

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1144

Amending MCC Chapter 21, Health, Relating to Residential Rental Property

Multnomah County Ordains as follows:

Section 1. MCC Chapter 21, Health, is amended to add the following subchapter:

21.800*RESIDENTIAL RENTAL PROPERTY

21.805 Title and Area of Application.

This subchapter of the Multnomah County Code (MCC) relating to residential rental property may be known and cited as the county Residential Rental Property Maintenance Code (RRPMC) and applies to the unincorporated areas of the county.

21.810 Policy.

The Board has determined that it is necessary to provide for the regulation of residential rental property maintenance and administration of standards, including enforcement, for the protection of the public health, safety and general welfare of the residents of the county.

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.

21.820 Exemptions.

The provisions of this subchapter do not apply to motels, hotels, approved accessory dwellings, assisted living facilities, adult foster care homes, or temporary housing as defined in this subchapter.

21.825 Definitions.

In addition to the definitions set forth in the ICCPMC the following definitions apply to this subchapter:

Where terms are not defined in this subchapter or other code section and are defined in the state building, plumbing or mechanical codes, such terms will have the meanings ascribed to them as in those

state codes. Where terms are not defined through the methods authorized by this section, such terms have ordinarily accepted meanings such as the context implies. Whenever the words “premises,” “building” or other similar words are stated in this subchapter, they will be construed as though they were followed by the words “or any part thereof.” Unless otherwise expressly stated, the following terms, for the purposes of this subchapter, apply only to residential rental property and have the following meanings:

ABANDONED STRUCTURE. A vacant structure, or portion thereof, that is an attractive nuisance to children at play, that is used for unlawful activity or that is otherwise unoccupied and untended.

ATTRACTIVE NUISANCE. A condition that can attract children and be detrimental to the health or safety of children whether in a building, on the premises of a building or upon an unoccupied lot. This includes, but is not limited to: abandoned buildings, abandoned wells, shafts, basements, excavations, abandoned iceboxes, refrigerators, motor vehicles, any structurally unsound fences or structures, lumber, trash, fences, debris, or vegetation such as poison ivy, poison oak or poison sumac that may prove hazardous for inquisitive minors.

BUILDING. Any structure occupied or intended for any occupancy.

BUILDING CODE. MCC Building Regulations (§§29.001-29.207).

BUILDING OFFICIAL. The county building official.

DERELICT STRUCTURE. Any structure left unoccupied and unsecured, partially constructed, abandoned, maintained in a condition that is unfit for human habitation, or maintained in a condition that is an imminent threat to public health and safety.

DESIGNATED AGENT. A person or entity designated by the property owner to represent the property owner’s interests in the subject property.

DWELLING. Any building located in the county, which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing as defined below shall not be regarded as a dwelling. For purposes of this subchapter, the term shall be synonymous with "residential rental property."

LEGAL OWNER. Any person recorded in the official records of the state, county or municipality as holding title to the residential rental property.

MAIL. The delivery of a notice or other communication by first class mail. If a person has agreed to accept delivery of notification by email or fax, delivery by email or fax satisfies the mailing requirement.

OWNER, PROPERTY OWNER, or LEGAL OWNER. Any person, agent, firm or corporation having a legal or equitable interest in the residential rental property, including the owner as shown on the latest assessment records in the County Tax Assessor’s office, a contract vendee, or a receiver or trustee in bankruptcy.

OCCUPIER. Any person who has possessory rights in, or control over, the subject property, premises, or business located at the property location, including a tenant.

PARTIALLY CONSTRUCTED. An occupied or vacant structure, or portion thereof, that has been left in a state of partial construction for more than six months or after the expiration of any building permit, or that has not had a required permit inspection within any six-month period.

PERSON IN CHARGE. Any agent, designated agent, property manager, or other person or entity with apparent authority to represent the property owner's interest in the subject property.

POST / POSTING / POSTED. The act of personally delivering a notice to a property, including affixing a notice to a property or personally delivering a notice to the owner, person in charge of the property, or occupier, at the property location. In the event of a vacant property, or conditions which make posting impractical, mailing a notice to the property owner at the last known address as listed with the County Tax Assessor's Office satisfies the posting requirement.

PROPERTY. Includes all lands, including all structures, improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith.

RESIDENTIAL RENTAL PROPERTY. A property, including a mobile home park, with one or more residential rental units, regardless of whether anyone is currently residing in each unit. Any person who owns land upon which a mobile home is located when that mobile home is owned by another person is construed as operating a mobile home park.

RESIDENTIAL RENTAL UNIT. A dwelling containing one or more separate living quarters (kitchen, bathroom and living room), one or more of which is rented, leased or let in exchange for monetary or other compensation. For the purposes of this subsection, a rooming house constitutes one residential rental unit.

TEMPORARY HOUSING. A tent, trailer, or similar structure which is used as human shelter for not more than thirty (30) consecutive days, or more than ninety (90) days, in any calendar year.

UNOCCUPIED. Vacant or not being used for a lawful occupancy.

21.830 Administration and Enforcement.

(A) The Health Department (department) is responsible for the administration and enforcement of this subchapter.

(B) The Health Department Director (director) is authorized to administer oaths, certify all official acts, issue citations, issue administrative warrants, subpoena and require the attendance of witnesses and production of relevant documents at hearings before the hearings officer and take testimony of any person by deposition.

(C) The director may grant an exception when the enforcement of the requirements of this subchapter would cause undue hardship to the owner or occupants of the affected property, or wherever the director deems it necessary in order to accomplish the purpose of this subchapter.

(D) The director may adopt rules necessary for the administration and enforcement of this subchapter.

21.850 Inspections.

(A) The director may conduct both internal and external inspections resulting from a complaint submitted to the department in accordance with department procedures.

(B) The director may initiate a complaint based upon reasonable belief of conditions that pose an imminent danger to the health and safety of the occupants and conduct both internal and external inspections based thereon.

(C) Any inspection of an owner-occupied dwelling containing one or more residential rental units will not include inspection of the owner's unit.

(D) The provisions of this subchapter will not be deemed to restrict the right of the county to inspect any property pursuant to any applicable federal, state or local law or regulation, including complaints filed under this subchapter.

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 §§ 21.860 and 21.865, 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 § 21.860.

21.860 Appeals And Hearings.

(A) 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.

(B) 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.

(C) 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.

(D) 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.

(E) 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.

21.865 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.

21.870 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.

21.875 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.

This subchapter shall in no way be a substitute for nor eliminate the necessity of conforming with any and all state laws and rules and other county ordinances which are now or may in the future be in effect, which relate to the activities regulated by this subchapter.

Section 2. This ordinance is effective on October 5, 2009.

FIRST READING:

August 20, 2009

SECOND READING AND ADOPTION:

September 3, 2009



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By

Jacqueline A. Weber, Assistant County Attorney

SUBMITTED BY:

Lillian Shirley, Director of the Department of Health