

CHAPTER SEVEN - Housing
Art. 1751. Housing Code.

ARTICLE 1751
Housing Code

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CROSS REFERENCES

Sidewalk maintenance - see S.U. & P.S. 913.11 et seq.
 Dangerous trees - see S.U. & P.S. Art. 917
 Unlawful accumulation of refuse - see HLTH. & SAN. 1139.05 et seq.
 Weeds and noxious materials - see HLTH. & SAN. Art. 1139
 Unsafe and unsanitary structures - see BLDG. & HOUS. Art. 1719
 Household fire warning systems - see BLDG. & HOUS. 1715.07

GENERAL PROVISIONS

1751.01 PURPOSE; SCOPE.

(a) Purpose. The purpose of this article is to establish minimum health and safety standards for rental housing in the City. These standards relate to the condition, maintenance and occupancy of rental dwellings and are intended to ensure that rental housing is safe, sanitary and suitable.

An owner-occupied single-family dwelling is specifically excluded unless occupied by more than one roomer.

(b) Scope. This article applies to all rental dwelling units within the City.
(Ord. 4-17-79.)

1751.02 DEFINITIONS.

For the purpose of interpreting this article, certain words, terms and expressions are herein defined. Words used in the present tense include the future; the singular number included the plural, the plural includes the singular; the word "shall" is always mandatory. The words "dwelling", "dwelling unit", "lodging houses", "rooming unit", "dormitory" and "premises" shall be construed as though they were followed by the words "or any part thereof".

- (1) "Abate" means to end a nuisance, emergency or nonconformance.
- (2) "Approved" means as per the State Building Code.
- (3) "Basement" or "cellar" means occupancy of dwelling unit below grade. No basement or cellar shall be used as a habitable room or dwelling unit unless the floors are impervious to excessive dampness and there is adequate ventilation and means of egress. Below grade dwelling units shall have either direct access to the outdoors or demonstrable adequate window exit.
- (4) "Dwelling" means any house, building or mobile home or portion thereof intended to be occupied as the place of habitation of human beings, either permanently or transiently. State-licensed health and custodial facilities are excluded.
- (5) "Dwelling unit" means one or more rooms intended to be occupied for living purposes.
 - A. "Apartment" means a room or group of rooms intended to be occupied for living, sleeping, cooking and eating.
 - B. "Fraternity house" or "sorority house" means a building, other than a hotel or motel that is occupied as a dwelling predominantly by members, candidates for membership, employees and guests of the same fraternity or sorority.
 - C. "Rooming unit" means a room or group of rooms intended to be occupied for living and sleeping, but not for cooking.

- D. "Dormitory" means a building under single management renting sleeping accommodations to more than fifteen person without individual bathroom or eating facilities.
- E. "Boarding house" means a building under single management renting sleeping accommodations to fifteen person or less without individual bathroom or eating facilities.
- F. "Lodging house" means the same as "boarding house".
- (6) "Emergency" means a condition arising from actual or imminent failure and resulting in a health or safety hazard to occupants or dwelling.
(Ord. 95-40. Passed 8-15-95.)
- (7) "Family" means one or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage, or legal adoption, no such family shall contain over three unrelated persons except:
 - A. Where disability requires that more than three unrelated persons shall reside together; in such cases, there shall be no requirement for persons with disabilities to petition, apply or experience a process to obtain approval to live in any zoning district of the City; or
 - B. Where the dwelling unit is located in a Planned Unit Development, in which case the number of unrelated persons residing together shall be no more than four, unless disability requires that more than four unrelated persons reside together.

Regardless of the provisions of either this article or the City's Zoning Ordinance, State Fire Code Rules and Regulations, as they apply to Fire Code inspections and number of occupants, will be enforced.
(Ord. 03-10. Passed 2-18-03.)
- (8) "Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.
- (9) "Habitable space" means a space in a dwelling for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas are not habitable space.
- (10) "Hotel" means a building under single management in which more than fifteen rooms are rented providing sleeping accommodations for transients with or without meals, having an annual turnover of room occupancy exceeding three hundred percent (300%) in which the rooms are not directly accessible form an outdoor parking area.
- (11) "Housing inspector" means the Chief Building Inspector, and such other employees, of the City's Building Inspection Department, as have been trained in conducting inspections or parts of inspections.
- (12) "Inspection report" means a document issued by the Housing Inspector to show that the premises have been inspected, the date and time of such inspection and setting time periods for rectification of deficiencies noted.
- (13) "Landlord" means the owner of a building including one or more dwelling units.
- (14) "Letter of compliance" means a document issued by the Housing Inspector indicating the subject inspection found the premises to be in substantial compliance with this article on the date of inspection and enclosing a copy of the inspection report.
- (15) "Motel" means an establishment under single management which provides lodging and parking for transients and in which the rooms are so designed to provide accessibility from an outdoor parking area and having an annual turnover of room occupancy exceeding three hundred percent (300%).
- (16) "Nonconforming occupancy" means more than three unrelated persons occupying a dwelling unit prior to November 6, 1979, and registered in accordance with the City Zoning Ordinance.

- (17) "Occupant" means any person living, sleeping, cooking or eating in, or having actual possession of a dwelling unit.
- (18) "Operator" means any person, including the owner, who has charge, care or control of a building including one or more rental dwelling units.
- (19) "Owner" means any person who alone, jointly or as tenant in common with others, has legal or equitable title to any dwelling unit with or without accompanying actual possession thereof. For the purposes of this article, "owner" includes an agent of the owner empowered by the owner to act on the conditions or under the circumstances in question.
- (20) "Owner-occupied single-family dwelling" means any townhouse, condominium or detached dwelling that is occupied as a dwelling by the owner. It is one dwelling unit even if no more than two roomers occupy one bedroom of the dwelling.
- (21) "Person" means a natural person, his or her heirs, executors, administrators, or assigns and also a firm, partnership or corporation and its, or their, successors or assigns.
- (22) "Plumbing" includes the following supplied facilities and equipment: gas, water and waste pipes, sumps, drains, vents and all supplied facilities and equipment connected to them.
- (23) "Premises" means a lot and its buildings and other improvements.
- (24) "Rent" means payment of money, goods, labor, service or otherwise for use of a dwelling.
- (25) "Rubbish" means any waste material except garbage.
- (26) "Story" means that part of a building comprised between any floor and the floor or attic next above; the first story of a building is the lowest story having at least one-half of its height of one or more walls above the highest level of adjoining ground.
- (27) "Supplied" means paid for, furnished, provided by, or under the control of the owner or operator.
- (28) "Tenant" means an occupant of a rental dwelling unit who has signed a lease or made a verbal contract exceeding a seven consecutive day commitment.
- (29) "Transient" means an individual who rents sleeping, living and sanitary facilities on a daily or weekly basis.
- (30) "Promptly" means to perform readily or immediately.
(Ord. 95-40. Passed 8-15-95.)

1751.03 APPLICABILITY.

(a) Other Laws.

- (1) This article is not intended to abrogate any of the rights and responsibilities normally ascribed to the tenant or the landlord under the laws of West Virginia whether set out by case law or by the West Virginia Code or any other applicable laws.
- (2) The minimum requirements of this article may not be waived, either intentionally or impliedly, by either party to a rental agreement.

- (3) Violation of this article shall constitute a misdemeanor, and fine and punishment shall be in accordance with Section 1701.99 unless otherwise provided in Section 1751.04. Willful and repeated violations with the requirements of this article by the occupants are illegal.
 - (4) If any provision of these regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these regulations which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.
- (b) Other Codes and Ordinances.
- (1) This article is in addition to all housing requirements of other City ordinances, and the law of the State, as the case may be.
 - (2) As soon as practicable and convenient, and in no event in more than thirty days after the passage of this article, there shall be filed in the office of the Housing Inspector, and in the office of the City Clerk, an index to all City housing requirements as contained in various codes and ordinances heretofore adopted by the City, and known as "The Quick or Desk Index to Rental Housing Requirements of the City".
(Ord. 4-17-79.)

ENFORCEMENT

1751.04 ILLEGAL CONDITIONS; PENALTY.

(a) After ninety days from the effective date of this section, it shall be illegal for any owner or operator to rent or offer for rent any dwelling units for use in whole or in part for human habitation unless a written application for a letter of compliance has been filed for such dwelling unit by said owner or operator or a valid letter of compliance has been issued to said owner or operator for such dwelling unit. Any person who rents or offers for rent a dwelling unit subject to this article prior to filing a written application for a letter of compliance shall be subject to a mandatory penalty of one hundred dollars (\$100.00) per month for each month that the unit was illegally occupied subject to a maximum penalty of five hundred dollars (\$500.00).

(b) It shall be illegal for any person to occupy or allow any other person to occupy any dwelling unit more than the time period indicated in the Housing Inspector's report for that dwelling unit or building, or after the Housing Inspector finds that vacation of the dwelling unit or building is necessary before abatement of a nonconformance can reasonably proceed.

(c) It shall be illegal for any person to permit a state of nonconformance to exist, under Sections 1751.06 to 1751.10, after the time set by the Housing Inspector or the Housing Board of Adjustments and Appeals for abating the nonconformance.

(d) Persons in violation under Sections 1751.06 to 1751.10 shall, as a separate offense, be subject to a penalty in accordance with the following schedule:

- (1) First conviction of any offense, a fine not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).
- (2) Second conviction of the same offense, a fine not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

- (3) Third conviction of the same offense, a fine not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00).
- (4) Each successive conviction for the same offense shall result in a mandatory fine of five hundred dollars (\$500.00).
- (5) Persons in violation of any section or subsection shall also be liable to revocation of the letter of compliance.

(e) The Housing Inspector, upon finding an apparent violation of this article, may institute appropriate proceedings as detailed in this article.

(f) Application for a hearing under Section 1751.11 shall stay the effective date of the enforcement of Sections 1751.08 and 1751.09. (Ord. 95-40. Passed 8-15-95.)

(g) Persons in violation of Section 1751.17 shall be subject to a penalty in accordance with the following schedule:

- (1) Should the person be cited upon the City's initial discovery of said over occupancy and the person is later convicted of said offense, the fine shall be two hundred dollars (\$200.00);
- (2) Should the person initially cited under subsection (g)(1) hereof not reduce the occupancy to a number allowed by this article within twenty days of the initial citation, the person shall be cited again for violation of Section 1751.17, and if later convicted of not reducing the occupancy within twenty days, shall be fined three hundred dollars (\$300.00). Each day after the foregoing twenty days that the dwelling unit remains over occupied, in violation of Section 1751.17, shall be a separate citable offense subject to the fine imposed by this subsection. (Ord. 00-02. Passed 2-15-00.)

1751.05 APPLICATION FOR LETTER OF COMPLIANCE; FILING DEADLINES; FEES.

(a) Application for a letter of compliance shall be submitted in writing, on forms provided, to the Housing Inspector and shall contain at least:

- (1) The address or addresses of the dwelling;
- (2) The number of dwelling units in the dwelling;
- (3) The name, address and telephone number of:
 - A. The owner;
 - B. The agent, operator or other person to contact in case of emergency;
 - C. The person to be notified if a condition of nonconformance is found.

For each dwelling unit within the dwelling:

- (4) Whether the application is for an initial or a renewal letter of compliance;
- (5) Number of off-street parking spaces available on site; and
- (6) Dwelling unit identification or number.

(b) Renewal applications shall be filed at least thirty days before the expiration of the existing letter of compliance.

(c) Upon receiving an application for renewal of the letter of compliance, the Housing Inspector shall arrange to reinspect the dwelling unit.

(d) Fees.

- (1) Application fee for rental housing units, exclusive of owner occupied housing units with roomers, dormitories and boarding and lodging house shall be twenty-five dollars (\$25.00) per dwelling unit; however, for those single structures containing six or more units, the application fee shall be fifteen dollars (\$15.00) per dwelling unit.
- (2) Application fee for owner-occupied housing units with more than one roomer shall be fifteen dollars (\$15.00) per sleeping room.
- (3) Application fee for boarding or lodging houses or dormitories shall be fifteen dollars (\$15.00) per sleeping room.
- (4) Application fee for hearing before the Housing Board of Adjustments and Appeals shall be twenty dollars (\$20.00), with that fee being refunded should either body determine a citation to be baseless.
- (5) Charge for missed appointments: twenty dollars (\$20.00) unless providing notification at least twenty-four hours prior to scheduled appointment.
- (6) Emergency call out (after normal business hours): sixty dollars (\$60.00) for the first two hours; thereafter thirty dollars (\$30.00) per hour. A minimum charge of sixty dollars (\$60.00) will be due on any emergency call out.
- (7) Court appearances: seventy-five dollars (\$75.00) per hour; one hour minimum charge.
- (8) Real estate inspections: seventy-five dollars (\$75.00) per hour; one hour minimum charge.
- (9) Duplicate copies of letter of compliance to the owner: one dollar (\$1.00) per copy.
- (10) Re-inspections: twenty-five dollars (\$25.00) per hour; one hour minimum charge. (Ord. 99-45. Passed 10-19-99.)

1751.06 INSPECTIONS.

(a) The Housing Inspector shall conduct all inspections during reasonable hours of the day and after presentation of proper identification. The owner may arrange, and the occupant shall have the opportunity, to be present during an inspection. In all cases, if the occupant or owner of a dwelling unit refuses entry to conduct inspection, the Housing Inspector shall not conduct any such inspection without a search warrant. The Housing Inspector shall take the necessary action to obtain such search warrant.

(b) The Housing Inspector shall inspect within four years of the effective date of this section, all rental units.

(c) The Housing Inspector shall promptly inspect any dwelling at the written request of the owner, or upon receipt of a written complaint from a person with demonstrable interest with the nature of the noncompliance specifically indicated and with evidence that the subject matter of the complaint has been reported to the operator in writing and that five working days have since passed without the operator having made an effort to correct the alleged problem. In addition, the Housing Inspector may inspect any dwelling as frequently as necessary to assure abatement of the noncompliance. The Housing Inspector shall not respond to a second letter or further letter by any person requesting an inspection where he has reason to believe the request is made for harassment and not made in good faith. If after inspection the dwelling unit is found in nonconformance with the requirements of this article, the Housing Inspector shall proceed under Section 1751.08.

(d) Persons with demonstrable interest are: owner, occupant, tenant, lessee or other occupant in the same dwelling, owner or occupant of abutting properties.

(e) The fact that a complaint of nonconformance with this article is made by the occupant shall not be used as a ground, cause or basis for termination of the tenancy or reduction of services by the owner. However, at the end of any lease, the owner may change occupants.

(f) The inspection of any owner-occupied single-family dwelling with roomers shall be limited to the utilities and the areas occupied and used by the roomers and to the egress from those areas.

(g) The Housing Inspector shall keep confidential all evidence exclusive of the inspection record, which he may discover or obtain in the course of an inspection made pursuant to this article and such evidence shall be considered privileged.
(Ord. 95-40. Passed 8-15-95.)

1751.07 GRANT OF LETTER OF COMPLIANCE; EXPIRATION.

(a) If after inspections the dwelling is found to conform with the requirements of this article, the Housing Inspector shall issue a letter of compliance within two working days.

(b) If dwelling units of a duplex or multiple dwelling are not all in compliance, the Housing Inspector may issue a temporary letter of compliance for each dwelling unit conforming to the provisions of this article. A three-year letter of compliance shall be issued for the completed dwelling after the Housing Inspector finds it in conformance with this article.

(c) A copy of the letter of compliance shall be available for inspection at the Inspection Office.

(d) Letters of compliance issued after the effective date of this section shall expire five years from the date of issuance unless sooner revoked under Section 1751.08. In those cases where a temporary letter of compliance is first issued, a letter of compliance issued thereafter shall expire three years from the date the temporary letter of compliance was issued.

(e) The letter of compliance shall include at least: The information contained in the application, the date of inspection, the name of the Inspector, the date of issue, and date of expiration.

If there is a change in ownership, the new owner shall register with the City within thirty days of change of ownership upon such forms as designated by the City. The fee for administrative processing of any such change shall be five dollars (\$5.00).

(f) For multiple dwellings, the Inspector may issue a letter of compliance for the entire dwelling that includes all the required information and that lists the address for each dwelling unit. (Ord. 00-03. Passed 2-15-00.)

1751.08 INSPECTION REPORT; NOTIFICATION; WRITTEN AGREEMENT.

(a) If after inspection a dwelling unit is found in nonconformance with the requirements of this article, the Housing Inspector shall promptly notify the operator of the reasons for nonconformance, which shall be recorded on the inspection report.

(b) Nonconformance shall be promptly abated as per time sequence given.

(c) The operator may, within the time period of notice to correct for conformance, file a petition with the Housing Board of Adjustments and Appeals or the BOCA (State Building Code) Appeal Board, depending upon the nature of the violation to appeal the Housing Inspector's order, during which time Section 1751.04 (e) shall be stayed.

(d) The letter of compliance shall be denied or revoked if:

(1) The owner does not file a petition to the Housing Board of Adjustments and Appeals or the BOCA Appeal Board within the time sequences specified by the Housing Inspector.

(2) The dwelling unit is not in conformance at the end of the period specified by the Inspector.

(e) Upon denial or revocation of the letter of compliance, the Housing Inspector shall notify the owner and the occupants in writing.

(f) The dwelling unit shall be provided one free inspection by the Housing Inspector to determine whether the noncompliance has been abated. Additional reinspections shall be made at the rate per dwelling unit or sleeping room as per registration fees indicated in Section 1751.05(d)(1) to (10) and charged to the owner or complainant. (Ord. 99-45. Passed 10-19-99.)

1751.09 ABATEMENT OF OCCUPANT NONCOMPLIANCE.

(a) If after inspection the occupant is found in noncompliance with the requirements of this article, the Housing Inspector shall promptly notify the occupant and the operator of the reasons for nonconformance.

(b) If the occupant does not abate the noncompliance within a time set by the Housing Inspector, the Inspector shall proceed against the occupant under Section 1751.04(e).

(c) The dwelling unit shall be provided one reinspection by the Housing Inspector to determine whether the noncompliance has been abated. Additional reinspections shall be made at the rate per dwelling unit or sleeping room as per registration fees indicated in Section 1751.05(d)(1) to (10) charged to occupant or complainant. (Ord. 99-45. Passed 10-19-99.)

1751.10 EMERGENCY ABATEMENT.

(a) If an emergency seems to exist and the occupant cannot obtain prompt relief from the operator, the occupant or other person may ask the Housing Inspector to find that an emergency does exist that constitutes a substantial hazard to the occupant's health and safety.

(b) If the Housing Inspector finds that an emergency exists that cannot be readily and reasonably abated, the dwelling shall be vacated immediately.

(c) If no emergency is found to exist, the Housing Inspector shall proceed under Section 1751.06. (Ord. 95-40. Passed 8-15-95.)

1751.11 APPEALS.

(EDITOR'S NOTE: Former Section 1751.11 was repealed by Ordinance 99-45, passed October 19, 1999.)

MINIMUM PROPERTY STANDARDS

1751.12 STRUCTURES AND UTILITIES.

(EDITOR'S NOTE: Former Section 1751.12 was repealed by Ordinance 99-45, passed October 19, 1999.)

1751.13 ELECTRICAL.

(EDITOR'S NOTE: Former Section 1751.13 was repealed by Ordinance 99-45, passed October 19, 1999.)

1751.14 LIGHTING.

(EDITOR'S NOTE: Former Section 1751.14 was repealed by Ordinance 99-45, passed October 19, 1999.)

1751.15 PAINT.

(EDITOR'S NOTE: Former Section 1751.15 was repealed by Ordinance 99-45, passed October 19, 1999.)

1751.16 FIRE SAFETY.

(EDITOR'S NOTE: Former Section 1751.16 was repealed by Ordinance 99-45, passed October 19, 1999.)

1751.17 MAXIMUM OCCUPANCY.

Maximum occupancy shall be determined by the requirements of the Building Code and the City Zoning Ordinance. Upon discovery of a violation of this section and an initial citation being issued, the property owner shall be required to reduce the occupancy level to that established by ordinance of this City within twenty days or be subject to additional citation(s). See Section 1751.04 (g) for applicable fines.
(Ord. 00-01. Passed 2-15-00.)

OWNER AND OCCUPANT RESPONSIBILITIES

1751.18 OWNER AND OPERATOR RESPONSIBILITIES.

(a) Maintaining public areas of the premises in a clean and sanitary condition; keeping floors, floor coverings, walls and ceilings reasonably clean and free of rubbish and garbage; and ensuring that stagnant water is not allowed to accumulate or stand anywhere on the premises.

TWENTY DAYS TO CORRECT

(b) Exterminating rodents, insects and other pests when the infestation is caused by failure to maintain the dwelling in a rodent-proof or reasonably insect-proof condition, or whenever the infestation exists in two or more of the dwelling units or in the shared or public parts of the dwelling or premises.

TWENTY DAYS TO CORRECT

(c) Supplying properly sized type S fuse stats at the beginning of each tenancy.

(d) Arranging for the removal of snow and ice from walks, drives and stairs.

(e) Supplying such facilities or containers as are necessary for the sanitary disposal of all garbage and rubbish.

TWENTY DAYS TO CORRECT

(f) Fulfilling the minimum health and safety standards of this article unless specifically stated to be the occupant's responsibility in Section 1751.19. (Ord. 95-40. Passed 8-15-95.)

1751.19 OCCUPANT RESPONSIBILITIES.

Unless the owner has specifically agreed in writing to render such service or to otherwise accept such responsibility, the occupant of a rental unit shall be responsible for:

- (a) Notifying the owner or operator and Housing Inspector, in writing, of maintenance needed on the dwelling or supplied equipment or of unsafe or unsanitary conditions not meeting the requirements of this article.
- (b) Keeping all equipment and fixtures in the occupant's dwelling unit clean and in a sanitary condition and exercising reasonable care in the use and operation thereof.

TWENTY DAYS TO CORRECT

(c) Maintaining smoke detectors, unless other provisions are made with the owner or operator for such maintenance.

TWENTY DAYS TO CORRECT

(d) Supplying properly sized type S fuse stats, after initial ones are supplied by the owner or operator, as needed during occupancy for those circuits serving only the occupant's dwelling unit.

TWENTY DAYS TO CORRECT

(e) Disposing of rubbish, garbage and other organic waste in a clean and sanitary manner by placing it in disposal facilities or storage containers and by reclosing or replacing container lids.

TWENTY DAYS TO CORRECT

(f) Exterminating any insects, rodents or other pests in the dwelling unit for which the occupant is responsible whenever such unit is the only one infested.

TWENTY DAYS TO CORRECT

(g) Maintaining that part of the dwelling and premises which the occupant occupies in a clean, safe and sanitary manner.

TWENTY DAYS TO CORRECT

(h) Correction of any damage relating to Sections 1751.12 and 1751.17 caused by willfully or recklessly destructive behavior of the tenant or his/her guests. Any tenant or guest convicted of such willful or recklessly destructive behavior shall be fined not less than fifty dollars (\$50.00) nor more then five hundred dollars (\$500.00). (Ord. 95-40. Passed 8-15-95.)