

Housing Codes and Related Health Codes for Texas

On July 21, 2007

Selected Provisions of Texas Law Related to Healthy Homes

CHAPTER 214. MUNICIPAL REGULATION OF HOUSING AND OTHER STRUCTURES¹

§ 214.0011. ADDITIONAL AUTHORITY TO SECURE SUBSTANDARD BUILDING.

- (a) A municipality by ordinance may establish minimum standards for the use and occupancy of buildings in the municipality regardless of the date of their construction and may adopt other ordinances as necessary to carry out this section.
- (b) The municipality may secure a building the municipality determines:
 - (1) violates the minimum standards; and
 - (2) is unoccupied or is occupied only by persons who do not have a right of possession to the building.

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§ 214.00111. ADDITIONAL AUTHORITY TO PRESERVE SUBSTANDARD BUILDING AS HISTORIC PROPERTY.

- (a) This section applies only to a municipality that is designated as a certified local government by the state historic preservation officer as provided by 16 U.S.C.A.
- (b) This section does not apply to an owner-occupied, single-family dwelling.

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§ 214.0015. ADDITIONAL AUTHORITY REGARDING SUBSTANDARD BUILDING.

- (a) This section applies only to a municipality that has adopted an ordinance under Section 214.001.
- (b) In addition to the authority granted to the municipality by Section 214.001, after the expiration of the time allotted under Section 214.001(d) or (e) for the repair, removal, or demolition of a building, the municipality may:
 - (1) repair the building at the expense of the municipality and assess the expenses on the land on which the building stands or to which it is attached and may provide for that assessment, the mode and manner of giving notice, and the means of recovering the repair expenses; or
 - (2) assess a civil penalty against the property owner for failure to repair, remove, or demolish the building and provide for that assessment, the mode and manner of giving notice, and the means of recovering the assessment.
- (c) The municipality may repair a building under Subsection (b) only to the extent necessary to bring the building into compliance with the minimum standards and only if the building is a residential building with 10 or fewer dwelling units. The repairs may not improve the building to the extent that the building exceeds minimum housing standards.
- (d) The municipality shall impose a lien against the land on which the building stands or stood, unless it is a homestead as protected by the Texas Constitution, to secure the payment of the repair, removal, or demolition expenses or the civil penalty. Promptly after the imposition of the lien, the municipality must file for record, in recordable form in the office of the county clerk of the county in which the land

¹ Texas Statutes - http://tlo2.tlc.state.tx.us/cgi-bin/cqcggi?CQ_SESSION_KEY=DWBQHXQHUHSS&CQ_QUERY_HANDLE=124197&CQ_CUR_DOCUMENT=2&CQ_TLO_DOC_TEXT=YES

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is located, a written notice of the imposition of the lien. The notice must contain a legal description of the land.

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§ 214.002. REQUIRING REPAIR, REMOVAL, OR DEMOLITION OF BUILDING OR OTHER STRUCTURE.

- (a) If the governing body of a municipality finds that a building, bulkhead or other method of shoreline protection, fence, shed, awning, or other structure, or part of a structure, is likely to endanger persons or property, the governing body may:
- (1) order the owner of the structure, the owner's agent, or the owner or occupant of the property on which the structure is located to repair, remove, or demolish the structure, or the part of the structure, within a specified time; or
 - (2) repair, remove, or demolish the structure, or the part of the structure, at the expense of the municipality, on behalf of the owner of the structure or the owner of the property on which the structure is located, and assess the repair, removal, or demolition expenses on the property on which the structure was located.

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SUBCHAPTER G. BUILDING AND REHABILITATION CODES

§ 214.211. DEFINITIONS.

In this subchapter:

- (1) "International Residential Code" means the International Residential Code for One- and Two-Family Dwellings promulgated by the International Code Council.
- (2) "National Electrical Code" means the electrical code published by the National Fire Protection Association.
- (3) "Residential" means having the character of a detached one-family or two-family dwelling or a multiple single-family dwelling that is not more than three stories high with separate means of egress, including the accessory structures of the dwelling, and that does not have the character of a facility used for the accommodation of transient guests or a structure in which medical, rehabilitative, or assisted living services are provided in connection with the occupancy of the structure.
- (4) "International Building Code" means the International Building Code promulgated by the International Code Council.
- (5) "Commercial" means a building for the use or occupation of people for:
 - (A) a public purpose or economic gain; or
 - (B) a residence if the building is a multifamily residence that is not defined as residential by this section.

§ 214.212. INTERNATIONAL RESIDENTIAL CODE.

- (a) To protect the public health, safety, and welfare, the International Residential Code, as it existed on May 1, 2001, is adopted as a municipal residential building code in this state.
- (b) The International Residential Code applies to all construction, alteration, remodeling, enlargement, and repair of residential structures in a municipality.
- (c) A municipality may establish procedures:
 - (1) to adopt local amendments to the International Residential Code; and
 - (2) for the administration and enforcement of the International Residential Code.

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- (d) A municipality may review and consider amendments made by the International Code Council to the International Residential Code after May 1, 2001.

§ 214.213. EXCEPTIONS TO INTERNATIONAL RESIDENTIAL CODE.

- (a) The International Residential Code and the International Building Code do not apply to the installation and maintenance of electrical wiring and related components.
- (b) A municipality is not required to review and consider adoption of amendments to the International Residential Code or the International Building Code regarding electrical provisions.

§ 214.902. RENT CONTROL.

- (a) The governing body of a municipality may, by ordinance, establish rent control if:
 - (1) the governing body finds that a housing emergency exists due to a disaster as defined by Section 418.004, Government Code; and
 - (2) the governor approves the ordinance.
- (b) The governing body shall continue or discontinue rent control in the same manner that the governor continues or discontinues a state of disaster under Section 418.014, Government Code.

§ 214.903. FAIR HOUSING ORDINANCES.

- (a) The governing body of a municipality may adopt fair housing ordinances that provide fair housing rights, compliance duties, and remedies that are substantially equivalent to those granted under federal law. Enforcement procedures and remedies in fair housing ordinances may vary from state or federal fair housing law.
- (b) Fair housing ordinances that were in existence on January 1, 1991, and are more restrictive than federal fair housing law shall remain in effect.

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HEALTH & SAFETY CODE

TITLE 5. SANITATION AND ENVIRONMENTAL QUALITY

CHAPTER 341. MINIMUM STANDARDS OF SANITATION & HEALTH PROTECTION MEASURES

SUBCHAPTER B. NUISANCES AND GENERAL SANITATION ²

Sec. 341.011. NUISANCE.

Each of the following is a public health nuisance:

- (1) a condition or place that is a breeding place for flies and that is in a populous area;
- (2) spoiled or diseased meats intended for human consumption;
- (3) a restaurant, food market, bakery, other place of business, or vehicle in which food is prepared, packed, stored, transported, sold, or served to the public and that is not constantly maintained in a sanitary condition;
- (4) a place, condition, or building controlled or operated by a state or local government agency that is not maintained in a sanitary condition;
- (5) sewage, human excreta, wastewater, garbage, or other organic wastes deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in disease transmission to a person or between persons;
- (6) a vehicle or container that is used to transport garbage, human excreta, or other organic material and that is defective and allows leakage or spilling of contents;
- (7) a collection of water in which mosquitoes are breeding in the limits of a municipality or a collection of water that is a breeding area for *Culex quinquefasciatus* mosquitoes that can transmit diseases regardless of the collection's location other than a location or property where activities meeting the definition of Section 11.002(12)(A), Water Code, occur;
- (8) a condition that may be proven to injuriously affect the public health and that may directly or indirectly result from the operations of a bone boiling or fat rendering plant, tallow or soap works, or other similar establishment;
- (9) a place or condition harboring rats in a populous area;
- (10) the presence of ectoparasites, including bedbugs, lice, and mites, suspected to be disease carriers in a place in which sleeping accommodations are offered to the public;
- (11) the maintenance of an open surface privy or an overflowing septic tank so that the contents may be accessible to flies; and
- (12) an object, place, or condition that is a possible and probable medium of disease transmission to or between humans.

² <http://tlo2.tlc.state.tx.us/statutes/docs/HS/content/pdf/hs.005.00.000341.00.pdf>

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CHAPTER 92. RESIDENTIAL TENANCIES³

SUBCHAPTER A. GENERAL PROVISIONS

§ 92.001. DEFINITIONS.

Except as otherwise provided by this chapter, in this chapter:

- (1) " Dwelling " means one or more rooms rented for use as a permanent residence under a single lease to one or more tenants.
- (2) " Landlord " means the owner, lessor, or sublessor of a dwelling, but does not include a manager or agent of the landlord unless the manager or agent purports to be the owner, lessor, or sublessor in an oral or written lease.
- (3) " Lease " means any written or oral agreement between a landlord and tenant that establishes or modifies the terms, conditions, rules, or other provisions regarding the use and occupancy of a dwelling.
- (4) " Normal wear and tear " means deterioration that results from the intended use of a dwelling, including, for the purposes of Subchapters B and D, breakage or malfunction due to age or deteriorated condition, but the term does not include deterioration that results from negligence, carelessness, accident, or abuse of the premises, equipment, or chattels by the tenant, by a member of the tenant's household, or by a guest or invitee of the tenant.
- (5) " Premises " means a tenant's rental unit, any area or facility the lease authorizes the tenant to use, and the appurtenances, grounds, and facilities held out for the use of tenants generally.
- (6) " Tenant " means a person who is authorized by a lease to occupy a dwelling to the exclusion of others and, for the purposes of Subchapters D, E, and F, who is obligated under the lease to pay rent.

§ 92.002. APPLICATION.

This chapter applies only to the relationship between landlords and tenants of residential rental property.

§ 92.004. HARASSMENT.

A party who files or prosecutes a suit under Subchapter B, D, E, or F in bad faith or for purposes of harassment is liable to the defendant for one month's rent plus \$100 and for attorney's fees.

³ Texas Statutes - http://tlo2.tlc.state.tx.us/cgi-bin/cqcggi?CQ_SESSION_KEY=USZXHGSHUHSS&CQ_QUERY_HANDLE=124251&CQ_CUR_DOCUMENT=24&CQ_TLO_DOC_TEXT=YES

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§ 92.006. WAIVER OR EXPANSION OF DUTIES AND REMEDIES.

- (a) A landlord's duty or a tenant's remedy concerning security deposits, security devices, the landlord's disclosure of ownership and management, or utility cutoffs, as provided by Subchapter C, D, E, or G, respectively, may not be waived. A landlord's duty to install a smoke detector under Subchapter F may not be waived, nor may a tenant waive a remedy for the landlord's noninstallation or waive the tenant's limited right of installation and removal. The landlord's duty of inspection and repair of smoke detectors under Subchapter F may be waived only by written agreement.
- (b) A landlord's duties and the tenant's remedies concerning security devices, the landlord's disclosure of ownership and management, or smoke detectors, as provided by Subchapter D, E, or F, respectively, may be enlarged only by specific written agreement.
- (c) A landlord's duties and the tenant's remedies under Subchapter B, which covers conditions materially affecting the physical health or safety of the ordinary tenant, may not be waived except as provided in Subsections (d), (e), and (f) of this section.
- (d) A landlord and a tenant may agree for the tenant to repair or remedy, at the landlord's expense, any condition covered by Subchapter B.
- (e) A landlord and a tenant may agree for the tenant to repair or remedy, at the tenant's expense, any condition covered by Subchapter B if all of the following conditions are met:
 - (1) at the beginning of the lease term the landlord owns only one rental dwelling;
 - (2) at the beginning of the lease term the dwelling is free from any condition which would materially affect the physical health or safety of an ordinary tenant;
 - (3) at the beginning of the lease term the landlord has no reason to believe that any condition described in Subdivision (2) of this subsection is likely to occur or recur during the tenant's lease term or during a renewal or extension; and
 - (4)
 - (A) the lease is in writing;
 - (B) the agreement for repairs by the tenant is either underlined or printed in boldface in the lease or in a separate written addendum;
 - (C) the agreement is specific and clear; and
 - (D) the agreement is made knowingly, voluntarily, and for consideration.
- (f) A landlord and tenant may agree that, except for those conditions caused by the negligence of the landlord, the tenant has the duty to pay for repair of the following conditions that may occur during the lease term or a renewal or extension:
 - (1) damage from wastewater stoppages caused by foreign or improper objects in lines that exclusively serve the tenant's dwelling;
 - (2) damage to doors, windows, or screens; and
 - (3) damage from windows or doors left open.

This subsection shall not affect the landlord's duty under Subchapter B to repair or remedy, at the landlord's expense, wastewater stoppages or backups caused by deterioration, breakage, roots, ground conditions, faulty construction, or malfunctioning equipment. A landlord and tenant may agree to the provisions of this subsection only if

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the agreement meets the requirements of Subdivision (4) of Subsection (e) of this section.

- (g) A tenant's right to vacate a dwelling and avoid liability under Section 92.016 or 92.017 may not be waived by a tenant or a landlord, except as provided by those sections.

§ 92.010. OCCUPANCY LIMITS.

- (a) Except as provided by Subsection (b), the maximum number of adults that a landlord may allow to occupy a dwelling is three times the number of bedrooms in the dwelling.
- (b) A landlord may allow an occupancy rate of more than three adult tenants per bedroom:
 - (1) to the extent that the landlord is required by a state or federal fair housing law to allow a higher occupancy rate; or
 - (2) if an adult whose occupancy causes a violation of Subsection (a) is seeking temporary sanctuary from family violence, as defined by Section 71.004, Family Code, for a period that does not exceed one month.
- (c) An individual who owns or leases a dwelling within 3,000 feet of a dwelling as to which a landlord has violated this section, or a governmental entity or civic association acting on behalf of the individual, may file suit against a landlord to enjoin the violation. A party who prevails in a suit under this subsection may recover court costs and reasonable attorney's fees from the other party. In addition to court costs and reasonable attorney's fees, a plaintiff who prevails under this subsection may recover from the landlord \$500 for each violation of this section.
- (d) In this section:
 - (1) "Adult" means an individual 18 years of age or older.
 - (2) "Bedroom" means an area of a dwelling intended as sleeping quarters. The term does not include a kitchen, dining room, bathroom, living room, utility room, or closet or storage area of a dwelling.

SUBCHAPTER B. REPAIR OR CLOSING OF LEASEHOLD

§ 92.051. APPLICATION.

This subchapter applies to a lease executed, entered into, renewed, or extended on or after September 1, 1979.

§ 92.052. LANDLORD'S DUTY TO REPAIR OR REMEDY.

- (a) A landlord shall make a diligent effort to repair or remedy a condition if:
 - (1) the tenant specifies the condition in a notice to the person to whom or to the place where rent is normally paid;
 - (2) the tenant is not delinquent in the payment of rent at the time notice is given; and
 - (3) the condition materially affects the physical health or safety of an ordinary tenant.

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- (b) Unless the condition was caused by normal wear and tear, the landlord does not have a duty during the lease term or a renewal or extension to repair or remedy a condition caused by:
 - (1) the tenant;
 - (2) a lawful occupant in the tenant's dwelling;
 - (3) a member of the tenant's family; or
 - (4) a guest or invitee of the tenant.
- (c) This subchapter does not require the landlord:
 - (1) to furnish utilities from a utility company if as a practical matter the utility lines of the company are not reasonably available; or
 - (2) to furnish security guards.
- (d) The tenant's notice under Subsection (a) must be in writing only if the tenant's lease is in writing and requires written notice.

§ 92.254. SMOKE DETECTOR.

- (a) A smoke detector must be:
 - (1) designed to detect both the visible and invisible products of combustion;
 - (2) designed with an alarm audible to the bedrooms it serves;
 - (3) powered by battery, alternating current, or other power source as required by local ordinance;
 - (4) tested and listed for use as a smoke detector by Underwriters Laboratories, Inc., Factory Mutual Research Corporation, or United States Testing Company, Inc.; and
 - (5) in good working order.
- (b) The power system and installation procedure of a security device that is electrically operated rather than battery operated must comply with applicable local ordinances.

§ 92.259. LANDLORD'S FAILURE TO INSTALL, INSPECT, OR REPAIR.

- (a) A landlord is liable according to this subchapter if:
 - (1) the landlord did not install a smoke detector at the time of initial occupancy by the tenant as required by this subchapter or a municipal ordinance permitted by this subchapter; or
 - (2) the landlord does not install, inspect, or repair the smoke detector on or before the seventh day after the date the tenant gives the landlord written notice that the tenant may exercise his remedies under this subchapter if the landlord does not comply with the request within seven days.
- (b) If the tenant gives notice under Subsection (a)(2) and the tenant's lease is in writing, the lease may require the tenant to make the initial request for installation, inspection, or repair in writing.

§ 92.331. RETALIATION BY LANDLORD.

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- (a) A landlord may not retaliate against a tenant by taking an action described by Subsection (b) because the tenant:
 - (1) in good faith exercises or attempts to exercise against a landlord a right or remedy granted to the tenant by lease, municipal ordinance, or federal or state statute;
 - (2) gives a landlord a notice to repair or exercise a remedy under this chapter; or
 - (3) complains to a governmental entity responsible for enforcing building or housing codes, a public utility, or a civic or nonprofit agency, and the tenant:
 - (A) claims a building or housing code violation or utility problem; and
 - (B) believes in good faith that the complaint is valid and that the violation or problem occurred.
- (b) A landlord may not, within six months after the date of the tenant's action under Subsection (a), retaliate against the tenant by:
 - (1) filing an eviction proceeding, except for the grounds stated by Section 92.332;
 - (2) depriving the tenant of the use of the premises, except for reasons authorized by law;
 - (3) decreasing services to the tenant;
 - (4) increasing the tenant's rent or terminating the tenant's lease; or
 - (5) engaging, in bad faith, in a course of conduct that materially interferes with the tenant's rights under the tenant's lease.