

ORDINANCE NO. 1000

AN ORDINANCE ENACTING THE STAYTON RENTAL HOUSING CODE

WHEREAS, Oregon Revised Statutes, Chapter 90 establishes minimum habitability standards for residential rental housing;

WHEREAS, the statutory standards provide for remedies by the tenant but do not provide for enforcement by a municipality;

WHEREAS, the City Council has been informed of instances where existing residential rental housing does not meet the minimum habitability standards of ORS Chapter 90;

WHEREAS, it is the adopted policy of the City of Stayton to assure that all occupied housing units are safe, decent and suitable for healthful habitation;

WHEREAS, the City Council desires to be able enforce standards to assure the health and safety of residents of the City; and

WHEREAS, the City Council finds the provisions of the proposed Stayton Rental Housing Code and the regulations, terms, and standards to be adopted are reasonable standards for enforcement by the City;

NOW, THEREFORE, the City of Stayton ordains:

Section 1. SMC Chapter 15.08 Enacted. Stayton Municipal Code, Title 15, Chapter 15.08 is hereby enacted as shown on Exhibit A attached hereto and incorporated herein.

Section 2. Effective Date. This ordinance shall become effective 30 days after adoption by the Stayton City Council and the Mayor's signing.

ADOPTED BY THE STAYTON CITY COUNCIL this 7th day of November, 2016.

CITY OF STAYTON


Signed: 11/07, 2016

BY:



Henry A. Porter, Mayor

Signed: 11/11, 2016

ATTEST:


Keith D. Campbell,
City Administrator

APPROVED AS TO FORM:


David A. Rhoten, City Attorney

ERRATA

SMC 15.08 is modified and corrected to be SMC 15.06 throughout. This revision is a minor modification and does not change the content of the Municipal Code or Ordinance itself.

TITLE 15 - BUILDINGS AND CONSTRUCTION

Chapter 15.08 STAYTON RENTAL HOUSING CODE

Sections:

Section 15.08.010 Title.

Section 15.08.020 Purpose.

Section 15.08.030 State of Oregon Residential Landlord and Tenant Act.

Section 15.08.040 Scope.

Section 15.08.050 Dangerous Buildings Code.

Section 15.08.060 Severability.

Section 15.08.070 Liability.

Section 15.08.080 Definitions.

Section 15.08.090 Standards.

Section 15.08.100 Enforcement.

Section 15.08.110 Appeals.

Section 15.08.120 Fees.

Section 15.08.010 Title.

The provisions in Chapter 15.08 shall be known as the Stayton Rental Housing Code, may be cited as such, and will be referred to herein as "this Chapter."

Section 15.08.020 Purpose.

The purpose of this Chapter is to provide minimum habitability criteria to safeguard health, property, and public welfare of the owners, occupants, and users of residential rental buildings.

Section 15.08.030 State of Oregon Residential Landlord and Tenant Act.

This Chapter is intended to supplement rather than conflict with the habitability standards of the State of Oregon Residential Landlord and Tenant Act (ORS Chapter 90).

Section 15.08.040 Scope.

- 1) Except as described below, this Chapter shall apply to all buildings or portions thereof which are legally used for human habitation and are covered by a rental agreement.
- 2) Those arrangements identified in the State of Oregon Residential Landlord and Tenant Act as excluded from its authority are also exempted from this Chapter. The following are exempted from this Chapter either through the State of Oregon Residential Landlord and Tenant Act or in addition to it:
 - a) Hotels, motels and lodging houses.
 - b) Hospitals and other medical facilities.

ERRATA

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- d) Nursing homes, transition and rehabilitation residences, and similar facilities.
- e) Group SR (“Special Residence”) Occupancies.

Section 15.08.050 Dangerous Buildings Code.

Conditions which define a building as dangerous under SMC Title 8, Chapter 8.04 will be abated through the procedures specified in SMC Title 8, Chapter 8.04.

Section 15.08.060 Severability.

If any section, paragraph, subdivision, clause, sentence, or provisions of this Chapter shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of the Chapter, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this Chapter notwithstanding the parts to be declared unconstitutional and invalid.

Section 15.08.070 Liability.

The City officials charged with the enforcement of this Chapter, acting in good faith and without malice in the discharge of the duties required by this Chapter or other related laws and ordinances shall not thereby be rendered personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties.

Section 15.08.080 Definitions.

For purposes of this Chapter, the following definitions shall apply:

1. **Agent:** A person authorized by another to act in his/her behalf.
2. **Building Code:** The currently adopted edition of the State of Oregon Structural Specialty Code.
3. **Building Official:** The individual(s) designated by the City Administrator to administer and enforce the building codes and inspect buildings.
4. **Dangerous Buildings Code:** Those provisions of SMC Title 8, Chapter 8.04 adopted for the abatement of unsafe buildings.
5. **Dwelling Unit:** A single unit providing complete independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking and sanitation. For purposes of this Chapter, 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.
6. **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.
7. **Group SR Occupancies:** 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 Services or any other State agency.

8. **Mechanical Code:** The currently adopted edition of the State of Oregon Mechanical Specialty Code.
9. **Ordinance Enforcement Officer:** The individual designated by the City Administrator to enforce the provisions of this Chapter.
10. **Plumbing Code:** The currently adopted edition of the State of Oregon Plumbing Specialty Code.
11. **Rental Agreement:** All agreements, written or oral, concerning the use and occupancy of a dwelling unit and premises.

Section 15.08.090 Standards.

1. Structural Integrity.
 - A. Roofs, floors, walls, foundations, stairways and railings, and all other structural components shall be capable of resisting any reasonable stresses and loads to which these components may be subjected and shall be maintained in good repair.
 - B. Structural components shall be of materials allowed or approved by the Building Code.
2. Plumbing.
 - A. Each dwelling unit shall be provided with access to a toilet, bath or shower, and lavatory in a room or rooms separate from the habitable rooms and which affords privacy, within the building in which the dwelling unit is located.
 - B. Plumbing systems shall be installed and maintained in a safe and sanitary condition and shall be free of defects, leaks and obstructions.
 - C. Plumbing components shall be of materials allowed or approved by the Plumbing 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. Portable space heaters shall not be used to achieve compliance with this section.
 - B. All heating devices or appliances shall be of an approved type and 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. Electrical. Electrical lighting, fixtures and outlet and all other electrical equipment shall conform to applicable law at the time of installation and shall be maintained in good working order.
5. Weatherproofing.
 - A. Roof, exterior walls, windows and doors shall be maintained to prevent water leakage into living areas which may cause damage to the structure or its contents or may adversely affect the health of an occupant.

- B. Repairs must be permanent rather than temporary and shall be through generally accepted construction methods.
- 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. Carbon Monoxide Detectors. Every dwelling unit shall be equipped with an approved and properly functioning carbon monoxide alarm in accordance with applicable rules of the State Fire Marshal if the dwelling unit contains a carbon monoxide source or is located within a structure that contains a carbon monoxide source and the dwelling unit is connected to the room in which the carbon monoxide source is located by a door, ductwork or a ventilation shaft.
- 8. 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.
- 9. Buildings and Grounds. Buildings, grounds and appurtenances must be, at the time of the commencement of the rental agreement, in every part safe for normal and reasonably foreseeable uses, and shall be kept clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin, and all areas under control of the landlord shall be kept in every part safe for normal and reasonably foreseeable uses, clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin.
- 10. Interpretations.
 - A. The Ordinance Enforcement Officer is empowered to render interpretations of this Section.
 - B. Such interpretations shall be in conformance with the intent and purpose of this Chapter.

Section 15.08.100 Enforcement.

- 1. Authority. The Ordinance Enforcement Officer is hereby authorized and directed to enforce all the provisions of this Chapter.
- 2. Complaint.
 - A. A complaint must be in writing and may be filed in person or by mail, e-mail or fax.
 - B. A complaint must include the following:
 - 1) Name of person filing the complaint; complaints may not be submitted anonymously.
 - 2) Name of the landlord.
 - 3) Address of the alleged violation.
 - 4) A complete description of the alleged violation.
 - 5) A copy of the written notice of the alleged habitability violation that has been sent by the tenant to the landlord.
 - C. A person who files a complaint must be a party to the current rental agreement covering the property in question or an agent of that party.

- D. The Ordinance Enforcement Officer or any other City official or employee shall not report a person who files a complaint to immigration officials.
 - E. Complaints will be processed by Ordinance Enforcement Officer using an administratively adopted written procedure which includes the following:
 - 1) confirmation that the complainant has standing to file a complaint;
 - 2) confirmation that the subject of the complaint, if confirmed, would be a violation of this Chapter;
 - 3) confirmation that the landlord has had seven days, plus three days for mailing per ORS 90.150(3), since mailing of the written notice by the tenant, to respond to the complaint; except that when the violation is an absence of: heat, water or hot water, or any properly functioning toilets, sinks or smoke detectors in the dwelling unit, confirmation that the landlord has had 48 hours, by written notice from the tenant, to respond to the complaint; and
 - 4) written notification to the landlord by the Ordinance Enforcement Officer of the complaint.
3. Ordinance Enforcement Officer Initiated Enforcement
- A. Notwithstanding the provisions of Section 15.08.100.2 above, the Ordinance Enforcement Officer may enforce the standards of Sections 15.08.090.1, 15.08.090.5, and 15.08.090.9 without a complaint being filed when apparent violations are visible from a public street or property with public access.
4. Investigations.
- A. Investigations will be initiated only after the procedure established in Sect 15.08.100.2.E above has been followed.
 - B. The Ordinance Enforcement Officer will conduct an investigation to confirm the validity of the complaint.
 - C. If the complaint is determined to be not valid, the case will be closed and all parties notified.
 - D. If the complaint is determined to be valid, the Ordinance Enforcement Officer will issue a Notice of Violation and Order of Abatement.
5. Inspection and Right of Entry. When it may be necessary to inspect the buildings or premises to enforce the provisions of this Chapter, the Ordinance Enforcement Officer, in accordance with administrative policy, may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this Chapter, provided that if such building or premises is occupied, that credentials be presented to the occupant and entry requested. If such building or premises is unoccupied, the Ordinance Enforcement Officer 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. If entry is refused, the Ordinance Enforcement Officer shall have recourse to the remedies provided by SMC Title 1, Chapter 1.24 to gain entry.
6. Notices and Orders.

- A. For valid complaints, the Ordinance Enforcement Officer shall issue a Notice of Violation and Order of Abatement to the landlord. The Notice and Order shall include the following:
 - 1) Street address.
 - 2) A statement that the Ordinance Enforcement Officer has found the building or premises to be in violation of this Chapter as alleged in the complaint.
 - 3) A thorough description of the violation.
 - 4) Statements advising the landlord that if the required repairs or corrective actions are not completed within seven days, plus three days for mailing from the date of the Notice and Order (48 hours when the Code violation is an absence of: heat, water or hot water, or any properly functioning toilets, sinks or smoke detectors in the dwelling unit), then Ordinance Enforcement Officer shall:
 - a) Record the Notice and Order against the property.
 - b) Coordinate the issuance of a citation to the landlord to appear in Stayton Municipal Court.
 - c) Initiate action to recover all City costs associated with the processing of the complaint, investigation and the resolution of the matter.
 - 5) Statements that the landlord may appeal the Notice and Order as specified in this Chapter.
 - 6) The date by which the repairs or corrective actions must be completed and a reinspection scheduled.
 - B. The Notice of Violation and Order of Abatement, and any amended or supplemental Notice and Order, shall be posted on the premises and shall be served upon the landlord by first class mail, at the address of record in the Marion County Assessor's records.
7. Failure to Comply. If there is not compliance with the Notice and Order by the specified date, the Ordinance Enforcement Officer shall:
- A. Coordinate the issuance of a citation to the landlord to appear in Stayton Municipal Court;
 - B. Record the Notice and Order against the property with all recording costs to be the responsibility of the landlord; and
 - C. Initiate an accounting for all costs associated with the processing of the complaint, investigation and the resolution of the matter with the intent and purpose of recovering these costs from the landlord. A lien may be placed on the subject property.
8. Compliance.
- A. Upon compliance with the Order of Abatement, the Ordinance Enforcement Officer will issue a Notice of Compliance to the landlord and to the complainant.
 - B. If a Notice and Order was recorded against the property, the Ordinance Enforcement Officer will record the Notice of Compliance against the property.

- C. If an accounting was initiated for all costs associated with the processing of the complaint, investigation and the resolution of the matter, the Finance Director will proceed with collecting these costs from the landlord using adopted City procedures, including lien foreclosure.
9. Penalties. Any person violating any of the provisions of this Chapter shall, upon court conviction thereof, be punished by a fine as specified by Council Resolution. Each day that a violation remains unrectified after notification is a separate offense.

Section 15.08.110 Appeals.

1. Appeal to City Administrator. Any tenant who has filed a complaint that the Ordinance Enforcement Officer determines is not valid may file a written appeal to the City Administrator within 10 days of the date the notice of determination was mailed. Any landlord who has been issued a Notice of Violation by the Ordinance Enforcement Officer may file a written appeal to the City Administrator within 10 days of the date the Notice of Violation was mailed.
2. City Administrator's Decision on the Appeal.
 - A. The City Administrator shall consider the appeal within 15 days from the date of the City's receipt of the appeal. The City Administrator may, at the City Administrator's sole discretion:
 - 1) Remand the matter back to the Ordinance Enforcement Officer for reconsideration;
 - 2) Grant the request on appeal, with or without conditions; or
 - 3) Deny the request on appeal.
 - B. The City Administrator shall issue a written Notice of Decision regarding the appeal. The City Administrator's decision may be appealed, in writing, to the City Council.
3. Appeal to City Council.
 - A. The City Administrator's decision to approve or deny an appeal may be appealed by the tenant or the landlord to the City Council within 10 days of the mailing of the Notice of Decision. The appeal shall be in writing and shall clearly describe the matter being appealed and the grounds for the appeal. The City Council shall consider the appeal at a regularly scheduled meeting, no later than 45 days from the date of the City's receipt of the appeal. The Mayor may invite testimony, at the Mayor's discretion. The City Council may, at its discretion:
 - 1) Remand the issue back to the City Administrator for reconsideration;
 - 2) Grant the request on appeal, with or without conditions; or
 - 3) Deny the request on appeal based on the record.
 - B. The City Council's decision is final.
4. Appeal Fee. Any appeal submitted under this Section shall include a filing fee to be established by Council Resolution.

5. Scope of Appeal. Appeals may be filed regarding notices, orders, interpretations and decisions made by the Ordinance Enforcement Officer or the City Administrator relative to this Chapter.
6. Form of Appeal. An appeal must be in writing and include the following:
 - A. Name of person filing the appeal.
 - B. Copy of the notice and order.
 - C. Copy of the section of this Chapter which is being appealed.
 - D. A complete description of the issues and an explanation of the appeal.
 - E. What determination is requested of the City Administrator or City Council.
7. Appeal Procedure.
 - A. Appeals shall be submitted to the Planning and Development Director. The Planning and Development Director shall confirm that the appeal meets the filing criteria and the appeal request and explanation is complete.
 - B. If the filing criteria have not been met, the person filing the appeal will be so notified. In the discretion of the Planning and Development Director, the filing deadline may be extended by an additional three days to allow the appellant to resubmit an appeal document that has been deemed incomplete. Only one extension may be granted.
 - C. If the filing criteria are met, the Planning and Development Director shall forward the appeal to the City Administrator or schedule a hearing before the City Council, as appropriate.

Section 15.08.120 Fees.

1. For the purpose of offsetting costs to the City associated with the enforcement of this Chapter there is hereby imposed an annual fee, to be established by Council Resolution, for each dwelling unit covered by a rental agreement.
2. The following unit types, while subject to the standards, enforcement procedures, and other requirements established in this Chapter, shall be exempt from the fee payment requirements of this Section: rentals with a recorded deed restriction requiring the units to be rented affordably to households at or below 50% of the Area Median Income; rentals under contract with a public agency that requires the rental to be inspected at least annually and verifies that the dwelling is rented to a low income household; and rentals designated as senior or disabled housing by a public agency.
3. The landlord is responsible for paying the annual fee upon written or electronic request. The Finance Director shall adopt and implement policies and procedures which include multiple written or electronic communications with landlords before assessing a penalty. The penalty established below is necessary to offset the actual cost of these procedures when payment of the annual fee is not timely made or when payment of the annual fee is not made.
4. Policy regarding penalties. Providing minimally habitable rental housing is of great importance within the City of Stayton. The costs of this program are intended to be somewhat offset by the annual fees, but the City Council also desires to not greatly increase the cost of renting residential property within the City. The City Council has balanced raising

the amount of the annual fee in order to offset the cost of the program against the desire for landlords to pay the annual fee in a timely manner, and finds that an artificially lower annual fee that encourages timely payment is more likely to provide funding that offsets the costs of this essential program than is a higher fee which would capture all the administrative costs of collection. The City finds that staff charged with administration and enforcement of this program spend a grossly disproportionate portion of their time attempting to collect fees or to collect untimely fees from a relatively few landlords. The City Council finds that relatively low penalties for failing to pay the annual fee or for failing to pay the annual fee in a timely manner, encourages some landlords to fail to make payments or to make late and untimely payments. The City Council finds that relatively low penalties therefore result in an even more unfair apportionment of the cost of providing this essential program to other landlords and taxpayers, and threatens the City's ability to provide the service for the low annual fee.

5. Failure to pay the fee as requested will subject the landlord to the following actions:
 - A. A penalty fee to be established by Council Resolution will be assessed to the landlord for each unpaid per unit fee if the annual fee is not paid by the date specified in the written or electronic request for payment.
 - B. The City will initiate appropriate action to collect the fees due and all costs associated with these actions will be assessed to the landlord.
 - C. Appropriate action may include placing a lien on the property.