



# Code Enforcement

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# Discussion topics

- Code Enforcement Process
- Housing Code for Landlords and Managers
- California's New Mold Laws
- Fremont Smoking Regulations
- Fremont Cannabis Regulations

# What do we enforce?

- Municipal laws, inc:
- Housing and existing building codes
- Trash, litter, debris accumulation
- Home occupations/sidewalk vending
- Zoning laws
- Smoking regulations
- Public nuisances



# The Code Enforcement Process



# Potential remedies for violations

Only if not corrected on time:

- Fines beginning at \$100
- Orders to vacate buildings
- Restrict owner's right to claim State income tax deductions on property
- Court appointed receiver
- Termination of utilities
- Orders to demolish buildings
- Orders to pay relocation assistance
- City takes action and bills owner for costs (liens if unpaid)
- Court imposed penalties or enforcement costs
- Criminal prosecution

# Substandard Housing

- Code Enforcement Officers = Housing Inspectors
- State Housing Law (Cal H&S Code) and International Property Maintenance Code (IPMC) for housing
- We advise tenants to first contact the landlord
- Officers issue Warning Notices before penalties
- Always contact the issuing officer
- Ask if building permits are required for the repair



# Why Tenants may call us



- Underlying causes
  - Hesitation, unwillingness, or fear of reporting directly to landlord
  - Unresponsive landlord
  - Tenant is unsure about codes/standards
    - May have reasonable questions
    - May have unreasonable expectations
  - Tenant has breached his/her legal duties

# Housing Inspections

- Accepting tenants' invitations to inspect
- No mandatory housing inspection program
- Common findings:
  - Deteriorated/dilapidated housing or components
  - Lack of maintenance
  - Poor housekeeping
  - Tenants cause/contribute to damage
  - Work without permits (repairs, additions, alterations)



# Shared responsibility

- Code Enforcement recognizes that Landlords and Tenants both share responsibility for housing conditions



# Landlords must keep units habitable

- Under *Green v. Superior Court* (1972) the domicile must be within "**substantial compliance**" of local housing and building codes
- Must be maintained in a condition that **meets "basic living requirements"**
- It need not be attractive or perfect. **The landlord is required to maintain the property** in compliance with basic health and safety mandates.

# Tenants also have responsibility

- Tenants are required ... to **take reasonable care** of their rental units ...tenants must act to **keep** those areas **clean and undamaged**
- Tenants ... are **responsible for repair of all damage that results from their neglect or abuse**, and for ...damage caused by ...  
pets.
- A Guide to Residential Tenants' And Landlords' Rights And Responsibilities (2012). Dca.ca.gov, *California Department of Consumer Affairs*

# Avoid Enforcement Action

- Carefully screen tenants
- Keep unit clean, sanitary, and fit for habitation
- Inspect it regularly, inside and out
- Check smoke detectors, screens, HVAC filters, lights
- paint, weatherproofing, unsafe accumulations
- Ask tenants if they have any problems
- Keep a maintenance file for each unit and complaint
- Enforce the lease without wavering
- Make tenants want to care for your property.

# Avoid Enforcement Action

- Contact Code Enforcement anytime and request a courtesy inspection.
- We can show you what we inspect for
- 510-494-4430
- [Code\\_enf@fremont.gov](mailto:Code_enf@fremont.gov)

# California's "Mold Law"

- SB 655 (2015) declares atypical mold as a substandard housing condition (under Cal HSC),
- **Only if** local enforcer inspects and declares it is present, and endangers the occupants
- **But not:**
  - where it normally grows (shower ceiling, window sill)
  - where moisture normally accumulates,
  - and should be prevented by "housekeeping"
- Visual standard is **in**, air testing (IAQ) is **out**!

# Landlord vs Tenant responsibility



# How does this happen?



We do not care what color it is!



# Maintenance/housekeeping



# Maintenance/housekeeping



# Building defect



Questionable: Can it be cleaned?



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# Building Defect



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# State Health Dept Mold Advice

- Know the indicators of dampness and mold in buildings
- Know the underlying cause of mold problems in buildings
- Be skeptical about making/interpreting mold measurements
- Understand the important public health benefit of enforcing for mold and dampness in housing.



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# Mold or Moisture in My Home: What Do I Do?

**Updated October 2016 (formerly *Mold in My Home—What Do I Do*)**

This factsheet provides information about mold and moisture, health problems from mold or moisture, finding and cleaning up moldy or wet areas and materials, and how to keep mold from growing in your home.

# Fremont Smoking Ordinance

“**Smoking**” Includes any lighted:

- Pipe, cigar, cigarette, hookah pipe, water pipe, or similar article, and e-cigarettes, used for **tobacco**, **cannabis**, or anything else smoked, or any other device used to ingest nicotine
- A **New** tobacco retail licensing program, sets minimum price and pack sizes, and bans the sale of flavored tobacco products. Passed 10/8/19.



**NO SMOKING**

# Smoking is prohibited

- Within 25 feet of any entrance, exit, window, or vent for any building where smoking is prohibited
- In all enclosed areas of buildings which are public, or places of employment
- All common areas of building, enclosed and unenclosed, in multi-unit residential buildings
- Except: a landlord or manager of a multi-unit residence common area, designate a portion of the unenclosed area as a smoking area.



# Additional

- Where smoking is not prohibited by code, any owner, operator, manager may declare any establishment or area as non-smoking.

# New multi-family buildings

- For all multi-unit developments built after 1/31/2017, smoking is prohibited in all units, including a private balcony, porch, deck, or patio.



# Additional duties at a rental complex

**Landlords must provide every prospective tenant:**

- A document describing each designated smoking and nonsmoking unit with a diagram depicting the location of the units in relation to all others
- A copy of the policy for handling complaints regarding smoking
- Posting permitted/prohibited area signage.



COMPLIANCE

# Required signage

- Posted outside every building or place where it's prohibited (including outdoor areas)
- “No Smoking within 25 feet” must be posted at every entrance or exit where it's prohibited
- Any ashtray in a no smoking area must have a sign within one foot stating: “Smoking Prohibited By Law – Extinguish Here”



# Fremont Cannabis Laws

- Fremont cannot preempt State laws regarding the criminality of use or possession
- All commercial activity including deliveries and dispensaries are prohibited
- For personal use cultivation, 6 plants per residence, and up to 32 sq. ft. is the max
- No outdoor cultivation. Indoor lighting limited to 1200 watts
- Must register with FPD and have landlord permission
- Privately: Leases may prohibit smoking and/or use of illegal drugs (MJ is a Fed. Schedule 1 drug (no currently accepted medical use and a high potential for abuse)).



Questions

