

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

ORDINANCE NO. _____

Amending MCC §21.815 Relating to Adoption of International Property Maintenance Code and §§21.855 – 21.875 Relating to Violations of the Residential Real Property Maintenance Code

(Language ~~stricken~~ is deleted; underlined language is new.)

Multnomah County Ordains as Follows:

Section 1. MCC §21.815 is amended as follows:

21.815 Adoption of International Property Maintenance Code.

(A) The International Property Maintenance Code, 2006 Edition, prepared by the International Code Council, as thereafter amended or revised "ICCPMC"), are adopted and by this reference incorporated as part of this subchapter. The provisions of this subchapter and MCC Chapter 29, Building Regulations, take precedence over any similar provisions of the ICCPMC.

(B) Residential rental properties must meet the standards set forth ~~in the~~ in this subchapter and are subject to the inspection and enforcement provisions of this subchapter.

Section 2. MCC §21.855 is amended as follows:

21.855 Enforcement and Abatement.

(A) The director or designee may enter any property or building at any reasonable time for the purpose of inspection or enforcing this subchapter. Except when an emergency exists, the director must obtain the consent of the legal occupant of the property before entering private property or a private building. If the director or designee cannot obtain consent, the director may issue an administrative warrant to inspect property based upon reasonable belief that conditions in or upon the property constitute a violation of this subchapter.

(B) As used in this section, an emergency exists when the director has reasonable cause to believe that a violation of this subchapter requires prompt remediation to avoid a clear and immediate danger to individuals or to the public health.

(C) Whenever it appears there is reasonable cause to believe that a violation exists, the director will provide written notice to the owner of the existence of the violation and demand remedy of the violation within 30 days from the date of the written notice, or such lesser time as may be set by the director to protect the public health, safety and welfare. The notice must describe with reasonable certainty the property, the nature of the violation and the action necessary to remedy the violation, and inform the owner of the owner's rights under §§ 21.870~~60~~ and 21.875~~65~~, and the procedure by which the owner may contact the notice provider for more information.

(D) In an emergency, the director may order immediate remedy of a violation and an order to vacate the property may be issued. The director must give notice of the requirement for immediate remedy to the owner. The violation must be remedied before the property may be reoccupied. A fine may be imposed against a property owner who allows re-occupancy of property under a vacate order.

(E) The property must be re-inspected to determine compliance with this subchapter.

(F) If a property owner does not remedy a violation as ordered by the director, the director at his or her discretion may take one or more of the following actions:

1. abate the violation and charge the cost of abatement to the property owner;
2. order a property to be vacated and closed for use as residential rental property.

(G) In a situation in which the property owner has refused to abate a violation, or has taken or threatened action that gives the director probable cause to believe such action will comprise a danger to department staff, any involved contractors, other individuals or the public generally, the director may request the assistance of the Sheriff in carrying out necessary investigation, abatement or enforcement actions as ordered by the director under this section or a hearings officer under § 21.870~~60~~.

Section 3. MCC §21.860 is amended as follows:

21.860 Remedy By Owner Required.

Failure of the owner to abate the violation within 30 days as provided by § 21.855(C) or within the time set by the director under § 21.855(D) or the hearings officer under § 21.870 is a violation under this subchapter, and a county offense under ORS 203.810.

Appeals And Hearings.

~~Any person receiving a notice of a violation under § 21.855(C) or (D) may request a hearing by writing the director within fourteen business days of the date of the notice.~~

~~The director will, upon receipt of request for a hearing, promptly notify the hearings officer who will set a time and place for the hearing at the earliest possible time and will promptly notify the person requesting the hearing as to the time and place for the hearing. Notice may be by any means of giving actual notice. Notice may also be given to such persons as the hearings officer may determine to be interested persons.~~

~~The person requesting the hearing and the director may make argument, submit testimony, cross examine witnesses and submit rebuttal evidence on the pertinent issues. Any party may be represented by counsel.~~

~~All hearings must be recorded in a manner which will allow for written transcription to be made and all materials submitted at the hearing will be retained by the hearings officer for a period of two years.~~

~~Failure of the person requesting the hearing to appear at the hearing will constitute a~~

~~waiver of the right to a hearing.~~

~~_____ (F) _____ After the hearing, the hearings officer will issue and mail a copy of the order determining the question within 15 days from the date of the hearing, or any continuance thereof not to exceed 15 days, to the person requesting hearing and the director.~~

~~_____ (G) _____ If the hearings officer finds the violation to exist, the order will set a date for abatement to be accomplished by the owner.~~

~~_____ (H) _____ Hearings involving the director will be conducted in accordance with applicable portions of ORS 183.413 to ORS 183.470.~~

Section 4. MCC §21.865 is amended as follows:

21.865 Penalty.

The director may impose a civil penalty on the owner for a violation based upon failure to remedy as defined in §21.860 in an amount not to exceed \$250.00. Each day that a violation is not remedied constitutes a separate violation subject to civil penalty as described herein. The notice of civil penalty must describe with reasonable certainty the property, the nature of the violation and the action necessary to remedy the violation, the amount of civil penalty imposed, and inform the owner of the owner's rights under §§ 21.870 and 21.875, and the procedure by which the owner may contact the notice provider for more information.

REVIEW.

~~_____ **REVIEW OF ANY ACTION OF THE HEARINGS OFFICER TAKEN UNDER THIS SUBCHAPTER AND THE RULES ADOPTED UNDER THEM MUST BE TAKEN SOLELY AND EXCLUSIVELY BY WRIT OF REVIEW IN THE MANNER SET FORTH IN ORS 34.010 TO 34.100.**~~

Section 5. MCC §21.870 is amended as follows:

21.870 Appeals and Hearings.

(A) Any person receiving a notice of violation under § 21.855 (C) or (D) may contest the violation by writing the director within fourteen business days of the date of the notice.

(B) Any person receiving a notice of civil penalty under § 21.865 may request a hearing by writing the director within fourteen business days of the date of the notice.

(C) The director will, upon receipt of request for a hearing, promptly notify the hearings officer who will set a time and place for the hearing at the earliest possible time and will promptly notify the person requesting the hearing as to the time and place for the hearing. Notice may be by any means of giving actual notice. Notice may also be given to such persons as the hearings officer may determine to be interested persons.

(D) The person requesting the hearing and the director may make argument, submit testimony, cross-examine witnesses and submit rebuttal evidence on the pertinent issues. Any party may be represented by counsel.

(E) All hearings must be recorded in a manner which will allow for written transcription to be made and all materials submitted at the hearing will be retained by the hearings officer for a period of two years.

(F) Failure of the person requesting the hearing to appear at the hearing will constitute a waiver of the right to a hearing.

(G) After the hearing, the hearings officer will issue and mail a copy of the order determining the question within 15 days from the date of the hearing, or any continuance thereof not to exceed 15 days, to the person requesting hearing and the director.

(H) If the hearings officer finds the violation to exist and civil penalty appropriate, the order will set a date for abatement and payment to be accomplished by the owner.

(I) Hearings involving the director will be conducted in accordance with applicable portions of ORS 183.413 to ORS 183.470.

(J) Settlements authorized by the director may be reached prior to hearing. If settlement is reached, the hearing will be cancelled.

REMEDY BY OWNER REQUIRED.

~~FAILURE OF THE OWNER TO ABATE THE VIOLATION WITHIN 30 DAYS AS PROVIDED BY § 21.855(C) OR WITHIN THE TIME SET BY THE DIRECTOR UNDER § 21.755(D) OR THE HEARINGS OFFICER UNDER § 21.860 IS A VIOLATION UNDER THIS SUBCHAPTER, AND A COUNTY OFFENSE UNDER ORS 203.810.~~

Section 6. MCC §21.875 is amended as follows:

21.875 REVIEW.

Review of any action of the hearings officer taken under this subchapter and the rules adopted under them must be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 to 34.100.

PENALTY.

~~THE DIRECTOR MAY IMPOSE A CIVIL PENALTY ON THE OWNER FOR A VIOLATION BASED UPON FAILURE TO REMEDY AS DEFINED IN SECTION 21.870 IN AN AMOUNT NOT TO EXCEED \$250.00. EACH DAY THAT A VIOLATION IS NOT REMEDIED CONSTITUTES A SEPARATE VIOLATION SUBJECT TO CIVIL PENALTY AS DESCRIBED HEREIN.~~

FIRST READING: _____

SECOND READING AND ADOPTION: _____

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Jeff Cogen, Chair

REVIEWED:

JENNY M. MORF, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Bernadette D. Nunley, Assistant County Attorney

SUBMITTED BY: Lila Wickham, Health Department Manager