

RENTAL HOUSING

8.400 Rental Housing – Title. Sections 8.405 through 8.440 of this code constitute the “City Rental Housing Code,” and may be referred to as such.

(Section 8.400 added by Ordinance No. 20329, enacted November 30, 2004, effective December 30, 2004; to sunset December 31, 2011.)

8.405 Rental Housing - Purpose. The purpose of this City Rental Housing Code is to provide minimum habitability criteria to safeguard health, property and public wellbeing of the owners, occupants and users of rental housing and is intended to supplement rather than conflict with the habitability standards of the State of Oregon Residential Landlord and Tenant Act.

(Section 8.405 added by Ordinance No. 20329, enacted November 30, 2004, effective December 30, 2004; to sunset December 31, 2011.)

8.410 Rental Housing – Applicability.

- (1)** Except as provided in subsection (2) of this section, the standards provided in section 8.425 of this code shall apply to all rental housing.
- (2)** The following living arrangements are excluded from the application of sections 8.405 through 8.440 of this code:
 - (a) Occupancy in transient lodging;
 - (b) Occupancy in hospitals and other medical facilities;
 - (c) Occupancy in residential care facilities licensed by the State;
 - (d) Occupancy in institutions providing educational, counseling, religious or similar service, but not including residence in off-campus, non-dormitory housing;
 - (e) Occupancy in a dwelling occupied for no more than 90 days by a purchaser prior to the scheduled closing of a real estate sale or by a seller following the closing of a sale, as permitted under the terms of an agreement for sale of a dwelling unit or the property of which it is a part;
 - (f) Occupancy by a member of a fraternal or social organization in a structure operated for the benefit of the organization;
 - (g) Occupancy in a dwelling by a squatter;
 - (h) Occupancy in a vacation dwelling;
 - (i) Occupancy in a dwelling by an employee of a landlord whose right to occupancy is conditional upon employment in and about the premises;
 - (j) Occupancy by an owner of a condominium unit or holder of a proprietary lease in a cooperative; and
 - (k) Occupancy in premises rented to be used by the occupant primarily for agricultural purposes.

(Section 8.410 added by Ordinance No. 20329, enacted November 30, 2004, effective December 30, 2004; to sunset December 31, 2011.)

8.415 Rental Housing – Definitions. For purposes of sections 8.400 through 8.440 of this code, the following words and phrases mean:

Agent. A person authorized to act on behalf of another person.

Building code. The currently adopted edition of the State of Oregon Structural Specialty Code or Oregon Residential Specialty Code.

City Manager. The city manager or the manager's designee.

Dwelling unit. A building or portion of a building that is used as a home, residence or sleeping place by one or more persons who maintain a household. For purposes of this City Rental Housing Code, where portions of a residential building are occupied under separate rental agreements, but tenants share eating, cooking, and/or sanitation facilities, each portion under a separate rental agreement shall be considered a dwelling unit.

Habitable room. Any room used for sleeping, living, cooking or dining purposes, but excluding closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms and similar spaces.

Mechanical code. The current edition of the State of Oregon Mechanical Specialty Code or Oregon Residential Specialty Code.

Plumbing code. The current edition of the State of Oregon Plumbing Specialty Code or Oregon Residential Specialty Code.

Rental agreement. All written or oral agreements concerning the use and occupancy of a dwelling unit and premises. "Rental agreement" includes a lease.

Rental housing. A legal dwelling unit which is the subject of a rental agreement.

Transient lodging. A room or suite of rooms which is occupied not as a principal residence by persons for periods of less than 30 consecutive days.

(Section 8.415 added by Ordinance No. 20329, enacted November 30, 2004, effective December 30, 2004; to sunset December 31, 2011.)

8.420 Rental Housing – Dangerous Buildings. Conditions which constitute a dangerous building and procedures for abating them are provided in Section 8.005(25) of this code.

(Section 8.420 added by Ordinance No. 20329, enacted November 30, 2004, effective December 30, 2004; to sunset December 31, 2011.)

8.425 Rental Housing – Standards.

(1) Structural Integrity. Roofs, floors, walls, foundations and all other structural components shall be capable of resisting loads prescribed by the building code in effect at the time of construction.

(2) Plumbing.

(a) Plumbing systems shall be maintained in a safe and sanitary condition and shall be free of defects, leaks and obstructions. The presence of significant visible mold may be a symptom of faulty plumbing, however, the presence of mold, by itself, is not a violation for purposes of sections 8.400 through 8.440 of this code.

(b) Repairs must be permanent rather than temporary and shall be through generally accepted plumbing methods. If significant visible mold results from faulty plumbing, repairs must include removing the mold, which may include mold on or in interior walls sheetrock, insulation, floors, carpets or carpet backing.

(3) Heating.

(a) A permanently installed heat source able to provide a room temperature of 68 degrees Fahrenheit three feet above the floor, measured in the approximate center of the room, in all habitable rooms. Portable space heaters shall not be used to achieve compliance with this section.

(b) All heating devices or appliances shall conform to applicable law at the time of installation.

(c) Ventilation for fuel-burning heating appliances shall be as required by the Mechanical Code at the time of installation.

(4) Weatherproofing.

(a) Roof, exterior walls, windows and doors shall be maintained to prevent water intrusion into the building envelope which may cause damage to the structure or its contents or may adversely affect the health of an occupant. The presence of significant visible mold may be a symptom of faulty weatherproofing, however, the presence of mold, by itself, is not a violation for purposes of sections 8.400 through 8.440 of this code.

(b) Repairs must be permanent rather than temporary and shall be through generally accepted construction methods. If significant visible mold results from faulty weatherproofing, repairs must include removing the mold, which may include mold on or in interior walls, sheetrock, insulation, floors, carpets or carpet backing.

(5) Security. Doors and windows leading into a dwelling unit must be equipped with locks and shall be maintained in a condition so as to restrict access into the dwelling unit.

(6) Smoke detectors. Every dwelling unit shall be equipped with an approved and properly functioning smoke alarm or smoke detector

installed and maintained in accordance with the state building code, ORS 479.270, 479.275, and 479.285, and applicable rules of the State Fire Marshal.

(7) Interpretations.

- (a) The city manager is empowered to render interpretations of sections 8.400 through 8.440 of this code.
- (b) Such interpretations shall be consistent with the purpose of this code.

(Section 8.425 added by Ordinance No. 20329, enacted November 30, 2004, effective December 30, 2004; to sunset December 31, 2008; amended by Ordinance No. 20408, enacted May 27, 2008, effective June 30, 2008; to sunset December 31, 2011; and amended by Ordinance 20431, enacted April 27, 2009, effective May 29, 2009; and to sunset December 31, 2011.)

8.430 Rental Housing – Enforcement.

(1) Authority. The city manager may enforce all the provisions of sections 8.400 through 8.440 of this code.

(2) Complaint.

- (a) A complaint must be in writing and may be filed in person or by mail or fax.
- (b) A person who files a complaint must be a party to the current rental agreement covering the property in question or an agent of the party.
- (c) A complaint must include the following:
 - 1. Name of person filing the complaint and, if different, the name of the affected tenant. Complaints may not be submitted anonymously;
 - 2. Name of the owner or the owner's agent;
 - 3. Address of the dwelling unit with the alleged violation;
 - 4. A complete description of the alleged violation; and
 - 5. A copy of the written notice of the alleged code violation that has been sent by the tenant to the owner or the owner's agent
- (d) Complaints shall be processed by the city manager. The city manager shall adopt rules pursuant to section 2.019 of this code that specify the procedure to be followed in processing complaints. Before initiating an investigation under subsection (3) of this section, the city manager shall:
 - 1. Confirm that the complainant has standing to file a complaint;
 - 2. Confirm that the subject of the complaint could be a violation of this code;
 - 3. Confirm that the owner or the owner's agent has had ten days since mailing of the written notice by the tenant to respond to the complaint; and
 - 4. Provide notice to the owner or the owner's agent of the complaint per written procedures.

(3) Investigations.

- (a) The city manager shall initiate investigations only after completion of the process in subsection (2) of this section.
- (b) The city manager shall conduct an investigation to confirm the validity of the complaint.
- (c) If the city manager determines that the complaint is not valid, the case shall be closed and all parties notified.
- (d) If the city manager determines that the complaint is valid, the city manager shall issue a notice and order pursuant to subsection (5) of this section.

(4) Inspection and Right of Entry. When it may be necessary to inspect to enforce the provisions of sections 8.400 through 8.440 of this code, the city manager may enter the building or premises at reasonable times to inspect or to perform the duties imposed therein, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the city manager shall first make a reasonable effort to locate the owner, the owner's agent, or other person having charge or control of the building or premises and request entry. If entry is refused by the owner, the city manager shall have recourse to every remedy provided by law to secure entry, including issuance of administrative search warrants. If entry is refused by the tenant, the complaint may be dismissed and the case closed. The city shall provide notice to the owner or owner's agent not less than 24 hours prior to a scheduled inspection of the premises in order to afford the owner or landlord the opportunity to be present during the inspection.

(5) Notices and Orders.

- (a) For valid complaints, the city manager shall issue an order to the owner or the owner's agent. The notice and order shall include the following:
 - 1. Address and unit number if applicable;
 - 2. A statement that the city manager has found the premises to be in violation of section 8.425 of this code as alleged in the complaint;
 - 3. A description of the violation;
 - 4. A deadline for completing repairs of ten days, unless the city manager determines that the necessary repairs cannot be completed within the ten day period. If the city manager makes such a determination, the owner or owner's agent shall submit a compliance schedule acceptable to the city within ten days;
 - 5. A statement advising the owner or the owner's agent that if the required repairs are not completed by the deadline stated in the notice and order, the city manager may:
 - a. Issue an administrative civil penalty, or initiate a prosecution in municipal court, or both; and

- b. Initiate action to recover all city costs associated with the processing of the complaint, investigation and the resolution of the issue.
- 6. A statement that the owner or the owner's agent may appeal the notice and order as specified in section 8.435 of this code; and;
- 7. The date after which a reinspection will be scheduled.
- (b) The city manager shall mail the order, and any amended or supplemental notice and order, to the tenant and to the owner or the owner's agent by first class mail.
- (6) **Failure to Comply.** Failure to comply with the notice and order issued under subsection (5) of this section by the specified date shall constitute a violation subject to the penalties contained in section 8.995 of this code.

(Section 8.430 added by Ordinance No. 20329, enacted November 30, 2004, effective December 30, 2004; to sunset December 31, 2011.)

8.435 Rental Housing – Appeals. Any owner or owner's agent upon whom an order is served under section 8.430 of this code shall have the right to appeal within the time and in the manner provided in section 2.021 of this code. The appeal must include the applicable fee.

(Section 8.435 added by Ordinance No. 20329, enacted November 30, 2004, effective December 30, 2004; to sunset December 31, 2011.)

8.440 Rental Housing – Registration and Fees.

- (1) All rental housing not excluded under 8.410(2) shall be registered with the city on a form and in a manner to be determined by the city manager.
- (2) For the purpose of offsetting the costs to the city associated with the enforcement of this code, the city manager, using the process contained in section 2.020 of this code, shall set an annual fee for each dwelling unit covered by a rental agreement.
- (3) The following unit types, while subject to the standards, enforcement procedures, and other requirements established in sections 8.400 through 8.440 of this code, shall be exempt from the fee payment requirements:
 - (a) Rentals with a recorded deed restriction requiring the units to be rented affordably to households at or below 60 percent of the Area Median Income; and
 - (b) Rentals that have been approved by the city for an exemption from property taxes pursuant to sections 2.910 to 2.922 and 2.937 to 2.940 of this code or that are recognized by the city as exempt from property taxes pursuant to ORS 307.092.
- (4) The owner or the owner's agent shall be responsible for paying the annual fee. The total annual fee shall be paid for any dwelling unit which is covered by this Rental Housing Code for any portion of that calendar year.

- (5)** For each month in which the annual fee is not paid by the date specified in the written notice of payment, a penalty shall be assessed to the owner or the owner's agent. The amount of the penalty shall be set by administrative rule by using the process contained in section 2.020 of this code.
- (6)** The city manager may initiate appropriate action to collect the fees due. All costs associated with these actions, including attorney fees, may be assessed to the owner or the owner's agent.

(Section 8.440 added by Ordinance No. 20329, enacted November 30, 2004, effective December 30, 2004; to sunset December 31, 2011.)