

Chapter 10 **BUILDINGS AND NEIGHBORHOOD PROTECTION**

**ARTICLE IV. HOUSTON MULTI-FAMILY HABITABILITY CODE**

**Division 1. - Generally**

**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.

**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:

*Apartment Standards Enforcement Committee or ASEC* means a committee tasked with coordinating city responses to substandard and dangerous apartment buildings as defined in this article, consisting of:

- (1) Two representatives from the police department;
- (2) Two representatives from Houston Public Works;
- (3) One representative from the fire department;
- (4) One representative from the health department;
- (5) One representative from the housing community and development department;
- (6) One representative from the solid waste department;
- (7) One representative who is a property owner in the city;
- (8) One representative who is a tenant residing in the city; and
- (9) Ex-officio representative from the office of the mayor.

*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.

*High-risk rental building or HRRB* means any multi-family rental building that meets the criteria in section 10-171(b) of this Code. This includes all MFRBs and all accessory buildings on the same tract consistent with the definition of MFRB.

*High-risk apartment inspection program ("Program")* means and refers to a proactive regulatory initiative designed to identify, monitor, and address multifamily residential properties meeting the conditions in section 10-171(b) of this Code to prioritize inspection, enforcement, and compliance efforts for these properties to reduce hazards, ensure adherence to applicable codes and regulations, and promote safe and habitable living conditions, including but not limited to the timely resolution of any notices of violation under the Construction Code or citations alleging violation of the Building Code or of division 3 or division 4 of article IX, chapter 10 of this Code.

*Manager* shall have the same meaning as ascribed in section 10-317 of this Code.

*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, clubhouse, 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 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.

**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.

**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.

**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 division ~~article~~ if the MFRB does not comply with:
  - a. All applicable provisions of the *Fire Code*;
  - b. Sections D102 through D108 of Appendix D (Life-Safety Requirements for Existing Buildings) of the *Existing Building Code*;
  - c. Sections 10-211 through 10-218 of this Code (which provisions pertain to the numbering of buildings);
  - d. The provisions of chapter 41 of this Code (which provisions pertain to street names and site addresses);
  - e. The provisions of chapter 43 of this Code (which provisions pertain to swimming pools); and
  - f. 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 ~~division 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.

**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).

**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 division 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.

**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.

**Sec. 10-159. Remedies.**

An owner who violates, or whose MFRB is in violation of, any provision of this article division 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.

**Secs. 10-160—~~10-210~~169. Reserved.**

**Division 2. – High-Risk Rental Buildings**

**Sec. 10-170. Apartment Standards Enforcement Committee (ASEC).**

There is hereby established the Apartment Standards Enforcement Committee (ASEC), which shall serve as an advisory body responsible for:

- (1) Monitoring compliance with minimum habitability standards for multi-family residential buildings (MFRBs) within the city.
- (2) Reviewing and monitoring MFRBs designated as high-risk rental buildings (HRRBs) and their compliance with the program established under this division; and
- (3) Developing and recommending to City Council any additional regulations or Code Amendments necessary to protect the health, safety, and welfare of tenants residing in MFRBs.

**Sec. 10-171. Registration required; exceptions.**

- (a) It shall be unlawful for an owner or manager of a MFRB designated as a HRRB to fail to register their property in the high-risk apartment inspection program.
- (b) A multi-family rental building (MFRB) shall be designated a high-risk rental building (HRRB) if the MFRB receives ten or more citations in a 6-month period for one or more or any combination of the following:
  - (1) Failure to maintain or obtain a valid certificate of occupancy;
  - (2) Repeated or uncorrected violations related to structural integrity, including but not limited to foundation, framing, roofing, or load-bearing components;
  - (3) Violations resulting in the issuance of an order to vacate or an emergency repair order due to unsafe or hazardous conditions;
  - (4) Violations related to fire safety systems, including nonfunctional smoke detectors, fire alarms, or sprinkler systems;

- (5) Violations involving inadequate sanitation, plumbing, or waste disposal facilities that create or contribute to unsafe or unsanitary living conditions, including, but not limited to, bulk containers;
  - (6) Electrical violations posing fire or shock hazards;
  - (7) Violations relating to the failure to maintain required means of egress, emergency lighting, or other life safety features;
  - (8) Failure to correct cited violations within the time prescribed by law or by the building official; or
  - (9) Any other condition or pattern of violations indicating neglect, inadequate maintenance, or threat to the health, safety, or welfare of occupants or the public.
- (c) Multiple citations issued to an MFRB on a single calendar day shall be considered one citation for purposes of calculating and determining whether the MFRB is an HRRB.
  - (d) Once designated as an HRRB, the building manager shall register the property in the high-risk apartment inspection Program for six months from the date the notice of designation is issued.
  - (e) **Exceptions.** The requirements under this division shall not apply to any building with any of the following:
    - (1) 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);
    - (2) 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;
    - (3) An apartment in a condominium within the meaning of Chapter 81, Texas Property Code; or
    - (4) A unit in a condominium within the meaning of Chapter 82, Texas Property Code.

**Sec. 10-172. Registration procedures; registration form content.**

- (a) The building official shall send notice to the owner of an MFRB that meets the conditions in section 10-171(b) of this code. The notice will identify the affected property, describe the violation, and the applicable Code provisions.
- (b) The owner of an MFRB in this program shall provide the official building with the name, street address, and telephone number of a manager who can be contacted twenty-four (24) hours a day, seven (7) days a week, in the event of an emergency.
- (c) In addition to all requirements under section 10-154 of this Code, within 15 days after receipt of notice under subsection (a) of this section, the owner of an HRRB shall register for the program by submitting to the building official a completed MFRB registration form approved by the building official.
- (d) The owner or manager of a multi-family rental building designated as an HRRB may appeal the designation by filing a written notice of appeal with the building official within 15 days of receiving the notice of designation. The appeal shall be heard by an impartial hearing officer who shall render a decision within 30 business days of the date of the filing of an appeal to render a decision to uphold or overturn a designation as an HRRB.

**Sec. 10-173. Penalty; enforcement.**

- (a) An owner or manager who allows, causes, or permits a HRRB to be in violation of any provision of this division, or who fails to remedy all violations within the period of correction, consistent with repair timeframes under state law where applicable, or as otherwise established by the city, shall be guilty of a misdemeanor punishable upon conviction by a fine of not less than \$250.00 nor more than \$2,000.00. Each violation, and each day that a violation continues, shall constitute and be punishable as a separate offense.
- (b) Employees designated by the building official authorized to enforce building, housing, health, or safety codes are authorized to issue notices of violation and citations for violations of this division.
- (c) For purposes of this article, a manager is considered the authorized agent of the owner for accepting service of a citation and may be issued a citation for an alleged violation occurring on the property in accordance with section 250.004 of the Texas Local Government Code.
- (d) A manager who is issued a citation under this section shall not be personally liable for a violation at the property if, in accordance with section 250.003 of the Texas Local Government Code, the manager timely provides to the enforcement official who issued the citation the property owner's name, current street address, and telephone number.
- (e) Nothing in this section shall be construed to limit the City's authority to pursue enforcement against the owner or any other person responsible for the violation, as provided by law.

**Sec. 10-174. High-Risk Apartment Inspection Program.**

- (a) **Initial inspection.** The building official shall perform an initial inspection of each HRRB within 30 days of the HRRB's registration in the Program. The building official shall provide the manager of the HRRB building with a written accounting of all identified Code violations no later than twenty (20) days following completion of the initial inspection. The owner or manager of the HRRB shall be physically present at the property during all scheduled inspections. The owner or manager shall have charge, care, and control of the HRRB, and shall provide access to the property or inspection upon request by the building official within a reasonable length of time, no more than fifteen (15) calendar days from receipt of said request.
- (b) **Follow-up inspections.** Following the initial inspection of an HRRB, the building official shall conduct follow-up inspections at intervals necessary to verify correction of Code violations and continued compliance with applicable standards. At a minimum, a follow-up inspection shall be conducted within 30 days after the initial inspection pursuant to subsection (a) of this section, and additional inspections may be scheduled as deemed appropriate by the building official.
- (c) **Emergency repairs.** Upon the building official issuing a permit to authorize emergency repairs, the manager of a High-Risk Rental Building (HRRB) shall, within the timeframe specified by the building official, submit documentation confirming completion of such repairs. Completion of emergency repairs shall be subject to field verification by one or more city departments, as appropriate.
- (d) **Registration termination.** The building official shall terminate the registration of an HRRB in the Program upon any of the following conditions:
  - (1) The HRRB has resolved all pending citations and has maintained compliance with applicable Code requirements for a continuous period of six months from the date of completion of the last required corrective action, as verified by the building official; or
  - (2) The HRRB no longer houses residents.

**Sec. 10-175. Transfer of ownership.**

- (a) The owner shall notify the building official of any pending or proposed sale of an HRRB at least 30 days prior to the transfer of ownership.
- (b) At least 30 days prior to the closing of any sale for the transfer of ownership in any HRRB, the owner shall notify all prospective buyers of any notices of violation or citations issued to the owner of the HRRB.
- (c) Within 180 days following the transfer of ownership of an HRRB, the new owner shall resolve all outstanding violations, unless the building official grants an extension of time to make all necessary repairs upon a showing of good faith by the new owner to correct the outstanding violations. For purposes of granting an

extension under this subsection, good-faith efforts include, but shall not be limited to:

- (1) Obtaining all necessary permits to complete all necessary repairs in a timely fashion;
  - (2) Commencing and pursuing the completion of all necessary repairs without unreasonable delay;
  - (3) Demonstrating financial or contractual commitments to complete all necessary repairs; and
  - (4) Providing documentation or other evidence reasonably requested by the building official, demonstrating progress towards correcting violations in furtherance of completing all necessary repairs.
- (d) Failure to satisfy these criteria shall be grounds for denial of extension. No extension shall exceed 90 days from the date the building official grants the extension.

**Sec.10-176. Repeat Offender Program.**

- (a) Upon the building official's determination that the manager of an HRRB has failed to resolve all violations at a single property within a 6-month period following the date the notice of designation is issued, the building official shall extend the time period for an HRRB to be registered in the program for 12 months.
- (b) The building official shall send notice to the owner of an HRRB that meets the conditions in section 10-171(b) of this Code. The notice will identify the affected property, describe the violation and applicable Code provisions, and provide a reinspection date on which the building official shall reinspect the property and confirm whether or not the HRRB has corrected the violation or provided proof of ongoing good-faith efforts to correct.
- (c) In addition to subsection (a), the building official may designate a property as a repeat offender if the property incurs five or more citations for violations for one or more of the violations stated in section 10-171 of this Code within a twelve-month period after having first been designated as an HRRB.
- (d) A property designated as a repeat offender shall be subject to enhanced enforcement measures, which may include mandatory inspections at intervals determined by the building official.
- (e) Upon the designation of an HRRB as a repeat offender, the building official shall ensure such designation is recorded in the real property records of the county in which the building is located. The record shall identify the MFRB by legal description and street address, reference the provisions of section 10-171 of this

Code establishing the designation, and provide notice that the building is subject to the requirements of the program.

- (f) When an MFRB registration in the HRRB program is terminated, the building official shall file a release of designation in the real property records of the county in which the MFRB is located. The release shall identify the building by legal description and street address, reference the prior designation, and state that the MFRB is no longer subject to the requirements of the program established pursuant to this division.
- (g) The owner or manager of a multi-family rental building designated as an HRRB may appeal the designation by filing a written notice of appeal with the building official within 15 days of receiving the notice of designation. The appeal shall be heard by an impartial hearing officer who shall render a decision within 30 business days of the date of the filing of an appeal.

**Sec. 10-177. Tenant advocacy.**

The building official shall, in conjunction with the police department, Houston Public Works, fire department, health department, and housing and community development department, make information available on the city's website to provide assistance or referrals to tenants of any HRRB regarding complaints, inspections, or any work to alter, repair, replace, maintain, or remove any building or structure, or any appurtenance connected or attached to such building or structure, in response to a notice of violation or citation issued to the manager of an HRRB under this division.

**Sec. 10-178. Online report.**

For as long as the HRRB is in the Program, the building official shall make available for public view the business name and physical address of the HRRB in the office of the city secretary and on a website maintained by the city.

**Sec. 10-179. Apartment Landlord Training Program.**

- (a) ASEC and the building official shall collaborate with the police department, fire department, health department, housing and community development, legal department, and Houston Public Works to establish an apartment landlord training program to provide training to owners and managers of HRRB's.
- (b) The owner or manager of an HRRB shall complete training online in the manner prescribed by the building official. The training shall include, but not be limited to, the following:
  - (1) An overview of all applicable provisions of this Code, the City of Houston Construction Code, and any other relevant laws or regulations applicable to MFRBs;

- (2) Guidance on how to identify and abate unsafe use and occupancy of apartment buildings; and
- (3) The contact information of appropriate city departments and law enforcement for the manager to use in response to specific purposes.
- (c) The manager of an HRRB shall maintain records sufficient to verify compliance with the training requirements of this section of the Code.
- (d) Upon written request from the building official, the manager of an HRRB shall produce records demonstrating completion of the required training.

**Secs. 10-180 - 10-210. Reserved.**