



# CITY OF MANITOWOC

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September 20, 2018

**TO:** Committee of the Whole

**FROM:** Elizabeth Majerus, Assistant City Attorney

**RE:** Amendments to MMC § 16.150 Regulating Minimum Property Maintenance Standards

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During my nearly three years prosecuting for the City, I grew increasingly aware of issues within Manitowoc Municipal Code (MMC) § 16.150 which prevented the City from holding property owners accountable for the maintenance of their property, and in some cases successfully prosecuting property owners for those violations. There were also no easily identifiable regulations holding commercial property owners accountable for any maintenance of their properties. I have prepared revisions to the MMC to address these issues. Below is a section-by-section breakdown of the changes, excluding simple numbering changes, which I suggest we adopt:

- **Title:** “Housing Ordinance” does not apply to any structure/ property not intended for or used for housing humans. This is changed to apply broadly to all properties that have buildings on them.
- **16.150(1) Findings and Intent.** This has been edited for length and clarity.
- **16.150(2) Definitions.** Some terms were stricken because they aren’t referenced in the new code or because they referenced a position or standard no longer applicable. Some terms were added to clarify other provisions to ensure the City will be able to meet its legal burden of proof at trial.
- **16.150(3) Inspection of Dwellings, Dwelling Units, Rooming Units and Premises.** This subsection was modified to enable the Code Enforcement Officer or any staff member of the Fire Department tasked with enforcing §16.150, to inspect any kind of property instead of only those properties used for human habitation.
- **16.150(4) Enforcement- Service of Notices and Orders – Hearing.** This subsection was modified for clarity, concision and to correct staff title references. Redundant language

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was removed. By referring to the state laws rather than including the specifics of them, we need not revise this subsection should the substance or numbering of any relevant state laws change.

- **16.150(5) Adoption of Rules and Regulations by the Housing Code Inspector.** This subsection was modified to broaden the list of eligible staff members who, in conjunction with the City Attorney's Office, may pursue rule and regulation adoption.

- **16.150(6) Minimum Standards for Exterior Property Areas.** This subsection reorganizes several original provisions and broadens their applicability to residential and commercial properties. It also allows enforcement against the property owner or occupant/tenant depending on officer discretion. Previously, the City lacked any regulatory provision for property grading, so, if a yard had a 3 foot wide, 4 foot deep hole in it, we lacked any enforcement mechanism. (Yes, this actually came up!) We also lacked an enforcement mechanism for retaining walls unless the wall was part of a building's foundation so any retaining wall bordering a driveway or sidewalk could not be subject to citation.

- **16.150(7) Minimum Standards for Building Maintenance.**

- **(b) Protective Treatment.** This subsection addresses issues of proof that came up in trials. Previously, a defendant could plausibly argue that moisture barrier was an acceptable exterior surface or that wooden siding that has lost nearly all its paint was acceptable depending on the species of wood used.
- **(c) Premises Identification.** Premises identification was solely addressed in MMC §7.020(6) which is overseen by the Department of Public Infrastructure.
- **(d) Foundation Walls.** This was modified for clarity and to aid prosecution. Previously, a citation could plausibly be dismissed unless the City presented evidence from an engineer that a foundation hole or the presence of loose and/or rotting material rendered the foundation structurally unsound.
- **(e) Roofs and Drainage.** This combines several previously separate subsections for better organization.
- **(f) Chimneys.** This subsection was left unchanged except that it now clearly applies to other chimney-like structures as well as chimneys.
- **(g) Stairways, decks, porches and balconies.** This subsection combines several previous subsections for better organization.
- **(h) Handrails and guards.** New provision identifying minimum standards for handrails and guards.

- **Windows and skylights.** Regulates all windows, not just those in habitable rooms. Adds skylights to regulations.

- **(i) Doors and door assemblies.** Updated requirements for safety.
- **(k) Basement hatchways.** New language to require locks on basement hatchways if providing access to a dwelling unit.

- **(l) Accessory structures.** This subsection was left unchanged except that it now excludes other structures addressed elsewhere.
- **16.150(8) Minimum Standards for Interior Structure.** The subsections are grouped together for better organization. The new language clearly regulates the conditions of interior surfaces beyond simply requiring them to be clean and sanitary. Stair, handrail, and door regulation mirrors exterior code requirements.
- **16.150(9) Minimum Standards for Basic Equipment and Facilities.** Provisions from current code were reorganized within this subsection by room and several provisions were added.
  - **Kitchen.** Current code only requires a sink. New provision requires sink, countertop and food storage area, cooking range, adequate ventilation, a refrigerator with freezer and a well-maintained kitchen floor. If a range or refrigerator are not included with a rental unit, adequate connections are required.
  - **Bathroom.** More specific requirements identified for clarity.
- **16.150(10) Minimum Standards for Light, Ventilation and Heating.** Statutory references were corrected and provisions relocated elsewhere were stricken.
- **16.150(11) Minimum Space, Use and Location Requirements.** Statutory references were corrected, provisions relocated elsewhere were stricken, and unconstitutional provision (11)(a) was stricken.
- **16.150(13) Minimum Maintenance Requirements for Vacant Buildings.** The MMC previously did not regulate vacant buildings in a consistent fashion. This creates consistent standards for all vacant properties, regardless of prior use.
- **16.150(14) Unsafe Buildings.** This brief subsection now adopts Wisconsin Statute by reference rather than by restating the statutory language.
- **16.150(18) Penalties.** The current penalty range differs from “up to \$500 per violation” to “up to \$2000 per violation.” This proposed change simplifies the range to “up to \$2000 per violation” and includes a tiered penalty structure based on number of prior offenses.