

## **Chapter 06-13: Rental Housing Maintenance Standards**

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### [6-13-005 Purpose.](#)

The purpose of this code is to provide minimum habitability criteria for rental residential properties to safeguard the health, safety and welfare of the owners, occupants and users of residential rental buildings; and to protect the health, safety and welfare of neighbors to these properties. [Ord. 1264-08 §1, 7/14/08]

### [6-13-010 Oregon Residential Landlord and Tenant Act.](#)

This code is intended to supplement the habitability standards of the Oregon Residential Landlord and Tenant Act, [ORS 90.100](#) et seq. [Ord. 1264-08 §2, 7/14/08]

### [6-13-020 Applicability and Exceptions.](#)

(1) Except as provided in subsection (2) of this section, these standards apply to all buildings or portions of buildings that are legally used for human habitation, including manufactured dwelling units, and are covered by a rental agreement.

(2) Unless created to avoid the application of this chapter, this chapter does not govern the following arrangements:

(a) Residence at a governmentally licensed institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious or similar service;

(b) Occupancy of a dwelling unit for not 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;

(c) Transient occupancy in a hotel or motel;

(d) Occupancy by a squatter;

(e) Vacation occupancy;

(f) Occupancy by an employee of a landlord whose right to occupancy is conditional on employment on the premises;

(g) Occupancy by an owner of a condominium unit or a hold of a proprietary lease in a cooperative;

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(h) Travel trailers and or motor homes in an approved travel trailer or motor home park;

(i) A dwelling unit occupied by the owner. [Ord. 1264-08 §3, 7/14/08]

### 6-13-030 Definitions.

As used in this chapter, the following definitions apply:

(1) "Agent" means a person authorized by another to act on his or her behalf.

(2) "Building Code" means the currently adopted editions of all State of Oregon Specialty Codes.

(3) "Dwelling unit" means a single unit providing complete independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking and sanitation.

(4) "Habitable room" means a room used for sleeping, living, cooking or dining purposes, but excludes closets, pantries, bath or toilet room, hallways, laundries, storage spaces, utility rooms and similar spaces.

(5) "Group SR Occupancies" means special residences where personal care is administered and that are licensed by, or subject to licensure by, or under the authority of the Oregon Department of Human Resources or other State agency.

(6) "Major disassembly" or "major disrepair" with respect to a vehicle means that the vehicle is missing tires or wheels, body parts, or is otherwise visibly unable to be driven.

(7) "Occupant" means a person who has possessory rights in, or control over rental premises or occupies rental premises.

(8) "Owner" means the holder of legal or equitable title to real property.

(9) "Public employee" or "public servant" means a person who is an officer or employee of a municipality, county, state or federal agency, or school district or special district.

(10) "Rental Agreement" means all agreements, written or oral, concerning the use and occupancy of a dwelling unit and premises.

(11) "Tenant" means someone who pays rent or is party to the rent payment to use residential property that is owned by someone else. Pay shall include all forms of compensation.

(12) "Vehicle" means any device in, upon or by which a person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means but does not include a manufactured structure. [Ord. 1264-08 §4, 7/14/08]

### 6-13-040 Standards.

All rental units and buildings subject to this chapter shall meet the following standards:

(1) Structural integrity.

(a) Roofs, floors, walls, foundations and all other structural components shall be capable of resisting any reasonable stresses and loads to which these components may be subjected.

(b) Structural components shall be of materials allowed and/or approved by the Building Code.

(2) Plumbing.

(a) Plumbing systems shall be installed and maintained in a safe and sanitary condition and shall be free of

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defects, leaks and obstructions.

(b) Plumbing components shall be of materials allowed or approved by the Building Code.

(3) Heating.

(a) There shall be a permanently installed heat source with the ability 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.

(b) All heating devices or appliances shall be of an approved type and maintained for proper working condition.

(c) Ventilation for fuel-burning heating appliances shall be as required by the Building Code.

(4) Weatherproofing.

(a) Roof, exterior walls, windows, gutters, down spouts and doors shall be maintained to prevent water leakage into the living areas that may cause damage to the structure or its contents or may adversely affect the health and safety of an occupant.

(b) Repairs must be permanent, not temporary, and shall be through generally accepted construction methods.

(5) Electrical.

(a) All buildings used for residential purposes shall be connected to an approved source of electric power and every habitable room shall contain at least one operable outlet and one operable light fixture or two operable outlets.

(b) Every public hallway and stairway shall be adequately lighted.

(6) Ceiling Heights.

(a) Habitable rooms shall have a clear ceiling height of 7'6" in existing buildings except as provided in (b) of this subsection.

(b) In basements, attics and half-stories, ceiling height may be not less than 7'0".

(7) Smoke Detectors.

Smoke detectors shall be installed and maintained in working order in each sleeping room, in the immediate vicinity of a sleeping room or area designated for sleeping and on each floor.

(8) Overcrowding.

No dwelling shall be overcrowded. For purposes of this section square footage of a single-family residential building will be based on the county assessor's office square footage for that building. For multifamily residential buildings, the square footage shall be as shown on the property owner's documents or the City's records. If the property owner disagrees with the square footage of a single family home, including condominiums and town homes, duplex, triplex or quadplex, the property owner must contact the county assessor's office and fill out a square footage correction form. If the property owner disagrees with the square footage of a multi-family apartment complex, the City Manager or designee may measure the dwelling unit for a fee, which is listed on the City fee schedule. To determine a dwelling unit's occupancy load, the City will divide the square footage by 225 and round any fraction to the next higher number. For example, seven occupants would be allowed in a 1,500 square foot residence.

(9) Parking.

Refer to [Section 73.370\(2\)](#) of the Tualatin Development Code.

(10) The exterior of the structure, including lawns and adjacent rights-of-way shall be maintained and be free of nuisances as follows:

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(a) The property shall be free from any accumulation of rubbish or garbage or appliances. Approved containers for rubbish and garbage shall be provided by the owner. All residential rental owners will insure that tenants have trash service within 14 days of occupying the rental property. Rubbish, garbage, recycle and yard debris containers may be placed on the street for pick-up no sooner than 24 hours before pick-up and shall be removed within 24 hours after pick-up.

(b) No vehicle shall be kept on the residential property for more than 5 days in a state of major disassembly, disrepair, or in the process of being stripped or dismantled, unless it is stored within a permitted structure.

(c) All exterior surfaces, including but not limited to, window frames, doors, doorframes, cornices, porches, siding and trim shall be maintained in good condition. If rental property is remodeled, receives damage or graffiti the owner must insure that the repair matches the existing exterior of the structure.

(d) Tarps or similar material shall not be used as a repair or replacement for a customary building component, such as a roof, siding or door, except for emergency repairs or temporary replacements during construction. However, no such use may exceed 90 days in any 12-month period and cannot violate the Building or Fire Codes.

(e) Lawns, shrubbery, and trees (this includes front, side, and backyards along with landscape planters along the street frontage and reverse frontage); lawns (areas containing turf grasses) shall be kept trimmed to a height of not more than the ten inches or below the height at which the generation of pollen and the forming of seeds occurs, excluding ornamental grasses used in landscaping.

Shrubbery shall be kept trimmed and free from undergrowth of weeds, vines, and saplings, and free from dead or dying branches. Trees shall be kept pruned and free from dead or dying limbs and branches hazardous to persons or property. Landscaped areas may not contain weeds that reach a height of more than ten inches or below the height at which the generation of pollen and the forming of seeds occurs. Dead or decaying organic material from lawns, weeds, trees, or shrubs must be removed regularly.

(f) Unsightly items that would normally be stored in a garage or storage shed may not be stored outside of such a garage, shed or sight-obstructing structure for more than seven days.

(g) Motor vehicles, trailers, or recreational vehicles parked on the property shall be parked in the driveway or in a paved or graveled area parallel to the driveway farthest from the residence. No additional portion of a landscaped area shall be paved that is in front of the single family or multifamily residence unless specifically allowed in another section of the Tualatin Development Code.

(h) Sidewalks, driveways, patios, and other paved surfaces will be kept clean and properly maintained.

(i) Fences will be maintained and in good condition. Damage to fences must be repaired within 14 days.

(j) Graffiti standards are located in the [Tualatin Municipal Code Chapter 6-10](#), which may be enforced under this section.

(11) Enforcement.

The City Manager or designee is authorized and directed to enforce this chapter. [Ord. 1264-08 §5, 7/14/08; Ord. 1293-09 §1, 11/23/09]

### [6-13-050 Complaint Processes.](#)

#### Complaint Process - Tenant

(1) Before the City will investigate a complaint made by a tenant, the tenant shall submit his or her written complaint to the owner or agent at least 10 days before the complaint is submitted to the City to afford the owner or agent the opportunity to correct the problem. If the owner or agent does not respond or fails to correct the problem the tenant may submit the complaint to the City.

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(2) A complaint must be in writing and may be filed in person, by mail, by email, or fax.

The complaint shall contain at least the following information:

- (a) The name of the person filing the complaint. No complaints may be submitted anonymously;
  - (b) The name of the owner and/or the owner's resident agent;
  - (c) The address of the alleged violation;
  - (d) A complete description of the alleged violation;
  - (e) A copy of the written notice of the alleged violation that has been sent by the tenant to the landlord.
- (3) The person who files the complaint must be a party to the current rental agreement covering the property or an agent of this party.

(4) The City shall process complaints using the following procedure:

- (a) Confirm that the complainant has standing to file the complaint;
- (b) Confirm that the allegation in the complaint, if proven to be true, would be a violation of this chapter;
- (c) Confirm that the owner or agent has had seven days, plus three days for mailing in accordance with [ORS 90.150](#), since the tenant mailed the written notice to the owner, to respond to the complaint;
- (d) Once the requirements in subsections (a), (b) and (c) are confirmed, notify the owner that the complaint has been submitted to the City. For purposes of this ordinance, all notices and orders will be sent by first class and certified mail to the address on file at the county assessor's office unless otherwise directed by the owner.

### Complaint Process – Public Servant or Public Employee

(1) If the City Manager or designee, other public servant or public employee observes apparent violations or has a reasonable belief that violations of [TMC 6-13-040](#) exist on the property, the City Manager or designee may institute an investigation.

(2) If the public employee files a complaint, the employee must have been conducting an activity for his or her normal course of work at the time the employee noticed the violation of [TMC 6-13-040](#).

### Complaint Process – All Others

(1) All persons may file complaints for suspected overcrowding and the exterior standards listed in [TMC 6-13-040 \(9\)](#) of these rental housing maintenance standards.

(2) A complaint must be in writing and may be filed in person, by mail, by email, or fax. The complaint shall contain at least the following information:

- (a) The name of the person filing the complaint. No complaints may be submitted anonymously;
  - (b) The address of the alleged violation;
  - (c) A complete description of the alleged violation.
- (3) The City shall process complaints using the following procedure:
- (a) Confirm that the complaint alleges a violation of an exterior or overcrowding standard;
  - (b) Confirm that the allegation in the complaint, if proven to be true, would be a violation of this chapter;

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(c) Once the requirements of (a) and (b) are confirmed, notify the owner that the complaint has been submitted to the City. [Ord. 1264-08 §6, 7/14/08]

### 6-13-055 Investigations; Notices and Orders.

(1) If the City Manager or designee observes apparent violations or has a reasonable belief that violations of this chapter exist on the property, the City Manager may institute an investigation.

(2) Investigations.

(a) Upon confirmation that the requirements in [TMC 6-13-050](#) have been met, staff will conduct an investigation to confirm the validity of the complaint.

(b) If the City determines that the complaint is not valid, the City will close the case and notify all parties of the closure.

(c) If the City determines that the complaint is valid, City staff will issue a notice and order.

(3) Inspection and Right of Entry.

When it may be necessary to inspect to enforce the provisions of this chapter, City staff may enter the building or premises at reasonable times to inspect or perform the duties imposed by this chapter as follows:

(a) If the building or premises are occupied, staff shall present credentials to the occupant and request entry.

(b) If the building or premises are unoccupied, staff shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry.

(c) If entry is refused, staff may follow the procedures to obtain an administrative warrant to inspect the premises.

(4) Notices and Orders.

(a) For valid complaints, staff shall issue a notice and order to the owner. The notice and order shall include the following:

(i) The street address;

(ii) A statement that the City staff has found the premises to be in violation of this chapter as alleged in the complaint;

(iii) A description of the violation;

(iv) A statement advising the owner that if the required repairs are not completed within seven days, plus three days for mailing from the date of the notice and order, then staff will:

(A) Record the notice and order against the property;

(B) Coordinate the issuance of a citation to the owner to appear in Municipal Court;

(C) Initiate action to recover all City costs associated with processing the complaint, investigation and the resolution of the issue.

(v) A statement advising the owner that he or she may appeal the final municipal court decision to the circuit court;

(vi) The date by which repairs must be completed and a re-inspection scheduled.

(b) The notice and order, and any amended or supplemental notice and order, shall be posted on the premises and shall be served on the owner by first class mail.

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(c) A residential rental property that receives the same complaint within 12 months of a previous complaint that was noticed and ordered may receive a citation without going through subsection 4 of [TMC 6-13-055](#). This does not apply if the ownership of the property has changed by 100%.

(5) Failure to comply.

If the owner does not comply with the notice and order by the specified date, staff will:

(a) Issue a citation to the owner to appear in Municipal Court;

(b) Record the notice and order against the property with all recording costs to the responsibility of the owner;

(c) Initiate an accounting for all costs associated with processing the complaint, investigation and the resolution of the issue, then proceed with City procedures to collect these costs from the owner.

(6) Penalties.

(a) A person who is found guilty by the court of violating a provision of this chapter shall be punished by a fine not to exceed \$500.00 per violation. Each day that a violation exists constitutes a separate violation.

(b) Upon conviction of a third offense in a 12-month period for a single family rental residence or a duplex, or conviction of a sixth offense in a 12-month period for a multifamily property, the court shall order the owner to appear at a City Council meeting.

(7) Appeals.

The Municipal Court decision may be appealed to the Circuit Court within 10 days of the final order of the Municipal Court. [Ord. 1264-08 §7, 7/14/08]

### [6-13-060 Fees.](#)

(1) To offset the costs to the City associated with the enforcement of this code, an owner shall obtain a business license to operate residential rental property from the City and pay an annual fee of \$10.00 per dwelling unit covered by a rental agreement.

(2) Although the following are subject to the standards, enforcement procedures, and other requirements established in this Chapter, the following unit types are exempt from the fee payment requirements of the section:

(a) Rentals with a recorded deed restriction that require units to be rented affordably to households at or below 50% of the Area Median Income;

(b) Rentals under contract with a public agency that require the rental to be inspected at least annually and verifies that the dwelling is rented to a low income household; and

(c) Rentals designated as senior or disabled housing by a public agency.

(3) The owner is responsible for paying the annual fee upon written notice.

(4) Failure to pay the fee as required will subject the owner to the following actions:

(a) A penalty of \$100.00 will be assessed to the owner for each unpaid per unit fee if the annual fee is not paid by the date specified in the written request for payment.

(b) The City will initiate appropriate action to collect the fees due and all costs associated with the collection process will be assessed to the owner.

(c) Appropriate action may include placing a lien on the property.

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(d) The property owner's residential rental property license may be revoked by the City Council. Until all such fees are paid for the subject property and the license reissued, the property shall not be rented, leased, or occupied. [Ord. 1264-08 §8, 7/14/08]

### [6-13-070 Effective Dates.](#)

Sections 1 through 7 of this ordinance shall take effect 30 days after the ordinance is approved. Section 8 of this ordinance shall take effect January 1, 2009. [Ord. 1264-08 §9, 7/14/08]

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