

GETTING REPAIRS CORRECTED ON SUBSTANDARD HOUSING

The City of Arcata desires to maintain a safe and secure environment for renters and the students at Humboldt State University that live off campus, along with assisting them in resolving issues of substandard housing.

The Uniform Housing Code (UHC) and the California Civil Code require the landlord to make minimum repairs in order to comply with the required standards for human habitation. These are repairs needed to "provide minimum standards to safe-guard life or limb, health, property, and public welfare." But, in the absence of an expressed agreement, the landlord does not have any general duty to the tenant to make any other repairs.

Landlord's Responsibilities

California Civil Code Section 1941 states that when a landlord rents property to a tenant as a place to live, the property must be in a habitable condition. Section 1941 also states that the landlord must repair problems that make the property uninhabitable—except for problems caused by the tenant or the tenant's guests, family, or pets. In order for the property to be habitable, it must have all of the following:

- Effective waterproofing and weather protection of roof and exterior walls, including unbroken windows and doors
- Plumbing facilities in good working order, including hot and cold running water, and connected to a sewage disposal system
- Gas facilities in good working order
- Heating facilities in good working order
- An electrical system in good working order with at least 2 outlets, or 1 outlet and 1 light fixture, in every room. (The bathroom requires only 1 light fixture.) Common stairs and hallways must be lighted at all times
- Buildings, grounds, and other areas and accessories that are sanitary, clean, and free from debris, filth, rubbish, garbage, rodents, and vermin
- Adequate trash receptacles in good repair
- Floors, stairways, and railings in good repair
- A working toilet, wash basin, and bathtub or shower. The toilet and bathtub/shower must be in a room that is ventilated, and that allows for privacy
- A kitchen with a sink, which cannot be made of an absorbent material (for example, wood)
- Natural lighting in every room through windows or skylights. Unless there is a ventilation fan, the windows must be able to open at least halfway
- Safe fire or emergency exits leading to a street or hallway
- Smoke detectors in all dwellings with more than one unit, and in common stair wells in apartment complexes

These are minimum requirements. Other conditions may make the rented property not habitable.

Tenant's Responsibilities

A tenant must take reasonable care of the rented property and the common grounds. This means that the tenant must keep those areas in good condition. A tenant also must repair all damage that he or she causes, or that is caused by the tenants' guests, family, or pets. California Civil Code Section 1941.2 requires the tenant to do all of the following:

- Keep the premises "as clean and sanitary as the condition of the premises permits."
- Use and operate gas, electrical, and plumbing fixtures properly. (Examples of improper use include overloading electrical outlets, flushing large, foreign objects down the toilet, and allowing any gas, electrical or plumbing fixture to become filthy.)
- Dispose of trash and garbage in a clean and sanitary manner.
- Do not destroy, damage, or deface the premises, or allow anyone else to do so.
- Do not remove any part of the structure, dwelling unit, facilities, equipment, or accessories, or allow anyone else to do so.
- Use the premises as a place to live, and use the rooms for their proper purposes. For example, the bedroom must be used as a bedroom and not as a kitchen. A garage cannot be used as a bedroom or living room. The presence of any type of heater in the garage makes it a dangerous and illegal place to sleep. Rooms cannot be used to grow marijuana except as outlined in the City of Arcata's Land Use Code Section 9.42.105.

If the tenant does not perform these duties and causes the property to become uninhabitable, the tenant cannot require the landlord to repair the property to make it habitable. Similarly, the tenant cannot require the landlord to repair the property if the tenant substantially interferes with the landlord's ability to repair defects. In addition, the landlord is not obligated to repair damage caused by the tenant's own carelessness.

The tenant should consider the following options if s/he is faced with living in a substandard apartment.

1) WRITE THE LANDLORD

If the tenant feels that his/her apartment or building contains housing code violations or any other defects, the first step is always to inform the landlord in writing and ask him/her to correct it. If the apartment has a manager and an owner, the request letter should be sent to both. The tenant should always keep a copy of all such correspondence with the landlord or his/her agent. While a phone call might be sufficient for some responsive landlords, a certified letter is better because it provides documentation as soon as the problem arises. The letter should clearly state the nature of the problem and that the un-repaired condition violates housing codes (if applicable).

The tenant should then allow the landlord a reasonable amount of time to make the necessary repairs, depending on the seriousness of the problem. If discussion with the landlord fails, a complaint should be filed with the City of Arcata Building Division (822-5956).

2) FILE A HOUSING CODE COMPLAINT

It is the obligation of the landlord to repair and maintain the living space according to the minimum standards of the UHC, Section 201.3, not the individual tenant. As a practical matter, the tenant may seek compliance with housing codes by making a complaint to the City of Arcata Building Division. Again, it is better to also write a letter to the proper authority, rather than just making a phone call. The letter or phone call should explain the defect and your previous unsuccessful efforts to get the landlord to fix it.

After receiving the tenant's complaint, the City will make an appointment to visit the place of residence and verify the complaint. The tenant needs to be present at the scheduled time and should show the inspector the specific problem(s) reported. If a violation is found, the City will notify the landlord to make the repairs necessary to correct it. If the landlord still fails to comply, s/he may be subject to criminal penalties or an injunction to fix the defect.

The following agency may be contacted to file housing complaints.

City of Arcata
Building Division
736 F St.
Arcata, CA 95521
(707) 822-5956

Possible Outcomes from a Complaint

There are several outcomes that could come from a complaint to the City.

1. If the inspector finds that none of the complaints meet the criteria that would list the building or apartment as substandard, the City will not get involved and the issue will be between the tenant and owner/manager.
2. If the inspector finds that some or all of the complaints are problems that are unsafe, the City will then contact the owner/manager by letter to have the problems corrected. If there is no response to the letter, the City will then begin enforcement proceeding by sending a "Notice of Nuisance" through Certified Mail. Penalties and fees may go along with enforcement proceedings.
3. If the inspector finds the problems to be so hazardous as to create an immediate threat to life or limb, the City may proceed with an eviction. This is an extreme case, but if it were to happen, it is the obligation of the landlord to provide temporary lodging.