

PORTLAND FIRE & RESCUE

June 26, 2019



FIR 1.02 - ILLEGAL RESIDENTIAL OCCUPANCY IN COMMERCIAL BUILDINGS

I. SCOPE

- A. This policy is established July 23, 2004.
- B. The purpose of this policy is to establish uniform procedures for evaluating and enforcing a course of action when regulating illegal residential occupancy of commercial buildings. This policy will also serve as a reference for other city bureaus that may assist in the hazard abatement and/or legalization of the habitation.
- C. This policy applies to all commercial buildings located where Portland Fire & Rescue (PF&R) has authority for code enforcement and that are found to have an illegal residential occupancy.

II. SPECIFIC

- A. References
 - 1. 2016 Portland Fire Code (PFC)
 - 2. 2014 Oregon Structural Specialty Code as adopted by the City of Portland
 - 3. Portland City Code Titles 12, 29, and 31
- B. Definitions
 - 1. **Illegal Occupancy:** An Illegal Occupancy occurs when a building is occupied in a manner: 1) other than the approved use as recorded in the files of the Bureau of Development Services (BDS) or 2) in a manner not authorized by City Code.
 - 2. **Illegal Residential Occupancy:** An Illegal Residential Occupancy exists when tents, campers, motor homes, recreational vehicles, or other structures or spaces not intended for permanent residential use or occupancy are constructed or converted without permit and are occupied for residential use. (PCC 29.50.050)
 - 3. **Legalization:** The process of bringing a structure back into code compliance via the BDS permit process.
 - 4. **Residence:** a building used as a home.
 - 5. **Residential:** used as a residence.
 - 6. **The Chief:** The chief officer of PF&R or authorized representative.

III. GUIDANCE

- A. When an illegal occupancy is discovered which includes residential occupancy of a commercial structure not approved by BDS for such use, it shall be regulated by the Chief and/or the Office of Community and Civic Life (Civic Life).

Although the PFC grants the Chief authority to remove illegal inhabitants from commercial buildings with cause, it is not always prudent to do so. The availability of alternative housing; weather conditions; the age, mobility, and financial circumstances of the residents; and if the inhabitants ask to temporarily remain in place may impact the decision process.

Common responses to the discovery of an illegal residential occupancy:

1. The inhabitants voluntarily vacate the premises.
 2. The inhabitants request additional time to remove their belongings and vacate the premises (typically 24-72 hours).
 3. The inhabitants are unable to vacate the premises because of immediate circumstances and request permission to continue the habitation.
 4. The inhabitants refuse entry and/or to vacate or to comply with official directives.
- B. When entry is denied and/or the occupants refuse to leave the site, this office may need to obtain an administrative warrant to perform the inspection and/or forcibly remove the tenants unless the Chief deems the situation to be an imminent danger to life and property. When the Chief determines that conditions exist that create an imminent danger to life and property the Chief may order the use of force to immediately remove occupants or take such steps as necessary to restore the property to a safe condition.

These situations usually involve a two-step process of abatement of immediate life hazards via enforcement by this office and may involve legalization under permit through BDS. Agencies such as Civic Life may also need to be involved in the process.

- C. Under the BDS legalization process, most violations found during the initial inspection are handled in the following manner:
1. BDS Inspector verifies the situation.
 2. The property is posted.
 3. A violation notice is sent to the owner to begin the legalization process.
 4. The property owners are given 40 days to correct the violations and call for a final inspection.
 5. A re-inspection is performed.
 6. If the property owner fails to correct the violations and call for the final inspection within the required 40 days, they will be billed a monthly code enforcement fee until the violations are corrected as provided in City Code.

- D. BDS and Civic Life have processes for forceful removal of inhabitants from the property. In imminent situations, they have the option of initiating an “accelerated hearing” with the City Code Hearings Officer. However, this accelerated hearing may take 10-12 days and there is no guarantee that an order of vacation will be granted. If a vacation order is granted and the occupants refuse to comply, an administrative warrant process to forcefully remove the occupants may be used.



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