

ARTICLE IV. - HOUSTON MULTI-FAMILY HABITABILITY CODE

Sec. 10-151. - Title; purpose; conflict with other municipal laws.

This article is, and may be cited as, the "Houston Multi-Family Habitability Code." One purpose of this Habitability Code is to comply with Section 214.219 of the Texas Local Government Code. The provisions of this Habitability Code are cumulative of all other laws and regulations of the city, as well as all applicable state and federal laws and regulations. In the event of a conflict between this Habitability Code and another law or regulation of the city, the provisions of this Habitability Code shall control.

(Ord. No. 09-1043, § 2, 11-4-09)

Sec. 10-152. - Definitions.

In addition to definitions appearing elsewhere in this article, the following words and phrases when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building official means the building official and all persons designated in writing by the building official to act on his or her behalf to construe and to enforce this article.

Habitability refers to the character of a multi-family rental building free of any condition constituting a material risk to the physical safety or health of the building's ordinary tenants. A multi-family rental building substantially free of such conditions is habitable.

Multi-family rental building or *MFRB* means a building that has three or more units. Only for the purposes of the Inspection Program established by this article, multi-family rental building or MFRB includes all MFRBs and all accessory buildings (such as a boiler room, laundry room, club house, or garage) on the same tract.

Owner means the current owner (or, collectively, the current owners) of the real property on which a multi-family rental building is located. For the purposes of this article, records available for public view at an official website maintained by the appraisal district in which the MFRB is located are presumed to be accurate with regard to the ownership of real property, but the presumption of ownership may be rebutted by documents properly recorded in the real property records of the county in which the MFRB is located.

Tract means the parcel or parcels of real property on which a multi-family rental building is located.

Unit means one or more rooms rented for use as a permanent residence under a lease to one or more tenants, except that none of the following shall constitute a unit:

- (a) A room or rooms rented primarily for the purpose of receiving services regulated by a department or agency of the federal government or of the State of Texas (including, but not limited to, the Texas Department of State Health Services);
- (b) A room or rooms owned or operated by a public or private college or university accredited by a recognized accrediting agency within the meaning of Section 61.003, Texas Education Code;
- (c) An "apartment" in a "condominium" within the meaning of Chapter 81, Texas Property Code; or
- (d) A "unit" in a "condominium" within the meaning of Chapter 82, Texas Property Code.

(Ord. No. 09-1043, § 2, 11-4-09)

Sec. 10-153. - Construction of this Habitability Code.

This article shall not be construed to alter the terms of any lease or other agreement between an owner and a tenant relating to an MFRB, except that no provision of any such lease or other agreement shall be construed to excuse compliance with this article or with any other law or regulation of the city. It is not the purpose of this article to prescribe legal rights or liabilities as between an owner and a tenant.

(Ord. No. 09-1043, § 2, 11-4-09)

Sec. 10-154. - MFRB registration.

- (a) The building official shall promulgate a form for the registration of MFRBs, which form shall require disclosure of:
 - (1) The physical address of the MFRB;
 - (2) The account number(s) assigned to the tract by the appraisal district in which the MFRB is located;
 - (3) The number of buildings on the tract;
 - (4) The number of units in each building on the tract;
 - (5) A brief description of the intended use of each building on the tract (residential building, boiler room, laundry room, club house, garage, etc.);
 - (6) The Project Number(s) appearing on the face of either the Certificate of Occupancy or the Life Safety Compliance Certificate issued by the city for each building on the tract; and
 - (7) The name, mailing address, physical address, telephone number, and e-mail address (if available) of at least one owner of the MFRB.
- (b) The form promulgated by the building official shall provide a physical address and a mailing address for filing completed MFRB Registration Forms. In addition, the building official shall establish a means by which MFRB Registration Forms may be completed and filed electronically.
- (c) An owner of an MFRB shall register the MFRB by completing and filing an MFRB Registration Form with the building official.
- (d) An owner of an MFRB shall post a hard copy of the current, completed MFRB Registration Form in or on the MFRB.
- (e) If an MFRB was not in existence on January 1, 2010, the owner of the MFRB shall register the MFRB by completing and filing the MFRB Registration Form with the building official no later than 30 days after the MFRB receives a Certificate of Occupancy.
- (f) Registration of an MFRB as required by this section shall constitute:
 - (1) Registration of the MFRB under section 28-283 of the Code of Ordinances; and
 - (2) Compliance with sections 250.003 and 250.004 of the Texas Local Government Code.
- (g) No later than 30 days after an owner of an MFRB knows or reasonably should know that a statement on the MFRB Registration Form was incomplete or inaccurate when filed, or has become incomplete or inaccurate since filed, the owner must complete and file an amended MFRB Registration Form.

(Ord. No. 09-1043, § 2, 11-4-09)

Sec. 10-155. - Habitability standards.

In addition to the habitability standards established by article V and by divisions 4 and 5 of article IX of chapter 10 of this Code:

- (1) An owner of an MFRB violates this article if the MFRB does not comply with:
 - a. All applicable provisions of the Fire Code;
 - b. Sections L102 through L108 of appendix L of the Building Code (which provisions are part of the Building Code's "Life Safety Appendix");
 - c. Sections 10-211 through 10-215 of this Code (which provisions pertain to the numbering of buildings);
 - d. The provisions of Chapter 43 of this Code (which provisions pertain to swimming pools); and
 - e. Sections 92.153 through 92.162 of the Texas Property Code (which provisions pertain to security devices).
- (2) An owner of an MFRB at all times must post in or on the MFRB:
 - a. A valid Certificate of Occupancy or a valid Life Safety Compliance Certificate; and
 - b. A "NOTICE TO ALL RESIDENTS" legibly typed or printed in a font 28 points or larger, in both English and Spanish, the substance of which Notice is as follows: "IF ANY CONDITION of this building CREATES A HAZARD to human safety or health, REPORT THE CONDITION to the building's manager or owner. You also may report the condition to the City of Houston by calling the City's Service Helpline at 311."
- (3) Any document required by this article to be posted in or on an MFRB must be posted either (a) as provided by the Building Code or (b) by posting an accurate copy of the document in a manner reasonably protected from weather and in a place conspicuous to ordinary tenants no more than five feet from each mailbox facility at which the United States Postal Service delivers mail to tenants or, if no such facility exists, in some other place equally conspicuous to ordinary tenants of the MFRB.

(Ord. No. 09-1043, § 2, 11-4-09; Ord. No. 2010-908, § 3, 11-17-2010, eff. 1-1-2011; Ord. No. 2011-436, § 2, 6-8-2011)

Sec. 10-156. - Powers and duties of building official.

- (a) Except for applicable provisions of the Fire Code incorporated herein by reference, the building official has primary responsibility for the enforcement of this Habitability Code.
- (b) With regard to MFRBs only, the building official has powers and duties equal to and concurrent with the health officer for the enforcement of chapter 43 of this Code (which pertains to swimming pools).

(Ord. No. 09-1043, § 2, 11-4-09; Ord. No. 2011-108, § 5, 2-9-2011)

Sec. 10-157. - MFRB inspection program.

- (a) The building official shall inspect MFRBs pursuant to an inspection program (the "Multi-Family Rental Building Inspection Program" or the "MFRB Inspection Program"), as provided in this section.
- (b) The building official shall promulgate a checklist (the "Multi-Family Rental Building Checklist" or the "MFRB Checklist") of criteria by which the building official shall determine the habitability of MFRBs.
 - (1) The MFRB Checklist shall have no force or effect until 90 days after copies of City of Houston Ordinance No. 2009-1043 and the MFRB Checklist have been available for public view in the office of the city secretary and at a website maintained by the city.
 - (2) The building official may amend the MFRB Checklist; however, an amendment of the MFRB Checklist shall have no force or effect until 90 days after the MFRB Checklist has been

available for public view in the office of the city secretary and at a website maintained by the city.

- (c) No MFRB shall be inspected under the MFRB Inspection Program until at least 45 days after the building official has mailed to the owner a letter stating:
 - (1) The first day of 30 consecutive days during which the building may be inspected under the MFRB Inspection Program;
 - (2) The physical address of the office of the city secretary and the internet address of the website at which copies of the MFRB Checklist are available for public view;
 - (3) The amount of the fee (the "MFRB Inspection Fee") to be paid to the city prior to the first day of the said 30 consecutive days during which the building may be inspected; and
 - (4) The mailing and physical addresses at which the MFRB Inspection Fee may be paid.
- (d) The building official shall mail by first-class mail duplicate originals of the letter required by subsection (c) of this section to the owner of the MFRB at the respective addresses:
 - (1) Of the owner, according to MFRB Registration Form filed with the building official, or, if the MFRB has not been registered with the building official, according to records available for public view at an official website maintained by the appraisal district in which the MFRB is located; and
 - (2) Of the MFRB.
- (e) No inspection of an MFRB under the MFRB Inspection Program shall be delayed solely because the owner did not receive or did not understand a letter prepared and sent as required by subsections (c) and (d) of this section.
- (f) Notwithstanding anything to the contrary in this article, no employee of the city inspecting an MFRB under the MFRB Inspection Program shall enter a unit without the written permission of a person who has a legal right to occupy the unit.

(Ord. No. 09-1043, § 2, 11-4-09)

Sec. 10-158. - Fees.

For the inspection of an MFRB under the MFRB Inspection Program the owner shall pay to the city the MFRB Inspection Fee, which fee is stated for this provision in the city fee schedule.

(Ord. No. 09-1043, § 2, 11-4-09; Ord. No. 2011-1168, § 13, 12-14-2011)

Sec. 10-159. - Remedies.

An owner who violates, or whose MFRB is in violation of, any provision of this article shall be guilty of a misdemeanor punishable upon conviction by a fine of not less than \$500.00 nor more than \$2,000.00. Each violation, and each day that a violation continues, shall constitute and be punishable as a separate offense.

(Ord. No. 09-1043, § 2, 11-4-09)

Secs. 10-160—10-210. - Reserved.