

What Legal Rights Does a Philadelphia Tenant Have to Safe, Healthy Housing?

Healthy Rowhouse Project, An Initiative of the Design Advocacy Group

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Implied Warranty of Habitability

All leases (oral and written) in Pennsylvania include a warranty of habitability. Under the Implied Warranty Of Habitability, the landlord has an obligation to maintain habitable - safe, sanitary and fit- premises. If the landlord breaks his or her obligation to keep the premises in a habitable state, this may relieve the tenant from his obligation to pay part or all of his rent until the landlord makes all necessary repairs. The landlord must be given notice of needed repairs and a reasonable opportunity to make repairs.

- Landlords must repair any material defects to a rental property which affect the health or safety of the occupants prior to renting and promptly upon notice during the lease. [Pugh v. Holmes¹](#) and the [Philadelphia Property Maintenance Code²](#)
- In most situations, "habitable" means that the property is protected from the elements (no missing windows or holes in the roof), is free from hazardous situations (such as chemical fumes), and that it has an adequate amount of heat and hot water.
- Tenants are further protected by the Pennsylvania Rent Withholding Act, 35 P.S. §1700-1, which provides that whenever the Department of Licenses and Inspections or Public Health Department certifies the dwelling as unfit for human habitation, the rental obligation is suspended until the dwelling is certified as fit for habitation.

The Philadelphia Property Maintenance Code mandates extensive regulations as to the care and upkeep of property. An exhaustive list would be as long as the Code itself, but includes:

Owner's Responsibilities

- All exterior and interior conditions shall be maintained in a clean, safe and sanitary condition.
- All repairs that are necessary to keep the building in good condition.
- All foundations, walls, roofs, floors, ceilings, windows, doors, stairs, and porches must be safe, weather-tight, and rodent-proof.
- The roof shall be sound, tight and not have defects that admit rain and drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure.

¹ 486 Pa. 272, 405 A.2d 897, Pa. (1979)

² Title 4 Philadelphia Code, Subcode PM

- Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.
- All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated with steps taken to prevent reinfestation
- All plumbing and heating equipment must be properly installed, kept in good mechanical condition, and free from leaks and stoppages
- Must include: flush toilet, bathtub or shower in a private bathroom; a kitchen sink; a safe gas or electric cooking range; running water and hot water
- Heat at 68 degrees from October through April
- Electricity

Tenant's responsibilities

- Keep the house clean and sanitary and to manage insects, rodents and other pests.

Smoke Alarms/Carbon Monoxide Detectors: Both city and state laws mandate installation of smoke alarms in accordance with specific regulations as to placement within a dwelling unit, and either hard wiring or 10 year sealed batteries. Carbon monoxide detectors are likewise mandated pursuant to specific regulations where fossil fuels are utilized upon the premises.

Landlords must also obtain a [Housing Rental License](#) issued by the City of Philadelphia which must be renewed annually The owner must provide a written statement to the tenant that the unit is licensed and provide the license number.

Philadelphia enforces health and safety violations by requiring landlords to obtain a [Certificate of Rental Suitability Ordinance](#)

Law passed in 2006 requires landlord to obtain a certificate from Licenses and Inspections before renting a vacant property to a tenant that confirms:

- "The owner of the premises to be leased acknowledges the obligation to provide a fit and habitable property and states that all fire protection and smoke detection equipment for the premises is present and in proper operating order in accordance with all applicable requirements of the Philadelphia Code and regulations and standards adopted thereunder, and that the operating systems are in a fit and habitable condition, and the owner will continue to maintain all fire protection and smoke detection equipment for the premises in accordance with all applicable requirements of the Philadelphia Code and regulations and standards adopted thereunder, and the operating systems and the property in a fit and habitable condition.
- "The owner "shall furnish written notice to each tenant containing the name, address, telephone number, and any other contact information of a person or persons responsible for routine maintenance and repair of the premises and a person or persons responsible for responding to emergencies with respect to the premises that may affect the health and safety of the occupants or the habitability of the premises; at all times, a person shall be available to respond to such emergencies.
 - Smoke detectors are installed.

If the landlord fails to comply, the Ordinance provides that the Landlord shall not be allowed to recover possession of the property or collect rent during the period of time he/she is in violation of the Ordinance. No rental registration will be issued or renewed if outstanding violations.

Lead Paint Ordinances:

1. The Property Maintenance Code requires landlords to repair peeling or chipping paint.
2. [Philadelphia Health Code](#)³ prohibits any lead paint on exterior or interior surfaces of a building where the Department of Health determines there is a lead hazard to children under the age of six. The Department issues an order to the owner to eliminate the lead-based paint hazards. From the point the owner is prohibited from evicting the tenant, coercing the tenant to leave or changing the lease terms. In addition, if the owner fails to remove the lead hazard within 30 days of receiving the order, the owner is prohibited from collecting rent until the property is cleared by the Department of Health. Property owners who do not comply within 30 days must appear in “lead court” in Common Pleas Court where a judge may order fines, an order for the owner to abate the lead and/or to pay the City Department of Public Health to abate the lead.
3. [Lead Safe or Lead Free Certificate](#)⁴ The Philadelphia Health Code requires owners of property built before 1978 and rented to children six years or younger to provide the tenant with certification prepared by a certified lead inspector stating that the property is either lead free or lead safe. Owners must promptly inspect and correct any defective conditions as required the Philadelphia Property Maintenance Code and in compliance with all other applicable laws.

Fair Housing/Unfair Rental Practices [Philadelphia’s Fair Housing Ordinance](#)⁵ was specifically enacted to protect the health, safety, and general welfare of city residents, and forbids unfair rental practices relative to the reporting of any Fire Code or Housing Code violations.

Non-Discrimination: Philadelphia law⁶ prohibits discrimination in property rental against tenants based on familial status, race ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, disability, marital status, age, source of income, or domestic or sexual violence victim status. Federal and state laws have similar prohibitions.

City Enforcement – Taken from the City of Philadelphia [Partners for Good Housing Handbook](#) (2004) Still cites Philadelphia Building Construction and Occupancy Code that was replaced in 2014.

The Department of Licenses and Inspections is authorized and directed by law to conduct inspections to examine housing conditions. The inspector will secure a warrant from a court if the owner or tenant refuses to allow access. When a violation is found, the Department notifies the responsible party – either the landlord, the tenant, or the homeowner. That person is told to correct the violation within a certain period of time. At the end of that time, there will be a re-inspection. If the person has not corrected the violation, the Department lists the case for a

³ Title 6, Philadelphia Code, Chapter 403

⁴ Title 6, Philadelphia Code, Chapter 6-800

⁵ Title 9, Philadelphia Code, Chapter

⁶ Title 9, Philadelphia Code Chapter 11

hearing before the Municipal Court and the person is notified of the date to appear. The Municipal Court is empowered to fine the guilty party. The Department is also authorized to correct any violations which are considered unsafe or hazardous, if the violations are not corrected. The City charges the cost of the corrections to the violator and, with the approval of the Law Department, can collect the cost by liens on the property. When the Department finds that any dwelling is a serious hazard to the health or safety of the occupants or to the public because it is unsanitary, vermin-infested, or lacking in the required facilities and equipment, the Department can designate the dwelling as "Unfit for Human Habitation". Any dwelling designated as unfit shall be vacated within a reasonable time specified by the Department. It shall not be used for human habitation until the hazard has been eliminated and the Department has removed the designation and given written approval for occupancy.