



HUMAN SERVICES COMMITTEE

Agenda

Tuesday, September 18, 2012
12:00 pm

Madison Avenue Meeting Room
500 SW Madison

Discussion/**Possible Action**

I. Rental Housing Program Annual Report
(Attachment)

Information

II. Other Business

Next Scheduled Meeting

Tuesday, October 2, 2012 at 12:00 pm
Madison Avenue Meeting Room, 500 SW Madison Ave

Agenda

nothing at this time

MEMORANDUM

September 7, 2012

TO: Human Services Committee

FROM: Ken Gibb, Community Development Director 

SUBJECT: Corvallis Rental Housing Code/Program Annual Report 2011-12

I. ISSUE

This report provides a summary of information that has been collected through the City's Rental Housing Program and related to the Rental Housing Code during its nine years of operation.

II. BACKGROUND

After two years of data collection and one year of program design, the City's Rental Housing Code (RHC) was implemented in July of 2002. The Code originally established standards in four areas (plumbing, heating, structural, and weatherization) that all Corvallis residential rental units must meet. In 2008, City Council added door locks, window latches, and smoke detectors to the Code. Enforcement of these standards is carried out by the Housing Division on a complaint-driven basis. Funding for code enforcement and delivery of the Rental Housing Program is derived from a per unit fee paid annually by rental property owners and managers. The original \$8 per unit fee was increased to \$10 for FY 09-10 and to \$11 in FY 11-12. In FY 12-13 it is scheduled to increase to \$12 and remain at the rate in FY 13-14.

III. DISCUSSION

The number of Rental Housing Program contacts (phone calls, drop-ins, e-mails) increased each year from program inception through FY 06-07, decreased in FY 07-08, and then increased again in FY 08-09 through FY 10-11. In FY 11-12 the number of calls decreased 16.3% from FY 10-11. The following table categorizes contacts by type:

Contacts by Type of Caller						
		Contacts by Tenancy Type			Contacts by Student Status	
Year	Total Contacts	Tenant	Landlord	Other	Student	Non-student
2002-03	415	274	79	62	100	315
2003-04	434	267	100	67	104	330
2004-05	440	266	108	66	92	348
2005-06	513	286	123	104	93	420
2006-07	546	286	113	147	94	452

2007-08	475	281	86	108	107	368
2008-09	527*	296	115	116	106	415
2009-10	641	363	146	132	123	518
2010-11	845	465	179	201	182	663
2011-12	707	372	177	158	141	566
Total	5,543	3,156	1,226	1,161	1,142	4,395

* This total includes 6 contacts for which student/non-student status could not be determined.

As a result of the contacts identified in the foregoing table, a total of 9,201 issues have been raised since the inception of the Rental Housing Program (contacts often generate multiple issues). Each issue is placed into one of three categories: Rental Housing Code related, non-Code related (but involving a habitability issue), and non-habitability issues (deposits, neighborhood livability, lease terms, etc.) The next table categorizes each year's issues by type:

Issue Type				
Year	Total	Rental Housing Code	Non-Code	Non-Habitability
2002-03	632	117	97	418
2003-04	697	109	130	458
2004-05	675	108	85	482
2005-06	788	137	97	554
2006-07	901	157	124	620
2007-08	827	153	128	546
2008-09	953	184	132	637
2009-10	1,111	227	126	758
2010-11	1,454	236	150	1,068
2011-12	1,163	197	114	852
Total	9,201	1,625	1,183	6,393

Of the six Rental Housing Code issue types (heating, plumbing, weatherproofing, structural, smoke detectors, and locks/latches), weatherproofing (44.2%) and plumbing (24.9%) issues continue to be the two most frequent complaint types, with weatherproofing continuing to trend upward, thus becoming the largest issue over plumbing for the first time. Garbage/vermin complaints represented 57.9% of the non-Code contacts in FY 10-11, and the category "other" (deposits, notices, etc.) made up 66.7% of the non-habitability issues, both consistent with previous years data.

Although a relatively high number of habitability issues subject to the Rental Housing Code are reported to the City each year, the number of actual enforcement actions remains low. This trend has held because, most frequently, issues are resolved through direct discussions between

tenants and their landlords. The Code requires that, prior to the City inspecting an alleged violation and taking enforcement action, tenants initiate a formal written contact and request for repairs of the violations. In most cases tenants will note in their communication that they believe the issue in question represents a violation of the City's Rental Housing Code. Experience has shown that this approach maximizes repairs of Code violations while minimizing the number of cases requiring the City's direct involvement in an enforcement action.

During FY 11-12, three violation cases were opened: one for inadequate heat, one for a lack of heat, and one for plumbing leaks, a broken door lock, and no working smoke detectors (none even installed). In all three cases, the needed repairs were made prior to an inspection. Since the Code's implementation in FY 02-03, it has been enforced a total of 26 times, with eight of those actions occurring in FY 07-08.

IV. PREVIOUS YEAR'S ISSUES

Last year's report suggested several issues/areas of amendment to the Rental Housing Code for HSC's consideration. They included structural integrity, weatherproofing, appliances, the complaint process, and penalty fees. HSC requested that staff proceed to make the recommended changes to the penalty fee language, and come back after consulting the City's Housing and Community Development Commission with proposed code language to address the remaining issues.

Staff worked with the City Attorney's Office to address needed changes to the Rental Housing Code Program's penalty fee language, with City Council approving the proposed changes in September 2011. With the creation of the City/OSU Collaboration Project, further code amendments to address the remaining issues have been deferred for future consideration, as it is assumed that the Collaboration process may lead to discussion of more and broader changes that would address these and other issues.

V. ACTIONS/RECOMMENDATIONS

A Human Services Committee recommendation of City Council acceptance of this report is requested.

Review and Concur:


James A. Patterson
City Manager

Chapter 9.02

Rental Housing Code

Sections:

9.02.010	Title.
9.02.020	Purpose.
9.02.030	State of Oregon Residential Landlord and Tenant Act.
9.02.040	Scope.
9.02.050	Dangerous Buildings Code.
9.02.060	Severability.
9.02.070	Liability.
9.02.080	Definitions.
9.02.090	Standards.
9.02.100	Enforcement.
9.02.110	Appeals.
9.02.120	Fees.
9.02.130	Sunset. (Repealed by Ord. 2006-16)

Section 9.02.010 Title.

These regulations shall be known as the Corvallis Rental Housing Code, may be cited as such, and will be referred to herein as “this code.”
(Ord. 2002-25 §1, 07/15/2002)

Section 9.02.020 Purpose.

The purpose of this code is to provide minimum habitability criteria to safeguard health, property and public welfare of the owners, occupants and users of residential rental buildings.
(Ord. 2002-25 §1, 07/15/2002)

Section 9.02.030 State of Oregon Residential Landlord and Tenant Act.

This code is intended to supplement rather than conflict with the habitability standards of the State of Oregon Residential Landlord and Tenant Act.
(Ord. 2002-25 §1, 07/15/2002)

Section 9.02.040 Scope.

1) Except as described below, these standards 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 code. The following are exempted from this code either through the State of Oregon Residential Landlord and Tenant Act or in addition to it:

- a) Hotels, motels and lodging houses
- b) Buildings located on the Oregon State University campus
- c) Hospitals and other medical facilities

- d) Nursing homes and similar facilities
 - e) Group SR Occupancies
- (Ord. 2003-32 §1, 10/20/03; Ord. 2002-25 §1, 07/15/2002)

Section 9.02.050 Dangerous Buildings Code.

Conditions which define a building as dangerous as per the City Dangerous Buildings Code will be abated through the use of the Dangerous Buildings Code.
(Ord. 2002-25 §1, 07/15/2002)

Section 9.02.060 Severability.

If any section, paragraph, subdivision, clause, sentence, or provisions of this title 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 title, 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 title notwithstanding the parts to be declared unconstitutional and invalid.
(Ord. 2002-25 §1, 07/15/2002)

Section 9.02.070 Liability.

The City officials charged with the enforcement of this code, acting in good faith and without malice in the discharge of the duties required by this code 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.
(Ord. 2002-25 §1, 07/15/2002)

Section 9.02.080 Definitions.

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

Agent. A person authorized by another to act in his/her behalf.

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

Building Official. The City's Development Services Manager.

Dangerous Buildings Code. Those provisions of the City Building Code adopted for the abatement of unsafe buildings.

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 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.

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 Resources or any other State agency.

Mechanical Code. The currently adopted edition of the State of Oregon Mechanical Specialty Code.

Plumbing Code. The currently adopted edition of the State of Oregon Plumbing Specialty Code.

Rental Agreement. All agreements, written or oral, concerning the use and occupancy of a dwelling

unit and premises.

Rental Housing Code Board of Appeals. The 6 member board authorized by and described in Section 1.16.245 of the Municipal Code.

(Ord. 2003-32 §2, 10/20/03; Ord. 2002-25 §1, 07/15/2002)

Section 9.02.090 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 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 defects, leaks and obstructions.
 - b) 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.
 - b) All heating devices or appliances shall be of an approved type.
 - c) Ventilation for fuel-burning heating appliances shall be as required by the Mechanical Code.
- 4) 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.
- 5) Smoke Detectors
 - a) 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.
- 6) Security
 - a) Working locks for all dwelling entrance doors and latches for all windows by which access may be had to that portion of the premises which the tenants is entitled to occupy to the exclusion of others.
- 7) Interpretations
 - a) The Community Development Director is empowered to render interpretations of this Chapter.
 - b) Such interpretations shall be in conformance with the intent and purpose of this code.

(Ord. 2008-17 §1, 12/01/2008; Ord. 2002-25 §1, 07/15/2002)

Section 9.02.100 Enforcement.

- 1) Authority
 - a) The Community Development Director or his/her designee is hereby authorized and directed to enforce all the provisions of this code.
- 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

Corvallis Municipal Code

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 this party.

d) Complaints will be processed by Housing Division staff 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

code

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 Code 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.

4] notification of the landlord by Housing Division staff of the complaint per written procedures.

3) Investigations

- a) Investigations will be initiated only after the above process has been followed.
- b) Housing Division staff 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, Housing Division staff will issue a notice and

order.

4) Inspection and Right of Entry

a) When it may be necessary to inspect to enforce the provisions of this code, Housing Division staff, in accordance with administrative policy, may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this code, 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, Housing Division 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. If entry is refused, Housing Division staff shall have recourse to the remedies provided by Municipal Code Chapter 1.15 to secure entry.

5) Notices and Orders

a) For valid complaints, Housing Division staff shall issue a notice and order to the landlord. The notice and order shall include the following:

1] street address
2] a statement that Housing Division staff has found the premises to be in violation of this code as alleged in the complaint

3] a thorough description of the violation

4] statements advising the landlord that if the required repairs 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 Housing Division staff will:

- a] record the notice and order against the property
- b] coordinate the issuance of a citation to the landlord to appear in Municipal Court
- c] initiate action to recover all City costs associated with the processing of the

complaint, investigation and the resolution of the issue

5] statements that the landlord may appeal the notice and order as specified in this code.

6] the date by which the repairs must be completed and a reinspection scheduled.

Corvallis Municipal Code

b) The Notice and Order, and any amended or supplemental notice and order, shall be posted on the premises and shall be served to the landlord by first class mail.

6) Failure to Comply

a) If there is no compliance with the Notice and Order by the specified date, Housing Division staff will:

- 1] coordinate the issuance of a citation to the landlord to appear in Municipal Court
- 2] record the Notice and Order against the property with all recording costs to be the responsibility of the landlord
- 3] initiate an accounting for all costs associated with the processing of the complaint, investigation and the resolution of the issue with the intent of recovering these costs from the landlord

7) Compliance

- a) Upon compliance with the Notice and Order Housing Division staff will issue a Notice of Compliance to the landlord and the complainant.
- b) If a Notice and Order was recorded against the property, Housing Division staff 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 issue, Housing Division staff will proceed with collecting these costs from the landlord using adopted City procedures.

8) Penalties

a) Any person violating any of the provisions of this code shall, upon court conviction thereof, be punished by a fine not to exceed \$250.00 per violation. Each day that a violation exists is a separate offense.

(Ord. 2008-17 §2, 12/01/2008; Ord. 2002-25 §1, 07/15/2002)

Section 9.02.110 Appeals.

1) Rental Housing Code Board of Appeals

a) In order to hear and decide appeals of orders, decisions or determinations made by the Community Development Director relative to the application and interpretation of this code, there shall be and is hereby created a Rental Housing Code Board of Appeals consisting of members who are qualified by experience and training to pass on matters pertaining to this code and who are not employees of the jurisdiction. The Housing Division Manager shall be an ex officio member of and shall act as secretary to the board but shall have no vote on any matter before the board. The Rental Housing Code Board of Appeals shall be appointed by the Mayor and shall meet as required to carry out its duties. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Community Development Director.

b) The Rental Housing Code Board of Appeals shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

2) Filing of Appeal

a) Any person upon whom a notice and order is served under this code shall have the right of appeal from the notice and order to the Rental Housing Board of Appeals. An appeal must be submitted to the Community Development Director within seven days, plus three days for mailing, from the date of the notice and order.

3) Appeal Fee

a) Any appeal submitted under this chapter shall include a \$50.00 filing fee.

4) Scope of Appeal

a) Appeals may be filed regarding notices, orders, interpretations and decisions made by the Community Development Director relative to this code.

5) Form of Appeal

a) An appeal must be in writing and include the following:

Corvallis Municipal Code

- 1] name of person filing the appeal
 - 2] copy of the notice and order
 - 3] copy of the section of this code which is being appealed
 - 4] a complete explanation of the appeal
 - 5] what is requested of the Rental Housing Board of Appeals
- 6) Appeal Procedure
- a) The Community Development Director shall confirm that the appeal meets the filing criteria.
 - b) If the filing criteria have not been met, the person filing the appeal will be so notified and the Rental Housing Board of Appeals will not be convened. The Community Development Director, at his/her discretion, may extend the filing deadline by an additional three (3) days to allow the appellant to resubmit an appeal that has been deemed incomplete. Only one extension may be granted.
 - c) If the filing criteria is met, the Community Development Director shall schedule a meeting of the board within 30 days of the filing of the appeal. The hearing shall be held not later than 30 days after the filing of the appeal.
- (Ord. 2002-25 §1, 07/15/2002)

Section 9.02.120 Fees.

1) For the purpose of offsetting costs to the City associated with the enforcement of this code there is hereby imposed an annual fee, to be set by the City Council, for each dwelling unit covered by a rental agreement. The total annual fee for fraternities, sororities, and other similar group living structures will be calculated based on the occupancy capacity of each structure divided by the U.S. Census-determined average household size of renter-occupied units, multiplied by the annual per-unit fee.

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 landlord is responsible for paying the annual fee upon written or electronic request. The 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 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 Corvallis. 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:

Corvallis Municipal Code

- a) A penalty fee of \$100.00 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.
- (Ord. 2011-18 §1, 12/19/2011; Ord. 2003-32 §3, 10/20/03; Ord. 2002-25 §1, 07/15/2002)

Section 9.02.130 Sunset. (Repealed by Ord. 2006-16)