minimum s required under Section 425.410.
- (d) At least one emergency escape and rescue opening is provided. Every sleeping room shall have at least one openable emergency escape and rescue opening as required in Section 411.

Cross Reference: Emergency escapes and rescue openings, Section 425.411

ARTICLE VIII. FIRE PROTECTION

425.890 Compliance Required. No person shall let to another for occupancy any dwelling, dwelling unit, rooming house, rooming unit, lodging house, or lodging unit which does not comply with the applicable fire prevention provisions of this Code and the following additional standards for safety from fire.

425.900 Open Fires. No person shall set or maintain any open fire, or knowingly furnish the materials for any such fire, or authorize any such fire to be set, kindled or maintained on or in any street, alley, lot, land or public or private grounds within the City, except as permitted by the provisions of the Rules for Recreational Fires as set forth by the Brainerd Fire Department.

425.910 Vacant Dwellings. The owner of any dwelling in the City, whenever the same becomes vacant or unoccupied shall remove there from, all papers or other combustible waste materials accumulated therein, and shall securely close and keep closed all doors, windows or other openings into such building while the same remains unoccupied.

425.915 Fire Warning System. Due to the various differences regarding measurements, clearances, and build dates, refer to the Minnesota State Department of Public Safety, State Fire Marshal Division SFMD Fact Sheet INS-FACT-16 (for structures with more than two dwellings), and to SFMD Fact Sheet INS-FACT-02 (for one and two family dwellings), for this subject, as well as any other fire safety topics in this section. The INS-FACT-16 (multiple units) also deals with additional exits and fire extinguishers. These fact sheets are available at www.dps.state.mn.us/fmarshal/FireCode/FireCode.html under the Fact/Information Sheets or at the Brainerd City Hall. Smoke alarms and smoke detectors shall not be located closer than three (3) feet from any door to a bathroom or kitchen. Smoke alarms and smoke detectors that are located within twenty (20) feet of a cooking appliance shall be equipped with a silencing switch or be of the photoelectric type in accordance with National Fire Protection Association Standard 72, Section 8-1.4.2.

When interior alterations, repairs, or additions requiring a permit occur, or when one (1) or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be provided with smoke alarms located as required for new dwellings; the smoke alarms shall be interconnected and hard wired. Exception: smoke alarms in existing areas shall not be required to be interconnected and hard wired where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure.

425.920 Fire Extinguishers. Refer to 425.915. Tampering with or removal. No person shall tamper with, meddle with, remove, empty, damage, or destroy any extinguisher except in the event of fire or authorized inspection. In dwellings of two or less dwelling units, fire extinguishers shall be provided inside each unit. The minimum size and classification shall be 2A10BC. A tag with the name of the servicing company and the service date, or a tag with the date placing the extinguisher in service, shall be affixed to the extinguisher and shall remain affixed until the next servicing.

(Amended Ord. 1320 – 2008, Ord. 1331 - 2009)

425.930 Flammable Liquids. Flammable liquids shall not be stored in any rooming house, lodging house, or any dwelling in quantities exceeding one gallon.

- (a) All such flammable liquids of one gallon or less shall be stored in sealed metal containers or safety cans not exceeding one gallon capacity and only one such container shall be allowed in each unit, as set out herein. Non-water based paints, varnishes, and similar products used for decorating therein shall be stored in sealed metal containers.
- (b) No flammable liquids such as gasoline, diesel fuel, motor oils, or any similar product shall be stored inside a dwelling unit.
- (c) Fueled equipment, including but not limited to motorcycles, mopeds, lawn care equipment and portable cooking equipment, shall not be stored, operated or repaired within a dwelling unit.
- (d) In any structure containing three or more dwelling units, no person shall kindle, maintain, or cause any open fire or open flame on any balcony above ground level, or on any ground floor patio within 15 feet of a structure.
- (e) No person shall store or use any fuel, barbeque, torch, or other similar heating or lighting chemical or device in the locations designated in 425.930 (d) above.

Exception: Listed electric or gas-fired barbeque grills that are permanently mounted and wired or plumbed to the building's gas supply or electrical system and that maintain a minimum clearance of 18 inches on all sides, unless listed for lesser clearances, may be installed on balconies and patios when approved by the Fire Chief.

425.940 Attic Rooms. In dwellings erected prior to July 1, 1972, dwelling units and rooming units may be located in the attic of a dwelling that is not more than two (2) stories and attic in height, provided that the following conditions are complied with:

- (a) The attic shall have a habitable floor area exceeding fifty (50) percent of the floor below.
- (b) The required egress stairways shall be located inside the confines of the dwelling and shall be enclosed with materials having a one-hour fire-resistant rating and self-closing fire doors separating each floor. The one-hour fire-resistant rating for materials enclosing said egress stairway shall be as specified in "Methods of Fire Tests of Building Construction and Materials" (ASTM Designation: E119) of the American Society for Testing and Materials, on file in the office of the housing inspector. The required self-closing fire doors shall be constructed of Type B construction.

- (c) At least one-half of the floor area of every habitable room shall have a ceiling height of seven (7) feet.
- (d) There shall be compliance with all the provisions of the Zoning Ordinance and all other provisions of the Rental Housing Maintenance Code.

425.945 Restricted Attic Use. The use of the attic in a two-story and attic dwelling shall be confined strictly to the use of the family or families occupying the first and/or second floors of such dwellings. Such attics shall not be occupied by more than three (3) persons.

425.950 Heating Plants. In all multiple dwellings over two (2) stories and basement in height or containing more than four (4) dwelling units on any floor above the first floor or containing more than ten (10) sleeping rooms on any floor above the first floor of such building, the heating plant shall be separated from the rest of the building by not less than a one-hour fire-resistive occupancy separation as defined in the building code or in lieu thereof a sprinkler system approved by the Fire Chief.

425.955 Carbon Monoxide Alarm.

- (a) An approved carbon monoxide alarm shall be provided as follows:
 - (1) For all newly constructed single-family and multifamily dwelling units for which building permit were issued on or after January 1, 2007.
 - (2) For all existing single-family dwelling units on or before August 1, 2008.
 - (3) For all multifamily dwelling units on or before August 1, 2009.
- (b) Approved carbon monoxide alarm means a device meant for the purpose of detecting carbon monoxide that is certified by a nationally recognized testing laboratory to conform to the latest Underwriters Laboratories Standards (known as UL2034 standards)

Exceptions: In certain multifamily dwellings.

- (a) Multifamily dwellings may have approved and operational carbon monoxide alarms installed between 15 and 25 feet of carbon monoxide producing central fixtures and equipment provided there is a centralized alarm system or other mechanism for responsible parties to hear the alarm at all times.
- (b) An owner of a multifamily dwelling that contains minimal or no sources of carbon monoxide may be exempted from the requirements of the statute provided that such owner certifies to the commissioner of public safety that such multifamily dwelling poses no foreseeable carbon monoxide risk to the health and safety of the dwelling units.

(c) Reference: Minnesota Statute 299F.50

425.960 Egress. Dwellings erected after July 1, 1972, shall have and shall maintain the egress facilities required by the Minnesota State Building Code at the time of erection. Dwellings existing prior to July 1, 1972, shall be provided with egress facilities as required by said Minnesota State Building Code or in compliance with the following regulations: Every habitable unit shall have a safe unobstructed means of egress. Every dwelling unit located above the first floor and every rooming house where three (3) or more roomers occupy one or more rooming units located above the first floor and every basement dwelling unit shall have at least two (2) independent egress stairways which shall be located remote from each other, and one of such stairways shall be an inside stairway. Every such egress shall comply with the following requirements:

- (a) Every dwelling with an occupant load of ten (10) persons or fewer shall have one approved means of egress. Dwellings located on the second story shall have at least one approved means of egress if the occupant load of the entire story does not exceed ten (10) persons. Second stories having an occupant load of more than ten (10) persons and all other stories and basements shall have not less than two (2) approved means of egress. Exception: Only one approved means of egress shall be required from a basement within an individual dwelling unit when the occupancy load of such basement is ten (10) or fewer.
- (b) Refer to the fact sheets listed in 425.915 for more information on measurements, placements, build dates, etc., for stairways, handrails, and guardrails.
- (c) All required egress stairs shall be easily accessible from every dwelling or dwelling unit without passing through any room other than public, shared or communal areas. Egress shall lead directly to grade, and such grade shall have an unobstructed path of travel to a public way.
- (d) Egress doors connected to public, shared or communal areas must be easily opened from the inside along the path of egress and remain unlocked or be of a type which can be unlocked without the use of a key or any special skill or knowledge. Where multiple dwellings have more than five (5) dwelling units, or more than ten (10) rooming units sharing the same means of egress, the doors serving such egress shall swing in the direction of travel and be self-closing and latching. All stair tower doors located in multiple dwellings which are four (4) or more stories in height, and where the dwelling units are not individually owned, shall be openable from the inside of the stair tower without the use of a key or any special skill or knowledge when such stair tower doors open into a public, shared or communal area. No person shall lock, fasten closed, block open or in any other way tamper with the operation of self-closing fire doors so that said doors do not function as required by this section.

- (e) Any required means of egress exposed to the elements shall be kept clear of rubbish, snow, ice and other such obstructions at all times. All vertical ladders and other emergency fire escapes not recognized as a required means of egress shall be maintained in good order and repair.

425.970 Address Posting. Every dwelling shall have the proper street address number conspicuously posted in the front and in the rear or on a building accessory to such dwelling at the rear so as to be readily identified in case of fire or other emergency. The rear address number may be omitted if there is no public way at the rear of the building. The numbers required by this section shall be mounted on a permanently fixed surface, the numbers shall be Arabic, not Roman numerals or words, and shall be of sufficient size four (4) inches minimum height and of a contrasting color so as to be readily distinguishable and readable from the public way front and rear.

Cross Reference: Numbering of Units, Section 425.650

425.980 Ventilation Shafts. No ventilation shafts or ducts shall exhaust or terminate within a building. All such shafts or ducts shall lead to the outside.

425.990 Transom Windows. Openings such as transom windows shall not be permitted into public hallways. Existing transoms shall be permanently fixed in the closed position and all such openings shall be enclosed with materials having a fire-resistance rating of one hour or equal to that of the walls adjoining such transoms or openings.

425.1000 Storage Near heating plant. No person shall store or permit the storage of any combustible material, other than fuel used in conjunction with the heating system, within three (3) feet of any heating plant or furnace.

425.1010 Exit Signs. All exits in multiple dwellings having ten (10) or more dwelling units on any one floor, or in rooming houses having more than five (5) rooming units on any one floor, or in any multiple dwellings having a total of ten (10) or more of any combination of the aforesaid dwelling units and rooming units on a floor shall be marked with red, internally illuminated exit signs that will be clearly visible from hallways, corridors and public areas. Where exit signs are not visible there shall be illuminated directional markers indicating the location and direction to follow to reach such exits. Such internally illuminated signs shall be marked "EXIT" in letters at least four (4) inches high. Exit signs provided in accordance with the Building Code when properly maintained shall also be acceptable.

425.1020 Minimum Requirements. These requirements are considered to be minimum and not maximum. The City of Brainerd has adopted the Minnesota State Fire Code. All properties subject to this Ordinance are subject to the Minnesota State Fire Code as adopted and amended by the City of Brainerd and shall in the case of discrepancy supercede this Ordinance.

ARTICLE IX. ROOMING HOUSES

425.1040 Compliance Required. No person shall operate a rooming house, or shall occupy or let to another for occupancy any rooming unit in any rooming house, except in compliance with the requirements set forth in the Rental Housing Maintenance Code.

425.1050 Lavatory and Bath Facilities. At least one water closet, hand lavatory and bathtub or shower, properly connected to a water and sewer system and in good working condition, shall be supplied for each ten (10) persons or fraction thereof residing within a rooming house, including members of the operator's family wherever they share the use of the said facilities; provided that in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half of the required number of water closets, and provided further that in rooming houses existing prior to July 1, 1972, where a hand lavatory, connected to a water and sewer system and in good working condition, is supplied in each rooming unit, then the number of persons who shall share the use of a water closet and bathtub or shower shall not exceed twelve (12) persons. All such facilities shall be so located within the rooming house as to be accessible to the occupants of each rooming unit sharing such facilities without going through a unit of another occupant. Every hand lavatory and bathtub or shower required under the provisions of this section shall be supplied with hot and cold running water at all times. No plumbing facilities required under this section except the guest toilet room may be located in a cellar. No such plumbing facilities shall be located more than one floor distant from the rooming unit for which such plumbing facilities are provided.

General toilet rooms may be provided to serve members of one sex but not to exceed twenty-four (24) persons. Water closet compartments and bath or shower compartments in general toilet rooms shall be constructed in such a manner so as to afford the user privacy. General toilet rooms shall have an approved mechanical ventilation system. Rooming houses having only general toilet rooms for the tenants all of one sex shall have a toilet room containing a water closet and hand lavatory for guest use.

425.1060 Communal Kitchens. Communal kitchens shall be permitted only in rooming house occupancies. Every rooming house within which the occupants of rooming units are permitted to prepare meals shall contain a communal kitchen that has adequate cooking, refrigeration and plumbing facilities to allow the preparation of meals in a clean and healthful manner by the occupants. Every communal kitchen shall be located within a room accessible to the occupant of each rooming unit sharing the use of such kitchens, without going outside the rooming house and without going through a unit of another occupant. The owner or operator of a rooming house wherein meals are served to tenants shall obtain a food and drink license as required by the Minnesota State Health Department.

425.1070 No-Cooking Signs. The operator shall post in every rooming unit a sign on which shall be written or printed in letters not less than one inch in height the following words "No Cooking Permitted in This Room" and such sign shall remain so posted at all times. No person shall cook or prepare meals in any rooming unit, and no operator knowingly shall allow cooking or preparation of meals in any rooming unit.

425.1090 Sanitary Maintenance. The owner or operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

425.1100 Reporting of Communicable Disease. The operator of a rooming house shall report to the County Health Authority within twenty-four (24) hours the name of any person living in the rooming house who is suffering from a communicable disease, and such report shall be made whenever there is reason to believe or suspect that any person in such rooming house may be afflicted with any communicable disease.

425.1110 Keeping of Register. Every person registered as a rooming house operator shall at all times keep a register within the rooming house, in which shall be written the names of all occupants renting or occupying rooming units in such rooming house. After the name or names of persons renting or occupying any rooming unit the operator, or operator's agent, shall write the number of the room or rooms which each person is to occupy, together with the date and hour when such room or rooms are rented, all of which shall be done before such person is permitted to occupy such room or rooms. The register shall be at all times open to inspection by the Chief of Police, County Health Authority, Housing Inspector, or Fire Chief, or their authorized representatives.

425.1120 Entry of True Name in Register. No person shall write or cause to be written in any rooming house register any other or different name than the true name of such person or the name by which such person is generally known.

425.1140 Rehabilitation Centers. A rehabilitation center as defined in Section 425.40 relating to the Rental Housing Maintenance Code, may be operated, provided:

- (a) Such rehabilitation center provides a definite program of medical supervision and employs personnel of demonstrated competency in social and physical rehabilitation;
- (b) Files with the Housing Inspector written rules, standards and controls governing the rehabilitation operation and program, and files with the housing inspector any amendments or additions to its code, and such rules, standards, program and amendments thereto are approved by the City Council;
- (c) If the rules, standards and programs as presented are approved by the City Council, such rehabilitation center may then be registered as a multiple dwelling.
- (d) If the above requirements are all complied with, the rehabilitation center may then operate a multiple dwelling without compliance with Sections 425.810, 425.1060 and 425.310 of this Code.

ARTICLE X. SHARED BATH DWELLING UNITS

425.1170 Compliance Required. No person shall occupy or let to another for occupancy any shared bath dwelling except in compliance with the requirements set forth in the Rental Housing Maintenance Code.

425.1180 New Units Prohibited; Removal of Existing. New shared bath dwelling units shall not be installed. Existing shared bath dwelling units not of record shall be vacated and removed. Nothing herein shall prohibit any right of appeal or review by the Housing Board of Appeals as provided by Chapter 1950 of this Code of Ordinances.

ARTICLE XI. UNFIT DWELLINGS

425.1450 Condemnation Authorized; Requiring Vacating. Whenever the Housing Inspector finds that any dwelling, multiple dwelling, or dwelling unit constitutes a hazard to the health, safety, or welfare of the occupants or to the public because it lacks maintenance, or is dilapidated, unsanitary, vermin-infested, or rodent-infested, because it lacks the sanitary facilities and equipment required by the Rental Housing Maintenance Code, or because it violates residential storage standards, the Housing Inspector may condemn such dwelling or dwelling unit as unfit for human habitation. If any dwelling or any part thereof is occupied by more families than provided by this Code, or is erected, altered or occupied contrary to law, such dwelling shall be deemed an unlawful structure and the Housing Inspector may cause such dwelling to be vacated. It shall be unlawful to again occupy such dwelling until it or its occupation, as the case may be, has been made to conform to the law.

415.1460 Placarding. Any dwelling or dwelling units condemned shall be posted with a placard of condemnation by the Housing Inspector. The placard of condemnation shall include the following:

- (a) Name of the city;
- (b) The name of the authorized department having jurisdiction;
- (c) The Chapter and Section of this Code or other ordinance under which it is issued;
- (d) Street address of building, dwelling number if applicable;
- (e) A statement of reason or reasons for condemnation;
- (f) A statement of time when occupants must vacate the dwelling or dwelling unit (not less than twenty-four (24) hours or more than thirty (30) days except in cases of emergency);
- (g) The date that the placard of condemnation is posted;
- (h) A statement of the penalty for defacing or removal of the placard.

425.1470 Notice of Condemnation Required. Whenever the Housing Inspector, County Health Authority, or the Fire Chief intends to condemn a dwelling or dwelling unit, notice shall be given to the owner of such condemnation and placarding of the dwelling or dwelling unit. Such notice shall:

- (a) Be in writing;
- (b) Include the street address of the building, dwelling number if applicable;
- (c) Include a statement of the reason or reasons why it is being issued;
- (d) Set a date to bring the conditions herein set out into compliance with the Rental Housing Maintenance Code and as notice that after said date the building or dwelling will be condemned.

425.1480 Service of Notice of Condemnation. Service of notice of condemnation shall be as follows:

- (a) By delivery to the owner personally, or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion, or
- (b) By depositing the notice in the United States Mail addressed to the owner at the owner's last-known address with postage prepaid thereon, or by posting and keeping posted for twenty-four (24) hours a copy of said notice in placard form in a conspicuous place on the condemned premises

425.1490 Duty to Vacate. Any dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation by the Housing Inspector, County Health Authority, or the Fire Chief shall be vacated within a reasonable time as required by said Housing Inspector and it shall be unlawful for any owner or operator to let or allow any person to occupy said dwelling or dwelling unit. No person shall occupy any dwelling or dwelling unit, which has been condemned and placarded by said Housing Inspector after the date set forth in the placard of condemnation. The Housing Inspector, County Health Authority, or the Fire Chief may allow a security or fire guard to occupy the condemned dwelling when, in the opinion of said Housing Inspector or commissioner such action best serves public interest.

425.1500 Condemned Dwellings Not To Be Occupied. No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from the Housing Inspector, County Health Authority or the Fire Chief. The Housing Inspector, County Health Department, or Fire Chief shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

425.1510 Defacing, Removal of Placard. No person shall deface or remove the placard from any dwelling or dwelling unit that has been condemned and placarded. Such placard shall only be removed by the enforcing officer.

ARTICLE XII. ACCESSORY (NON-DWELLING) STRUCTURES, ETC

425.1550 Compliance Required. No person shall construct, or allow or permit to exist on any premises any accessory (non-dwelling) structure, fence, or condition, which does not comply with the requirements set forth in this article.

425.1560 Construction, Maintenance of Accessory Structures. Every foundation, exterior wall, roof, window, exterior door, basement hatchway, and every other entranceway of every non-dwelling structure shall be so constructed and maintained as to prevent the structure from becoming a harborage for rats. Each entranceway for persons or vehicles in any such structure on residential property shall have exterior doors. All such structures and exterior doors shall be kept in good workmanlike state of maintenance and repair. All exterior surfaces of non-dwelling structures shall be of a material manufactured or processed specifically for use in such a weather-exposed location. Non-dwelling structures shall not be used for the storage of garbage or rubbish unless such garbage or rubbish is placed in an approved container or stored in a manner so as not to constitute a health or safety hazard.

425.1570 Grading and Drainage. All premises shall be graded and maintained so as to prevent the accumulation of stagnant water on said premises or within any building or structure located thereon, and every premises shall be continuously maintained in a sanitary, erosion-free, and dust-free condition by suitable landscaping with grass, trees, shrubs, or other planted ground cover, or by paving with asphalt, concrete, or by such other suitable means as shall be approved by the Housing Inspector. Whenever a premises is not in compliance with this Section and presents a hazard to public health and welfare, the Housing Inspector shall give fifteen (15) days' notice to the owner or owners or the agent of such owners and occupant or tenant of premises in the City to correct the violation. In the event said violation is not corrected, the Housing Inspector shall take the necessary actions to secure compliance with this section. Premises shall be considered hazardous when it becomes a potential source of filth and cause of sickness, when stagnant water or dust is left to accumulate or stand on the premises, or when erosion of the soil causes the same to spill over onto the sidewalk, street or the adjoining property.

425.1575 Open Excavations and Areas. No person shall maintain or allow to continue without approved guardrails any excavation, pit, area wall, stairwell or window-well which, due to its depth and/or location on a premises, constitutes a hazard to the health and safety in the opinion of the Housing Inspector.

425.1590 Fences and Retaining Walls. Every fence and retaining wall on or adjacent to residential property shall be kept well mended and in good repair, consistent with the design thereof.

425.1610 Occupancy Prohibited. No person shall occupy or let or allow another to occupy an accessory (non-dwelling) structure for the purpose of living therein.

ARTICLE XIII. BUILDING SECURITY

425.1640 Purpose. The purpose of this article is to require security devices in certain buildings used for dwellings and certain non-dwelling structures accessory thereto, as a safety, burglary and theft prevention measure. Such security devices shall be installed in a professional manner and maintained operable and effective as installed.

425.1650 Dead Bolt Locks.

- (a) Specifications. A dead bolt not less than three-eighths inch in its least dimension, which penetrates into the strike plate not less than three-eighths inch shall be deemed to meet the requirements of this section. Further dead bolt locks installed or replaced after the adoption of this Code, shall have a bolt throw of at least three-quarters inch and the strike plate shall be secured with steel screws at least two and one-half (2 1/2) inches in length or secured in a manner to provide equivalent security.
- (b) Dead latch, bolt-type locks. Mortised dead latch, bolt-type locks, properly installed and maintained, when installed prior to the adoption of this Code, may be deemed to provide the security required by this article; however, latch-type locks shall not be approved for new installations.
- (c) To be openable without key. Except as hereinafter expressly permitted in this article, dead bolt locks, as required by this Section, shall be of a type openable from the inside without the use of a key or any special knowledge or effort. A lock bolt moved by a skeleton-type key shall not be used to provide security for any rental unit.

425.1660 Locks Required for Rooming Houses. All rooming houses existing now or hereafter constructed shall be provided with dead bolt locks on all entrance doors of each rooming unit. However, rooming houses having six (6) or fewer rooming units and occupied by six (6) or fewer roomers may provide the required security by dead bolt locks on all exterior doors of said rooming house. Key locking shall be as required for other occupancies in this article.

425.1670 Locks Required for Dwellings. All dwellings, when let to another, shall be provided with dead bolt locks on all entrance doors of each dwelling unit, at least one of which must be capable of being locked from the exterior. The provisions of this paragraph become effective at the time of adoption of this code.

425.1685 Security for Exterior Garage Doors. All exterior doors on garages provided for the use of the non-owner occupants of dwellings shall be equipped with such locks, bolts, security bars or other approved security devices which, when in a closed, secured position, will prevent the doors from being opened from the outside.

425.1690 Window Security.

- (a) Operable windows located in whole or in part within six (6) feet above ground or a walking surface below that provides access to a dwelling shall be equipped with a locking device. All other windows and doors of dwellings let to another which are accessible to persons by means of porches, stairs, fire escapes, balconies, corridors, walkways, interior balconies, roofs, or other such possible accesses, shall be provided with an approved locking device which, when in the locked position, will prevent the window or door from being opened from without the dwelling unit or rooming unit.
- (b) Windows and doors of bath and toilet rooms let in conjunction with the aforementioned units shall be provided with an approved locking device when such windows are deemed accessible by the standards set forth in this section.
- (c) The window security required by this Section shall be provided at the prime window or door and latching or locking devices on storm sash or screen frames will not be accepted as meeting the intent of this Section.

425.1700 Responsibility for Security. The owner, operator, or agent in charge of buildings covered by this Article shall be responsible for compliance with the terms and provisions of this Article.

425.1710 Keys Required. The owner, operator, or agent in charge of dwellings let to another shall furnish the lessee with a key for the dead bolt lock or other lock required by this Article.

425.1730 Easement Agreements.

- (a) No utility company may seek to enter a multi-unit dwelling in order to maintain, repair, replace, or remove any of its facilities without providing to the owner of the building not less than four (4) hours advance notice during normal business hours (8:00 a.m. to 5:00 p.m. Monday through Friday) except:
 - (1) In case of emergency;
 - (2) Meter reading, monitoring, adjustments, connecting, or reconnecting;
 - (3) At the request of a tenant;
 - (4) To protect the health and safety of tenants;
 - (5) When the activity does not require the company to access the building through the security doors.

- (b) No utility company may require as a condition of its services that direct sales to the tenants of a multi-unit dwelling with exterior security doors be allowed except during limited periods of time negotiated with the owners of the building and upon adequate notice to the tenants so as not to compromise the security of the building.

ARTICLE XIV. RENTAL DWELLING LICENSES

425.1800 Definitions. Words used in this Article shall have the meanings ascribed in Section 425.40, unless otherwise defined herein. Appropriate action shall mean that action which a reasonable license holder would take based upon the facts and circumstances of each case so as to prevent a reoccurrence of a disorderly use.

425.1810 License Required. License required. No person shall allow to be occupied, or let to another for occupancy, any dwelling unit unless the owner has first obtained a license under the terms of this article.

NOTE: Any “Lease to Own” type arrangement is still technically a rental and must be registered as such until such time as the dwelling unit purchase transaction is accomplished.

NOTE: Any “Contract for Deed” will not be recognized unless properly recorded with the County as required by Minnesota State Statute 507.235.

(Amended Ord. 1331 – 2009)

425.1820 Applicability and Exceptions.

- (a) The provisions of this Article shall apply to all rental dwellings and dwelling units, including rented single-family dwellings and rented dwelling units in owner-occupied dwellings, as well as rented condominiums, rented townhouses and leasehold cooperative dwelling units, as those terms are defined in Minnesota Statute Section 273.124, Subd. 6, Minnesota Statute Chapter 515B, Minnesota law and this Code.
- (b) The provisions of this Article shall not apply to jails; licensed nursing homes; licensed board and care homes; parsonages; parish houses; manses and rectories; hospitals; and owner-occupied dwelling units in a cooperative, condominium or townhouse building.

425.1830 What the License Covers.

- (a) One (1) license shall be issued for each building with rental dwelling units. For each individually owned rental dwelling unit in a multi-unit building, a license will be required of each unit.

- (b) The City shall have authority to exercise its licensing powers under this article, including the power to issue, renew, deny, revoke, and suspend licenses, with respect to an entire building or only a portion of a building.

425.1840 Application for License. The owner of each rental dwelling shall make written application to the Housing Inspector for a license to carry on the business of renting residential property. In addition, the owner of each such rental dwelling constructed after the effective date of this article shall make written application to the Housing Inspector for a license as herein provided prior to initial occupancy. Such application shall be made on a form furnished by the Housing Inspector for such purpose and shall set forth the following information:

- (a) Name, business or residence address, telephone number of the owner. If the owner is a partnership, the name of the partnership, the name, residence address of the managing partner. If the owner is a corporation, the name and address of the corporation and the name of the chief operating officer, in cases where the owner of a dwelling resides outside of the City of Brainerd, the owner's agent/contact person shall reside within thirty (30) miles of the City of Brainerd.
- (b) If the owner has appointed an agent authorized to accept service of process and to receive and give receipt for notices, the name, business or residence address, telephone number of such agent.
- (c) Every applicant, shall identify in the application, by name, residence or business street address, telephone number, a natural person who is actively involved in, and responsible for, the maintenance and management of the premises. Said natural person, if other than the owner, will thereby accept joint and several responsibility with the owner (including any potential criminal, civil, or administrative liability) for the maintenance and management of the premises. A post office box or commercial mail receiving service is not acceptable as an address for such person. The individual authorized herein may also be the owner of the dwelling or an agent identified in subsection (b) above.
- (d) Street address of the dwelling.
- (e) Number and kind of units within the dwelling (dwelling units, rooming units, or shared bath units). For each unit, specify the floor number, and the unit number and/or letter and/or designation.
- (f) In the event that any of the information required to be provided by this section changes, the applicant or licensee shall, within fourteen (14) days, notify in writing the Housing Inspector, or an authorized representative of the Housing Inspector, of the change. However, if the natural person authorized in

subsection (c) changes, the licensee or applicant shall file an amended application within fourteen (14) days. Furthermore, for just cause, the Housing Inspector, or an authorized representative of the Housing Inspector, may request that an applicant or licensee complete and file a new or replacement application for any rental dwelling, giving the licensee or applicant a minimum of fourteen (14) days to comply.

425.1850 Minimum Inspection Standards. The minimum standard to be used for inspections, for compliance with this code for buildings with licenses, shall include the inspection of the building interior and exterior, the site, the common areas and the basement.

425.1860 Expiration; Renewal. All licenses issued under this Article shall expire on May 31st of each year, subject to renewal year to year in the manner provided in this Article. All licensees shall apply for renewal of their licenses on a form provided by the Housing Inspector. No license shall be granted without payment of the required license fee. An individual who is operating a rental dwelling after the license has expired is operating an unlicensed rental dwelling.

425.1870 License Non-Transferable. A license issued hereunder is nontransferable. A new license application shall be required for each change of ownership of a rental dwelling.

425.1880 License Fees.

- (a) An annual license fee shall be assessed on all rental units. The license fee shall be included with the initial application or renewal statement. Such fee shall be set by resolution of the Council. A change in ownership shall require a new license application and payment of the license fee. An increase in the number of licensed dwelling units during the license year shall require an amended license application and the payment of an additional license fee to cover the additional units.
- (b) Operation of an unlicensed dwelling unit shall be subject to an additional administrative fee, in accordance with City Council resolution. This fee shall be in addition to any other appropriate enforcement action or fees due.

425.1900 Issuance of License. When, upon completion of an inspection of a building and rental dwellings therein, the Housing Inspector finds that the minimum standards for licensing set forth in this article have been met, a rental dwelling license may be issued.

425.1910 Licensing standards. The following minimum standards and conditions shall be met in order to hold a rental dwelling license under this article. Failure to comply with any of these standards and conditions shall be adequate grounds for the denial, refusal to renew, revocation, or suspension of a rental dwelling license.

- (a) The licensee or applicant shall have paid the required license fee.
- (b) Rental dwelling units shall not exceed the maximum number of dwelling units permitted by the zoning ordinance.
- (c) No rental dwelling or rental dwelling unit shall be over occupied or illegally occupied in violation of the zoning ordinance or the Rental Housing Maintenance Code.
- (d) The rental dwelling shall not have been used or converted to rooming units in violation of the zoning ordinance.
- (e) The owner shall not allow weeds, vegetation, junk, debris, or rubbish to accumulate repeatedly on the exterior of the premises so as to create a nuisance condition. If the city is required to abate such nuisance conditions under section 2010 of the City Code, or collect, gather up or haul solid waste more than three (3) times during a period of twelve (12) months or less, it shall be sufficient grounds to deny, revoke, suspend or refuse to renew a license.
- (f) The rental dwelling or any rental dwelling unit therein shall not be in substandard condition, as defined in section 425.1920.
- (g) The licensee or applicant shall have paid the required reinspection fees.
- (h) The licensee or his or her agent shall allow the housing inspector and his or her authorized representative to perform a rental license review inspection as set forth in section 425.2000(c).
- (i) The licensee shall maintain a current register of all tenants and other persons with a lawful right of occupancy to a dwelling unit and the corresponding floor number, and unit number and/or letter and/or designation of such unit within the building. The register shall be kept current at all times. The licensee shall designate the person who has possession of the register and shall inform the housing inspector of the location at which the register is kept. The register shall be available for review by the housing inspector or his or her authorized representatives during normal business hours or in an emergency situation.
- (j) There shall be no delinquent property taxes or assessments on the rental dwelling.
- (k) There is no active arrest warrant for a Brainerd Rental Housing Maintenance Code or Zoning Ordinance violation pertaining to any property in which the licensee, applicant or property manager has a legal or equitable ownership interest or is involved in management or maintenance.

- (l) Any person(s) who has had an interest in two (2) or more licenses denied, revoked, suspended, or not renewed pursuant to this article or to section 425.1940 or a combination of denials, revocations, suspensions, or non-renewals shall be ineligible to hold or have an interest in a rental dwelling license for a period of five (5) years.
- (m) No new rental dwelling license shall be issued for the property during the pendency of adverse license action initiated pursuant to section 425.1940.
- (n) The licensee or applicant must have a current, complete, and accurate rental dwelling application on file with the housing inspector in accord with the provisions of section 425.1840.
- (o) Any violation as listed in Section 425.2020

(Amended Ord. 1320 – 2008, Ord. 1368 – 2010)

425.1920 Substandard Dwelling. A rental dwelling structure shall be considered substandard if:

- (a) The dwelling unit scores twenty-five (25) or more points; or
- (b) Any major violation within the dwelling remains uncorrected. Any single violation scoring six (6) or more points is considered a major violation.

For purposes of the point calculation in this section, any combination of four (4) rooming units or shared bath units shall constitute one (1) dwelling unit. Points for a violation in a common area of the structure outside a dwelling unit will not be cumulative on a unit-by-unit basis. However, twenty-five (25) or more points in the common areas of a structure, including, but not limited to, the entryways, corridors, community rooms, exterior walls and roof, will constitute a substandard structure.

The Housing Inspector shall cause to be prepared and shall keep on file for public inspection an accurate, complete, and detailed description of each violation used in the point calculation procedure set forth herein. The Inspecting Officer shall assign points according to the severity of each code violation on a scale from one up to the maximum points possible for such violation. Except when otherwise provided by state law, conditions in the design or structure of a building, such as, but not limited to, the size and dimension of rooms and windows and the electrical and plumbing systems, that were legal under existing codes when built shall not be violations as long as they are maintained in good repair. A violation shall receive maximum points when a required item is completely absent, completely fails to perform its function, or is imminently hazardous to the health or safety of the occupants.

Each Code violation shall have a maximum number of points to be assigned based on the relative life-safety hazard created by the code violation. The table of maximum violation points will be established by the Building Official. The Housing Inspector will use the designated Housing Inspection Form for the purpose of determining the existence of substandard dwellings.

425.1925 Reinspection Fee.

- (a) There shall be no fee charged for an initial inspection to determine the existence of a Rental Housing Maintenance Code violation or for the first reinspection to determine compliance with the Code violation. A reinspection fee, set by City Council resolution, shall be charged for each subsequent reinspection that is conducted for compliance with an order, as determined by the Housing Inspector or the Housing Inspector's designee.
- (b) The reinspection fee prescribed above shall be billed directly to the owner or contact person/agent of the property. Reinspection fees shall be increased by fifty (50) percent when not paid within thirty (30) days after initial billing, to cover administrative costs. Failure to pay such fees shall be grounds for denial, revocation, suspension, or non-renewal of a rental dwelling license. This subsection shall not be considered the exclusive method of collecting reinspection fees and shall not preclude collection by other lawful methods.
- (c) Every notice of violation and order to correct Rental Housing Maintenance Code violations shall contain a clear and conspicuous explanation of the policy in this Section requiring fees for reinspections.
- (d) The Housing Inspector may waive a reinspection fee in case of error, mistake, injustice, or other good cause.

425.1930 Condemned and Boarded Buildings. When a building is condemned as hazardous or unfit for human habitation due to defects in its structure or its electrical, plumbing, or mechanical systems, or boarded under Minnesota Statutes, Section 463.251, requiring a Code compliance inspection prior to re-occupancy, the rental dwelling license shall be revoked on the effective date of the condemnation or boarding. The dwelling shall be eligible to hold a rental dwelling license upon reinspection and correction of any violations that caused the building to be condemned.

425.1935 Housing Inspector's Determination of Noncompliance Notice.

- (a) If the Housing Inspector determines that a building or dwelling unit fails to meet the licensing standards set forth in Section 425.1910, or Section 425.1920, he or she shall mail a notice to the owner or the owner's agent. The notice shall specify the reasons why the building or unit fails to meet the licensing standards in Section 425.1910 or Section 425.1920 and shall include a copy of the inspection report if applicable.

- (b) If the rental dwelling fails to meet one or more of the standards set forth in Section 425.1910, the notice shall indicate that the license holder or applicant has ten (10) days to correct the defects, after which the City Council will take action to deny, refuse to renew, revoke, or suspend the license.
- (c) If the rental dwelling fails to meet the standards set forth in Section 425.1920, the notice shall indicate that the license holder or applicant has up to thirty (30) days to correct the defects causing the building to be substandard, after which the City Council will take action to deny, refuse to renew, revoke, or suspend the license. The Housing Inspector may for good cause authorize additional time to correct defects causing a building to be substandard. If the defects create an imminent hazard to health or safety, the Housing Inspector may proceed immediately for denial, non-renewal, revocation, or suspension under Section 425.1940, or may shorten the deadline for compliance to less than thirty (30) days.
- (d) Whenever a notice of noncompliance is issued under this section, the housing inspector shall also cause a notice to tenants to be prominently posted on the building. The notice shall indicate that a license proceeding has been commenced against the owner because the building has been found to be in violation of the Rental Housing Maintenance Code; that after a stated period of time allowed to bring the building into compliance, the city council may proceed to deny, revoke, or suspend the rental dwelling license for the building; that if the City Council denies, revokes, or suspends the license, tenants may be required to vacate the building; that further information can be obtained from the City of Brainerd Building Department.
- (e) The Housing Inspector shall maintain copies of the notice of noncompliance and send copies of the noncompliance notice to tenants at the time of posting of the notice on the building.

425.1940 Denial; Non-Renewal; Revocation; Suspension. If after any period for compliance under Section 425.1935 has expired, the Housing Inspector determines that the dwelling fails to comply with any of the licensing standards in Sections 425.1910 or 425.1920, or the Housing Inspector has initiated an action to deny, revoke, suspend, or not renew a license pursuant to section 425.2020, the Housing Inspector shall mail the owner a notice of denial, non-renewal, revocation, or suspension of the license. The notice shall state:

- (a) That the Housing Inspector has determined that the building fails to comply with the licensing standards for rental dwellings in Section 425.1910 and Section 425.1920, that the licensee has failed to take appropriate action following conduct by tenants and/or their guests on the licensed premises under Section 425.2020, or that the licensee has failed to submit a written management plan that satisfies the requirements set forth in 425.2020(d).

- (b) The specific reasons why the building fails to meet licensing standards, including copies of applicable inspection reports, or notices sent to licensee of conduct on licensed premises.
- (c) That the Housing Inspector has referred the matter to the City Council with a recommendation to deny, not renew, revoke, or suspend the license.
- (d) That the City Council will deny, refuse to renew, revoke, or suspend the license unless the owner appeals the determination within fifteen (15) days after the date of the notice, in the manner provided in Section 425.1960. The notice shall describe how an appeal may be filed under Section 425.1960.
- (e) That after denial, non-renewal, revocation or suspension, the dwelling or the affected dwelling units therein must be vacated, and shall not be reoccupied until all violations are corrected and a license is granted by the City Council, (except where an extension of time has been granted by the housing inspector due to weather). Further, no license will be re-issued by the City Council until an approved plan to control conduct on premises has been presented and accepted by the City Council if the denial, non-renewal, revocation or suspension was under Section 425.2020.
- (f) The Housing Inspector shall cause a notice to tenants to be mailed or delivered to each licensed dwelling unit and prominently posted on the building. The notice shall indicate that the rental dwelling license for the building has been denied, non-renewed, revoked, or suspended, whichever is applicable; that the action will become final on a specific date unless the building owner appeals and requests a hearing; that tenants may be required to vacate the building when the action becomes final; that further information can be obtained from the City of Brainerd Building Department.

(Amended Ord. 1320 – 2008)

425.1945 Reinstatement Fee. A fee set by City Council resolution must accompany any application for reinstatement of any license that has been denied, non-renewed, revoked or suspended under Section 425.2020. This reinstatement fee is in addition to the license fees imposed pursuant to Section 425.1880.

425.1950 Rental Dwelling License Board of Appeals.

- (a) There is hereby created a Rental Dwelling License Board of Appeals. The Board shall consist of five (5) members who shall be appointed by the City Council. The Board Members shall serve for a period of two (2) years and until its successors have been appointed and qualified. Two (2) members shall be real estate agents or brokers, residential rental property managers, or

residential rental property owners; two (2) members shall be tenants or residential rental housing advocates; one (1) member shall be appointed from the general public. The Fire Chief and the Housing Inspector shall be nonvoting ex officio members of the Board. The Housing Inspector or the Housing Inspector's designee shall serve as the secretary of the Board. A majority of the voting members shall constitute a quorum. The Board shall be subject to the Minnesota Open Meeting Law.

- (b) The Board shall have authority to hear and decide all appeals from the Housing Inspector's recommendation to deny, not renew, revoke, or suspend a rental dwelling license.

425.1960 Appeals Procedure.

- (a) Any person wishing to appeal a determination of the Housing Inspector recommending denial, non-renewal, revocation, or suspension of a license shall file a written notice of appeal with the Building Department within fifteen (15) days after the date of the notice of denial, non-renewal, revocation, or suspension. The notice shall contain a statement of the grounds for the appeal. The notice of appeal shall be accompanied by a fee set by city council resolution.
- (b) The Board shall meet at the call of the chair, to hear appeals. The Board shall notify the owner in writing of the time and place of the hearing.
- (c) At the hearing, the Board shall hear all relevant evidence and argument. The Board may admit and give probative effect to evidence that possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The Board shall record the hearing and keep a record of documentary evidence submitted.
- (d) The Board shall render its decision in writing within thirty (30) days after the close of the hearing. The decision shall determine whether the building, or dwelling units therein, meets the licensing standards of Sections 425.1910, 425.1920, or 425.2020, and shall specify the factual and legal basis for the determination.
- (e) The Board shall mail a copy of its decision to the license holder or applicant and to each licensed dwelling unit.
- (f) The Board shall refer its decision to the City Council, which shall have final authority to issue, deny, renew, revoke, or suspend the license. The City Council may hear argument from the license holder/applicant, but shall take no further evidence. The City Council may affirm, modify, or reverse the decision of the Board.

- (g) The final decision of the City Council shall be mailed to the license holder or applicant.
- (h) A notice to tenants of the final decision shall be mailed to each occupant and prominently posted on the building. The notice shall indicate the date upon which tenants must vacate the building and shall clearly indicate which dwelling units are affected.

(Amended Ord. 1320 – 2008)

425.1970 Vacation of Affected Dwelling Units. When an application for rental dwelling license has been denied, or a rental dwelling license has been revoked, suspended, or not renewed, or when the owner has not obtained a current rental dwelling license upon proper application as required by this Chapter, the Housing Inspector shall order the dwelling or the affected dwelling units therein vacated, giving tenants a reasonable time to arrange new housing and to move their possessions.

425.1980 Operation of Rental Dwelling Without License a Misdemeanor. A person who allows to be occupied, or lets to another, any dwelling unit, without a license as required by this article, is guilty of a misdemeanor.

425.1985 Unauthorized Removal of Notices a Misdemeanor. Any person who removes, defaces, tampers or in any way interferes with any notice posted pursuant to this article, is guilty of a misdemeanor.

425.1990 Remedies In This Article Not Exclusive. The remedies provided in this Article are not exclusive. They are in addition to, and do not supersede or preempt, other remedies such as condemnation, written violation orders and warnings, criminal charges for violation of substantive provisions of any City or State Code relating to housing maintenance, fire safety, building codes, zoning, health, and the like. Further, the remedies in this Article do not supersede or affect the legal rights and remedies of tenants provided under state law or this Code.

425.2000 Duties of Licensee. Every holder of a rental dwelling license shall:

- (a) Post his or her license certificate when received from the Housing Inspector. The certificate shall be conspicuously posted in a frame with transparent cover in a public corridor, hallway, or lobby of the dwelling for which it is issued. For other than multiple dwellings, the certificate shall be prominently posted at or near the front entrance of the building.
- (b) Maintain a current register of all tenants and other persons with a lawful right of occupancy to a dwelling unit and the corresponding floor number, and unit number and/or letter and/or designation, within the building. The register shall be kept current at all times. The licensee shall designate the person who

has possession of the register. The register shall be available for review by the Housing Inspector or authorized representatives during normal business hours or upon an emergency situation.

- (c) Permit the Housing Inspector and his or her authorized representatives, either voluntarily or pursuant to an administrative or other warrant, to enter upon the premises for the purpose of conducting inspections to verify compliance with the Rental Housing Maintenance Code, and the fire, health, zoning and building Codes of the City. Such inspections shall be made at such frequencies as the Housing Inspector deems appropriate and necessary, and when practical, shall provide reasonable advance notice to the license holder or a managing agent.
- (d) The owner of any dwelling which is required to be licensed by this Chapter shall, prior to the time of sale of said dwelling, notify the buyer in writing of all unabated orders and violation tags issued by the Housing Inspector or Building Department, pertaining to said dwelling, as well as the requirement of law that said dwelling, upon acquisition by a new owner, must be licensed with the Housing Inspector. A copy of the notification shall be mailed to the Housing Inspector within five (5) days of furnishing the notification to the buyer. If the dwelling is owned by a corporation, an officer of said corporation shall carry out the notification required by this Section. If the property is owned by more than one person, a notification by one of the owners shall satisfy this section. For the purposes of this Section, "time of sale" shall be construed to mean when a written purchase agreement is executed by the buyer or, in the absence of a purchase agreement, upon the execution of any document providing for the conveyance of a dwelling required to be licensed.
- (e) Submit current application information as required by Section 425.1840 of this Chapter.

425.2010 Notices. Whenever a notice is required to be sent to or served upon the licensee of a rental dwelling under this Article, notice shall be deemed sufficient if sent by first class mail to the owner or owner's authorized agent at the address specified in the last license application filed in the Building Department under Section 425.1840. If a notice sent to the address specified in the last license application is returned, and the owner or owner's agent cannot be found, then notice shall be sent to the person authorized in the last license application, under subsection 425.1840(c), as responsible for the maintenance and management of the premises, or any other known caretaker or manager, and a notice shall also be posted on the building. Every licensee shall notify the inspections division within fourteen (14) days of any changes in the names, addresses, and other information concerning the persons listed in the last license application filed with the division. Whenever notice is required to be sent or delivered to tenants of a dwelling unit under this article, notice shall be sufficient if sent by first class mail to the tenants or occupants of each licensed dwelling unit at the address specified in the license application or the register that the licensee maintains pursuant to section 425.2000(b).

425.2020 Conduct on Licensed Premises.

- (a) It shall be the responsibility of the licensee to take appropriate action, with the assistance of the Brainerd Police Department, following conduct by tenants and/or their guests on the licensed premises which is determined to be disorderly, in violation of any of the following statutes or ordinances, to prevent further violations.
- (1) Minnesota Statute 504B.171 which prohibits the following illegal activities: Prostitution, unlawful sale of controlled substances, unlawful possession, transport, sale, or use of weapons, possession of stolen property;
 - (2) Minnesota Statutes, Sections 609.75 through 609.76, which prohibit gambling;
 - (3) Minnesota Statutes, Section 340A.401, which prohibits the unlawful sale of alcoholic beverages;
 - (4) Minnesota Statutes, Section 609.72, which addresses disorderly conduct;
 - (5) Minnesota Statutes, Section 609.33, which addresses disorderly house;
 - (6) Section 2014 of the Brainerd City Code, which addresses noise related issues.
- (b) The Brainerd Police Department shall be responsible for enforcement and administration of Section 425.2020.
- (c) Upon determination by the Brainerd Police Department utilizing established procedures, that a licensed premises was used in a disorderly manner, as described in Subsection (a), the Brainerd Police Department shall notify the licensee by mail of the violation and direct the licensee to take appropriate action with the assistance of the Brainerd Police Department to prevent further violations.
- (d) If another instance of disorderly use of the licensed premises occurs within twelve (12) months of an incident for which a notice in Subsection (c) was given, the Brainerd Police Department shall notify the licensee by mail of the violation. The licensee shall then submit a written management plan to the Brainerd Police Department within ten (10) days of receipt of the notice of disorderly use of the premises. The written management plan shall detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding twelve (12) months. The written management plan shall also detail all actions taken by the licensee to prevent further

disorderly use of the premises. The notice provided to the licensee of the violation shall inform the licensee of the requirement of submitting a written management plan may result in the City Council taking action to deny, refuse to renew, revoke or suspend the licensee.

- (e) If another instance of disorderly use of the licensed premises occurs within eighteen (18) months, if the premises contains between one (1) and six (6) distinct and separate residential units, or within twelve (12) months, if the premises contains more than six (6) distinct and separate residential units, after the second of any two (2) previous instances of disorderly use for which notices were sent to the licensee pursuant to this section, the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed. An action to deny, revoke, suspend, or not renew a license under this Section shall be initiated by the Brainerd Police Department in the manner described in Section 425.1940, and shall proceed according to the procedures established in Sections 425.1950, 425.1960, and 425.1970.
- (f) No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pendency of eviction proceedings or after proper notice is given by the licensee to a tenant to vacate the premises, where the disorderly use was related to conduct by that tenant or his/her guests. Eviction proceedings shall not be a bar to adverse license action, however, unless they are diligently pursued by the licensee. A notice to vacate shall not be a bar to adverse license action unless a copy of the notice is submitted to the Brainerd Police Department within ten (10) days of receipt of the violation notice. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this section may be postponed or discontinued by the Brainerd Police Department at any time if it appears that the licensee has taken appropriate action to prevent further instances of disorderly use.
- (g) A determination that the licensed premises have been used in a disorderly manner as described in Subsection (a) shall be made upon substantial evidence to support such a determination. It shall not be necessary that criminal charges be brought to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this Section.
- (h) The Brainerd Police Department shall review Section 425.2020 three (3) years after the effective date of these revisions to determine its impact upon both landlords and tenants, and to recommend any changes which may be appropriate. The Brainerd Police Department shall keep records of all actions and proposed actions under Section 425.2020 to facilitate the committee review required herein.