

**Oregon OSHA
Agricultural Labor Housing (ALH) Questions and Answers**



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SCOPE & APPLICATION OF THE ALH RULES [OAR 437-001-1120(1) & (2)]

Q₁ Do the ALH rules apply to full-time employee housing that is rented from the employer?

A₁ Oregon OSHA's ALH rules apply to all housing provided in connection with employment. These include:

- All housing provided by a farmer, farm labor contractor, agricultural employer, or other person who recruits workers on an agricultural establishment.
- Any type of labor housing and related facilities, together with the tract of land, established, operated, or maintained for housing workers, with or without families, whether or not rent is paid or collected.
- All housing given, rented, leased or otherwise provided to employees while employed and provided or allowed either by the employer, a representative of the employer, or a housing operator.

If the housing is connected with full-time, part-time, or seasonal employment, it is covered by the requirements of these rules. There are several exceptions for housing provided on a commercial basis to the general public on the same terms as the workers. A rental house that is located on an agricultural establishment would *not* be covered by the ALH rules if it is also rented to the general public and the landlord/ tenant relationship is not connected with employment. (See Question # 4.)

Registration Requirements [OAR 437-004-1120(5)]

Q_{2a} Does a single-family home or a duplex at a labor housing camp have to be registered?

A_{2a} Yes, unless it is exempted from registration. Housing is *not* required to be registered if the occupants do not use any of the camp's common use facilities and the housing is one of the following:

- Occupied by a single family
- Occupied by five or fewer unrelated adults
- Part of an operation that does not produce or harvest farm crops for sale. (Oregon OSHA interprets "farm crops" as both plant and animal crops.)

NOTE: Labor camps covered by *Division 2/J, OAR 437-002-0142* are not required to be registered.

Q2b Does registered housing require a consultation visit (or compliance inspection) every year?

A2b No, yearly consultation visits or compliance inspections are not required. An on-site inspection of ALH is only required under these circumstances:

- The housing was not registered the previous year.
- There have been significant changes in the facilities since the last registration. Examples include new construction, remodeling that includes structural changes, or an increase in occupancy levels.
- The employer is providing the housing for H-2A Temporary Agricultural Workers and requires an annual letter of compliance for that program.

Q2c Does Oregon OSHA inspect commercial apartments, hotels, motels, or recreational vehicle parks that are provided as worker housing?

A2c No, because the ALH rules do not apply to housing provided commercially to the general public on the same terms and conditions that it is provided to workers, these types of accommodation are outside of Oregon OSHA's jurisdiction. If an employer is providing this type of housing for their H-2A Temporary Agricultural Workers, the employer should ask the Oregon Employment Division or Department of Labor for help getting their inspection.

OSHA'S Right to Inspect

Q3 Can a compliance officer conduct an ALH inspection when a dwelling is not required to be registered?

A3 Yes, a compliance officer can conduct an inspection if the ALH rules apply to that facility. (See Question #1.) The requirement to register the housing is an independent issue (See Question #2) and does not affect Oregon OSHA's right to enforce the other requirements of the ALH rules.

Q4 If a compliance officer drives by a facility that looks like an ALH facility, could they stop and conduct an inspection after finding out that it is not registered?

A4 Yes, but some facilities that may resemble ALH facilities, such as organizational camps, manufactured dwelling parks, and recreational vehicle parks, don't fall within the scope of the ALH rules because the facility is provided to the general public on the same terms as to workers. (See Question #1.)

Worker-Provided Housing

Q₅ Can employees provide their own on-site housing?

A₅ Yes, the employer can allow workers to use their own housing, such as their own recreational vehicle on the employer's site. However, it must be the employee's choice to live in their own housing, and it must be over and above the housing and other facilities required by the camp occupancy permit.

If the worker, and any other occupants of the worker-provided housing, uses any of the camp's common-use facilities, they must be included when calculating the minimum numbers of required toilets, showers, sinks, laundry tubs, cooking burners, etc., for the permitted occupancy limit.

Housekeeping Practices of Housing Occupants [OAR 437-004-1120(1)(g)]

Q₆ Are ALH operators required to "police" the personal housekeeping practices of their occupants?

A₆ No, ALH operators are not responsible for and will not be cited for the personal housekeeping practices of the occupants in facilities that are not common use.

Operators have a responsibility, however, to ensure that occupants personal practices do not adversely impact the health or safety of other occupants; for instance, practices that could cause fires, contaminate living areas, or interfere with safe exit routes during an emergency.

437-004-1120(1)(g) allows housing operators to be cited for violations that create safety and health hazards in common use facilities even if they are related to personal housekeeping practices. We expect operators to exercise reasonable diligence in checking common use facilities to ensure that they are maintained in a safe, compliant condition. (See Question #37.)

REQUIRED FACILITIES and SERVICES

Charging Occupants [OAR 437-004-1120(3)]

Q_{7a} Can a housing operator charge ALH occupants rent?

A_{7a} Yes, the rules acknowledge that operators may charge occupants rent. The ALH rules, at (1)(b), state that they apply to "...any type of labor housing whether or not rent is paid or collected." The Bureau of Labor and Industries (BOLI) regulates wages, deductions, or charges, not Oregon OSHA. Under BOLI's rules, employers may not impose any charges, including rent or utilities, that reduce the wages below the state minimum wage.

Q7b What are services and individual service requirements?

A7b The ALH rules, at (3), specifically prohibit housing operators from charging for individual services required by the rule: “This prohibits pay-per-use toilets, pay-per-use bathing facilities or any other method of paying for individual service requirements.”

Oregon OSHA defines “services” to include all the specific physical amenities that the rule requires the housing operator to provide in order to meet sanitation and habitability requirements, including:

- Systems that provide hot and cold running water and sanitary drainage for living areas and related facilities including water wells, plumbing systems, sewer/septic systems, sinks, shower stalls, toilets, and water heaters.
- Garbage and recycling containers and removal services.
- Furniture, fixtures and appliances specified for living areas, sleeping areas, and related facilities such as beds with mattresses or pads, tables and chairs, light fixtures and electrical systems, other domestic fuel systems, heaters necessary to maintain the minimum temperature, cooking burners, and refrigerators.

If the operator provides the minimum, rule-required services for free, they are permitted to charge for services beyond those minimum requirements. For example, if a housing operator has the minimum requirement of one laundry tray for each 30 occupants and clothes lines or drying facilities that serve their needs available for free, that operator could also have a coin-operated washing machine and dryer available at the facility. [See *OAR 437-004-1120(11)*.] If the operator *only* provided the pay-per-use equipment, they would be in violation of the rule that prohibits them from charging for the required services.

Q7c Can a housing operator charge ALH occupants for utilities?

A7c Although Oregon OSHA’s rules do not explicitly prohibit ALH operators from passing along the cost of utilities to occupants, the Wage and Hour Division of Oregon’s Bureau of Labor and Industries (BOLI) has rules that limit an employer’s rights to deduct charges for facilities or other services from an employee’s wages. (See OAR Chapter 839, Division 20 *Wages* in the referenced rules document following this Q&A.) For specific questions, contact BOLI at 971-673-0761 or www.oregon.gov/boli.

Q₈ **Is it permissible for an operator to charge tenants a refundable cleaning/security deposit?** (Refund to the tenant at the end of their stay is generally contingent on the unit being left clean and items such as fire extinguishers, appliances, and furniture not being damaged or stolen.)

A₈ Although Oregon OSHA's rules do not prohibit ALH operators from charging occupants a deposit for cleaning or security, the Wage and Hour Division of Oregon's Bureau of Labor and Industries (BOLI) has rules that limit an employer's legal rights to deduct charges for facilities or other services from an employee's wages. See OAR Chapter 839, Division 20 Wages in the referenced rules document following this Q&A. For specific questions, contact BOLI at 971-673-0761 or www.oregon.gov/boli.

Heaters [OAR 437-004-1120(8)(d),(16)(c),(18)(f), and (19)(f)]

Q₉ **Is it acceptable to have portable heaters available in a separate location, such as the farm office, to be checked out for use in a living or sleeping space?**

A₉ If the living area or common use facility does not have a working permanent heating system, the ALH operator must supply portable heaters that are capable of keeping the temperature at a minimum of 68 degrees F. The rule does not specify where the heaters should be placed, but they must be available in all the required living areas when they are occupied or it defeats the purpose of the rule.

Portable heaters must also meet these requirements:

- Operate by electricity only.
- Have working safety devices installed by the manufacturer for the particular type heater.
- Be in good working order with no defects or alterations that make them unsafe.

Q₁₀ **Are heat lamp units, such as those used in hotel bathrooms, an acceptable source of heat?**

A₁₀ The rule requires the source of heat to be capable of keeping the room temperature at a minimum of 68 degrees F. It is unlikely that a heat lamp is capable of heating an entire living area, but it might work for a small room like a bathroom. If this type of heating system is used, the operator is responsible for supplying functioning heat lamp bulbs.

Laundry Facilities [OAR 437-004-1120(11)]

Q₁₁ Do laundry tubs and clothes lines need to be in a building or can they be outdoors?

A₁₁ The rules do not specifically require the laundry trays, tubs, or machines with plumbed hot and cold water to be in a building. The hot water heater and any washing machines or dryers with electrical components must be protected from rain and weather because of electrical hazards. Plumbed facilities that are used year round must be protected from freezing.

Drying facilities must serve the needs of the occupants. Clothes lines that are out in the weather where there is frequent rain would not serve the needs of the occupants. (See Question #7.)

Potable and Hot Water [OAR 437-004-1120(8)]

Q_{12a} When is a water fountain required? [OAR 437-004-1120(7)(e)]

A_{12a} The requirement for a water fountain at (7)(e) only applies when potable water is not available in each dwelling unit:

“When potable water is not available in each dwelling unit, there must be a potable water source within 100 feet of each unit and there must be a working, clean drinking fountain for each 100 occupants or fraction thereof”

However, the rule at (7)(g) provides an alternative to having plumbed potable water in each dwelling unit: “Portable water containers with spigots and tight fitting lids are acceptable for providing and storing drinking water in the housing.” If potable drinking water is provided in this way, and the conditions listed in (g)(A), (g)(B), (h), and (i) are met, drinking fountains are not required. A plumbed potable water source would still be required within 100 feet of each unit.

Q_{12b} What is an adequate supply of hot water? How long is too long for a water heater to regenerate enough hot water? [OAR 437-004-1120(8)]

A_{12b} Both Federal OSHA and Oregon OSHA have long considered the hot water rule to be a performance standard. The measure of adequate hot water is not based solely on how long the occupants must wait. For instance, in a small camp with only two showers and the traditional, storage-tank type of water heater, the occupants may have a long wait if everyone wants to shower at the same time. New technology in water heating appliances may eventually make this type of insufficiency obsolete.

The following is from the interpretive letter dated December 12, 2000:

“Oregon OSHA believes that the best method to determine the adequacy of the hot water supply in labor housing is to evaluate information supplied by the occupants during interviews conducted by OR-OSHA personnel. Regardless, the determining factor remains, is there enough hot water available for occupants to shower, launder clothes and for other uses...based on the experiences of the occupants.”

If a compliance officer discovers a pattern or multiple incidents of insufficient hot water, the operator would be in violation.

Sinks [OAR 437-004-1120 (10) *Hand washing facilities.*]

Q₁₃ Does a double sink count as one or two sinks?

A₁₃ Double basin sinks that are sold as one sink and meant for use with one faucet, are counted as one sink for purposes of our rule. If the operator installed a faucet for each half, it could count as two sinks.

Q₁₄ Does a kitchen sink or plumbed laundry tray count as a hand washing sink?

A₁₄ Any sink counts as a hand washing sink as long as it meets the requirements in 437-004-1120 (10). The common conception of a sink is a bowl or basin that will hold water. Any style is acceptable as long as it is of a sufficient size, usable, plumbed with hot and cold water under pressure, and has a proper drain. Hand washing facilities must be located as required in OAR 437-004-1120(10)(a). Common-use towels are prohibited. If paper towels are provided, a disposal container must also be provided.

Waste Disposal/Garbage Containers & Garbage Removal

[OAR 437-004-1120(12)(j) & (15)]

Q₁₅ Does 437-004-1120(12)(j) require a waste disposal container by each toilet or in each toilet stall?

A₁₅ Although (12)(j) requires operators to provide common use toilet facilities with toilet paper, holders or dispensers, and disposal containers with lids, the rule does not require a covered waste container by each toilet or in each stall. Some operators may choose to provide more localized waste containers to help maintain sanitation in toilet facilities.

Q₁₆ Are housing operators required to provide a 30-gallon garbage can in each living area if the employees carry their own small sacks to the dumpster that is dumped twice a week?

A₁₆ No, *OAR 437-004-1120(15) Garbage and refuse disposal outside of buildings*, at (b), requires operators to provide at least one 30-gallon can (or larger) for each 15 occupants, place the containers inside the housing site area (not in each living area), and make it accessible to all occupants.

All refuse and garbage containers must be:

- Clean and in good repair.
- Covered to control flies and rodents.
- Emptied when full, or before they are full enough to interfere with the complete closing of the lid or to become a health hazard. (Garbage shouldn't be placed on the ground.)

Q₁₇ If the operator picks up the garbage in the camp on a daily basis, are the typical, residential (30-60 gallon) garbage cans acceptable? How far away from a living area would the containers have to be?

A₁₇ The containers must kept clean, covered, and be big enough to contain the amount of garbage generated. The containers could be located at a convenient distance from the living areas and placed to facilitate garbage removal.

The rules at *OAR 437-004-1120(15)(b),(c), & (d)* require that individual containers, like cabin cans and containers from common use areas, be emptied twice a week or when full. The larger cans, bins, or dumpsters must be emptied weekly or when full, be inside the housing site area, and be accessible to all occupants.

SITE REQUIREMENTS

Adequate Lighting [OAR 437-004-1120(6)(l),(m),(n),(o) & (16)(p)]

Q₁₈ What is adequate lighting in ALH facilities?

A₁₈ OAR 437-004-1120(6)(l) gives the basic electrical lighting requirements. Facilities built or remodeled before December 15, 1989 must have a ceiling or wall-type electric light fixture in working order in every living area. Facilities built or remodeled after that date must comply with the code in effect at the time of construction or remodeling.

Also, as required in (6)(m), (n), (o), and (p) operators must:

- Provide a ceiling or wall-type electric light in toilet rooms, lavatories, shower or bathing rooms, laundry rooms, hallways, stairways, the common eating area or other hazardous dark areas.
- Light privies either directly or indirectly from an outside light source.
- Provide enough light in corridors and walkways to allow safe travel at night.
- Provide windows or skylights with a total area equal to at least 10 percent of the required floor area.

If the facility meets those requirements then we must consider the lighting to be adequate.

Issues with Non-Grounded Electrical Systems [OAR 437-004-1120(6)(j) & (l)]

Q₁₉ Some older ALH facilities, built with non-grounded electrical systems, have retrofit receptacles in living areas with (non-grounded) ground-fault circuit interrupter (GFCI) receptacles. Does this type of electrical installation comply with the current codes?

A₁₉ Operators are required to provide electricity to all housing units and related facilities and to ensure that facilities built or remodeled after December 15, 1989 comply with the code in effect at the time of construction or remodeling.

According to a 2013 request for interpretation from Oregon Building Code's Electrical Program Chief, it is a permitted practice in Oregon, under the Electrical Specialty Code at Article 406.4(D)(2)(b), to replace non-grounded electrical receptacles with GFCI receptacles. The code requires that these replacement receptacles be marked with a warning: "NO EQUIPMENT GROUND".

This replacement practice is not permitted as a means of repairing faulty, originally-grounded circuits.

Q₂₀ Some older ALH facilities with non-grounded electrical systems are plugging refrigerators or other household appliances equipped with a grounding prong into ungrounded GFCI receptacles. Would this practice be considered a safe alternative to the “2880(3)” grounding requirement for cord and plug-connected equipment?

A₂₀ OAR 437-004-1120(6)(j) states that “Subdivision 4/S, Electricity applies to ALH.” OAR 437-004-2880(3) requires cord and plug-connected equipment to be grounded, specifically mentioning refrigerators, freezers, electric ranges, clothes dryers, etc.

Because a properly-functioning GFCI receptacle interrupts the circuit if a fault is detected, a GFCI receptacle is a safe alternative to the requirement to ground cord and plug-connected appliances like refrigerators. In this situation, consultants and compliance officers should confirm that all such receptacles are marked with the “NO EQUIPMENT GROUND” warning statement required by the electrical specialty code and that ALH operators are aware of the protective limitations of this type of receptacle.

Proximity to Farm Animals [OAR 437-004-1120(6)(i)]

Q₂₁ How will the 500-ft. livestock rule (6)(i) be applied when a neighbor’s property line is within 500 feet of an established housing facility and the neighbor has livestock on their property?

A₂₁ A situation with a neighbor that has a few animals at pasture is not covered by these rule requirements. However, there could be a violation if the neighbor has a livestock operation. Livestock operation is defined as any place, establishment or facility with pens or other enclosures in which livestock are kept for purposes such as feeding, milking, slaughter, watering, weighing, sorting, receiving, and shipping.

The primary hazards for the ALH occupants would be adverse environmental health factors like the presence of flies or other vectors, animal waste runoff, or odors. ALH Operators cannot ignore a neighbor’s actions that create physical or health hazards for their occupants.

Measuring the Lowest Point of Wooden Floors and Soil Banking

[OAR 437-004-1120(6)(q)]

Q₂₂ What is the correct way to determine compliance with the requirement at (6)(q) that the lowest point of wooden floor structures must be at least 12 inches above ground. Are the floor joists considered to be the lowest point? Is this where the measurement should be taken? Also, is it acceptable for dirt (soil) to be pushed up against the outside of a structure?

A₂₂ The measurement should be taken from the ground level to the bottom of the floor joists. (Wooden posts and other support or trim components are not the target of this rule.) Compliance can also be determined visually from the crawl space access point. If a structural point appears to be closer to the ground than required, simply reaching in to measure is acceptable.

There is nothing in the rules that prohibits dirt (soil) against the outside of a structure. (The Federal Temporary Labor Camp rules, at *29 CFR 1910.142(b)(6)* state that banking with earth or other suitable material around the outside walls in areas subject to extreme low temperatures is a permitted practice.) If contact with dirt causes the predictable structural problems, there are other rules to cite, such as *OAR 437-004-1120(16)(a)* or *(b)*.

It is necessary for various reasons in some locations to place berms of earth (or other suitable material) around the outside walls of the structures. Any “banking” of soil should not interfere with the requirement at (6)(c) for all housing site land to have adequate drainage.

LIVING AREAS

Square Footage Calculations for Cook/Live/Sleep Areas & Sleeping Rooms [OAR 437-004-1120(16)(i),(k)&(l)]

Q₂₃ In a cook, live, sleep living area with a kitchen area and a bathroom, can the square footage of the kitchen and bathroom be counted as part of the 100 sq. ft. per occupant?

A₂₃ Yes, measure the entire interior of the cook, live, sleep living area (including the kitchen and bathroom) to determine compliance with the 100 sq. ft. per occupant requirement. Don't count children 2 years old and younger as occupants.

Q₂₄ How do you measure a living area that has been divided to have a sleeping room and another room for cooking, living, and sleeping?

A₂₄ Calculate the required square footage for the sleeping rooms separate from the other area. Forty or fifty sq. ft. per occupant, depending on the type of bed, is required in sleeping rooms. One hundred sq. ft. per occupant is required for an area where occupants cook, live, and sleep. Calculate the required square footage for each separately. (Don't count children 2 years old and younger as occupants.)

If all occupants sleep in the sleeping room, calculate the needed square footage for that room only. There is no minimum square footage requirement for a "cook and live" area where no one sleeps.

Q₂₅ How do you determine the amount of required space for a sleeping room that has a combination of bunk beds and non-bunk beds?

A₂₅ For a sleeping room, the rule requires 40 square feet of floor space for each occupant of a double bunk bed and 50 sq. ft. for each occupant of a single-level bed. If you have all bunk beds except for one twin-size bed, you can count the twin bed the same as you would a single bunk. For example, a room with two sets of bunks (4 occupants) and one twin bed (1 occupant) would need 40 sq. ft. times 5 occupants or 200 sq. ft.

If there is more than one twin bed in combination with bunks, the calculation reverts to 50 sq. ft. for each occupant of the single-level beds. If the room has bunks plus any other size of single-level beds, the bunks would require 40 sq. ft. times the number of bunk occupants plus 50 sq. ft. for each occupant of the single-level beds. Don't count children 2 years old and younger as occupants.

Q₂₆ If you are partitioning a room to create a sleeping area, with a separate kitchen or living area, how high does the partition wall need to be? Example: in a room with peaked ceilings greater than 7 feet, does that partition wall need to extend to the ceiling peak? If not, what is the minimum height requirement for the partition wall?

A₂₆ The major impact of partitioning a living area to create a separate sleeping room would be a change in the calculation of the required square footage per occupant. (See Question # 24) To create a sleeping room, the partition must structurally separate the sleeping room from the area where cooking is permitted. The partition wall should be solid, closeable, and – although the ALH rules don't specify a certain height in this instance – it should be tall enough to provide a visual barrier between the two areas.

If the purpose of the partition is to provide privacy for unrelated persons of different genders or for family units or to separate a sleeping area from a common use food preparation or dining hall area, additional requirements apply. (See Questions # 32 & 33.)

Other Living Area Measurements

Q27a To ensure consistency, how do we properly measure the required ceiling height? Are there any exceptions?

A27a Beginning Jan. 1, 2018, Oregon OSHA's ALH rules will only count areas with a 7-foot ceiling height toward the required square footage for any cook/live/sleep or sleeping area. Until that date, certain older facilities are allowed to count floor space if at least half of it has the 7-foot minimum. [See OAR 437-004-1120(16) (m)&(n) and the Required Square Footage Table in this document.] Housing built or remodeled between Jan. 26, 2009 and Jan. 1, 2018 must have the minimum 7-foot high ceilings for the space to count toward the required square footage.

Ceiling height, unlike the sizes for dimensional lumber and building materials like windows, is not a "nominal" measurement: 7 feet (2134 mm) is 7 feet. This minimum height applies to the ceilings in areas used to meet a minimum square footage per occupant requirement for a particular usage such as a sleeping area or a cook/live/sleep area.

If the local building code authority originally approved the ceiling height of the housing when built, and the ALH operator can provide the documentation, Oregon OSHA will accept the ceiling height. If the ALH operator is unable to document this, variances will be considered on a case-by-case basis by Oregon OSHA's Technical Section.

The [2008 Oregon Residential Building Code](#) provides some helpful guidance in their allowed exceptions to the 7 foot minimum for habitable areas. (See Chapter 3 Building Planning, *Section R305 Ceiling Height*, pages 3-15.)

Another exception to minimum ceiling height requirements is recreational vehicles which have their own sanitation and safety rules. [See Entry #1 in "*Oregon Administrative Rules (OARs) and Oregon Revised Statutes (ORSs) Referenced in Agricultural Labor Housing and Related Facilities*" at the end of this document.] OAR 437-004-1120(1)(c) allows compliance with ORS 446.155 to 446.185 as an alternative to compliance with residential building codes (including ceiling height.)

Q27b Are lofts acceptable in living areas where the roof peaks are at least 14 feet high?

A27b Lofts are acceptable in living areas as long as all living area minimum space and fire protection requirements are met. The most likely issues would be:

- Areas must have a minimum 7-foot ceiling height to be counted as part of the required square footage in sleeping rooms and cook, live, sleep areas. [OAR 437-004-1120(16)(m)&(n).]
- A second story space, and all basement spaces and floors above the second story, with 10 or more occupants must have access to at least two separate exits as required by the Oregon state building code. [OAR 437-004-1120(17)(f)&(g).]
- A sleeping room in a living space with only one exit may require an emergency egress window. [OAR 437-004-1120(17)(d)&(e).]
(See Question #44.)

Q28 When measuring between upper and lower bunks, is the 27” clearance from the top of the lower bunk mattress to the bottom of the upper bunk?

A28 Yes, although there is no specific requirement in the Oregon OSHA rules, the 27” clearance is considered a minimum guideline because the Federal OSHA Temporary Labor Camp rules [29 CFR 1910.142(b)(3)] require a 27” distance between bunks. This should be measured from the top of the mattress on the lower bunk to the underside of the upper bunk.

Permitted Facilities in Sleeping Rooms

Q₂₉ Can a sleeping room have a refrigerator? A counter? A table and chairs? A food storage area?

A₂₉ The ALH rules provide minimum requirements for areas where occupants cook, live, and sleep and sleeping rooms. Sleeping rooms, by definition, do not include cooking areas. No cooking and no cooking appliances, like electric burners, are permitted in sleeping rooms.

A sleeping room can have a refrigerator, a counter, table and chairs, and places to store the personal food of the occupants as long as there is:

- Adequate square footage for the beds, bunks, or cots and the suitable storage facilities provided for the other belongings of each occupant.
- Enough room to allow for rapid and safe exiting during an emergency.

Oregon OSHA will not cite the operator if occupants store or consume their own food in a sleeping room, as long as the food is not cooked in the sleeping room.

If occupants are allowed to cook in these sleeping areas, it must meet all the requirements for a cook, live, sleep area (including the required square footage per occupant) and the rule requirements that would apply to either a single use or a common use cooking facility. (See Question #35.)

Q₃₀ Is the employer responsible for making sure that occupants do not use their own cooking appliances (such as hot plates and gas camp stoves) in the sleeping rooms? If so, how?

A₃₀ The employer must make a reasonable effort to ensure that the housing is used and maintained. If the living areas are registered as sleeping rooms and a common use cooking and eating facility is provided, the employer would only be expected to periodically inspect the occupied sleeping rooms. More frequent inspections would be necessary if the operator became aware of fire safety or health hazards, such as improperly-vented combustion sources in the sleeping rooms.

Q₃₁ How many occupants must sleep in a single area to make the area a dormitory?

A₃₁ A dormitory, as the word is used in this rule is a room with many beds or a large room in which many people sleep. "Many" is not quantified but can be determined by looking at the layout and use of the various facilities or living areas. For instance, common use facilities are defined as those for use by occupants of more than one housing unit or by occupants of dormitory-style housing.

Privacy & Separation [OAR 437-004-1120(9) (c), (16) (o), & (18) (d)]

Q₃₂ What kinds of walls or barriers are required to separate private sleeping areas? Would a curtain or a partial wall qualify?

A₃₂ Generally, separate and private areas have to be completely partitioned (floor to ceiling) and have a solid door that closes. Hanging a curtain or tarp does not separate one room into two rooms. An incomplete partition, like a room-divider, does not create a separate room or privacy.

Various ALH rules require operators to provide privacy or separation for occupants. For instance, at (9)(c), operators must separate common use bathing facilities used for both sexes in the same building by a solid, non-absorbent wall extending from the floor to the ceiling. However, (16)(o) is less specific, requiring separate private sleeping areas for unrelated persons of each sex and for each family unit. The rule at (16)(o) does not specify what type of barrier is required; however, by common definition, a separate, private area requires a wall or some type of solid partition.

Q₃₃ OAR 437-004-1120(18)(d) & (19)(d) require common use kitchens and dining halls to be separate from all sleeping quarters. There can be no direct opening between kitchens or dining areas and any living or sleeping area. Is a door a direct opening?

A₃₃ No, a door is not considered a direct opening. A solid, closable door in a floor to ceiling wall is a permissible way to separate common use kitchens and dining areas from sleeping quarters. This requirement reflects a food sanitation rule from *Oregon Health Authority Division 150: 6-202.112, Living or Sleeping Quarters, Separation* that requires living or sleeping quarters located on the premises to be separated from rooms and areas used for food establishment operations by complete partitioning and solid self-closing doors.

Cooking & Food Preparation Areas

Q₃₄ When an ALH operator provides a dining hall with a cook and an institutional-type kitchen how does the minimum equivalent of two cooking burners for every 10 persons apply? [OAR 437-004-1120(19)(a)(B)]

A₃₄ By our definition, a dining hall is an eating place with food furnished by and prepared under the direction of the operator for consumption of the occupants. The number of available burners is not a reasonable issue or concern in these circumstances because the dining hall manages its food service and the numbers and types of grills, stoves, and ovens it requires. Including this provision in the (19) *Dining halls and equipment* paragraph was probably an oversight and would be considered a minimal violation under our rules.

Q_{35a} Clarify the difference between a common use cooking and eating facility and a single unit cooking facility.

A_{35a} Although the ALH rules define common use cooking and eating facility as “a shared area for occupants to store, prepare, cook, and eat their own food”; it must be remembered that a common use facility is one “...for use by occupants of more than one housing unit or by occupants of dormitory-style housing.”

If all the occupants who use the kitchen also sleep in the same housing unit, it is considered a single unit cooking facility. If occupants from more than one housing unit or from a separate dormitory use the cooking and eating facility, it is considered common use.

Q_{35b} In this context, what is a housing unit?

A_{35b} A single housing unit is a distinct, separate living area where occupants have, at a minimum, a place to sleep, store personal items, and prepare and eat food. The unit may be in a separate building or it may be within a larger structure. For instance, a duplex would typically consist of two single housing units with separate areas for each set of occupants to sleep and prepare and eat food – even if both are within a single structure.

Q_{35c} What’s the difference between “dormitory-style housing” and a big bedroom?

A_{35c} A dormitory, as the word is used in our rule, is a room with many beds or a large room where many people sleep. (See ALH Q&A # 31.) Dormitory-style housing typically stands alone and is intended only as a place to sleep with some personal storage. If sleeping areas are associated with living/cooking areas in a housing unit, they would typically be considered bedrooms, not dormitories. Also, consider whether the size and placement of the sleeping areas are comparable to bedrooms in a home.

Q_{35d} Are outdoor cooking or food preparation areas allowed? Does an outdoor, covered cooking area have to be screened?

A_{35d} Both common use cooking and eating facilities [OAR 437-004-1120(18)(f) & (g)] and dining halls [OAR 437-004-1120(19)(f) & (h)] are required to have their facilities in buildings or shelters. Both of these types of facilities must have screens of 16 mesh or smaller on all doors, windows, and openings and must have heating capable of keeping the facility at 68 degrees or more during use.

Single unit cooking facilities [OAR 437-004-1120(20)] do not have these specific requirements. Moving the burners outside of a single unit does not trigger any new requirements to provide heating or screening. All the requirements for the cooking facility and equipment listed in (20) still apply. And electric appliances must be protected from rain and weather due to electrical hazards.

To demonstrate that the facilities are part of a single unit, the housing operator is expected to provide only the appropriate number of cooking burners for that individual unit and to provide separate cooking facilities for all other housing units.

When cooking facilities and equipment intended for multiple single units are moved outside and grouped in a common, shared area this meets the definition of a common use facility. In this case, all the requirements of OAR 437-004-1120(18), including (f) & (g), would apply.

Q_{36a} Can a compliance officer cite an ALH operator under OAR 437-004-1120(18)(a) for a refrigerator located in a common use cooking area that has an internal temperature above 41 degrees F.? What if the refrigerator was provided by a housing occupant and not the ALH operator?

A_{36a} If the refrigerator in the common use area is provided by the housing operator, it must meet all the requirements in (18) and this deficiency could be cited. Oregon OSHA would not cite the operator if the occupants brought in an additional refrigerator that was not working properly.

Q_{36b} What does the phrase “when provided” mean?

A_{36b} The phrase “when provided” as used in (18)(a), (19)(a), and (20)(a) means when a common-use, dining hall-type or single-use cooking facility is provided, it must have the equipment listed and meet the other requirements of the applicable rule. The operator can also choose not to provide any of the cooking facilities or equipment. If any of these types of cooking facilities or equipment are provided, they must meet the requirements

All three types of cooking facilities require the operator providing them to have a refrigerator capable of maintaining an internal temperature at or below 41 degrees F. If the operator has provided a working refrigerator that meets this requirement in the facility, they are in compliance with that rule. If there is no refrigerator in a cooking facility, or if the refrigerator provided does not meet that minimum requirement, the operator is in violation.

Q₃₇ What rule would apply if a compliance officer found a moldy dish-washing sink in a common use cooking area? (If, for instance, the sink had the required smooth, cleanable surface, but had not been cleaned for a long time.) **OAR 437-004-1120(18)** does not appear to require operators to clean these common use facilities during occupancy.

A₃₇ OAR 437-004-1120(18) (c) only requires the operator to clean the facilities and equipment before each occupancy. There are no further requirements for the operator to clean these facilities and equipment during the time they are being used by the occupants.

OAR 437-004-1120(8)(c) requires that all common use bathing, hand washing, and laundry facilities must be clean, sanitary and operating properly. If the sink in question is counted as a hand washing sink, it could be cited under this rule.

Although 437-004-1120(1)(g) removes the operator's liability relating to the occupants' personal housekeeping practices in facilities that are not common use, housing operators can be cited for violations that create safety and health hazards in common use facilities. We would expect operators to exercise reasonable diligence in common use facilities to ensure that there are no rule violations that create safety and health hazards. (See Question #6.)

Q₃₈ Is carpeting an acceptable floor covering in ALH facilities? Would it be acceptable in a residential-style home?

A₃₈ The ALH rules require that all floors in food preparation and serving areas, including those in dining halls, common use food preparation and serving areas, and single units, be made of or finished with smooth, nonabsorbent, cleanable material. [OAR 434-004-1120(18)(a)(D), (19)(a)(D), and (20)(a)(D).]

Floors in installations with bathing, laundry facilities, or flush toilets must be of readily cleanable finish and impervious to moisture. [OAR 437-004-1120 (8)(b).] Carpeting, because it is absorbent and not impervious to moisture, would not meet the intent of the rules in any of these types of living areas.

Living areas not used for food preparation and serving, and where there are no bathing, laundry, or toilet installations, are only required to have rigid and durable floors, with a smooth and cleanable finish in good repair. [OAR 437-004-1120(16)(b).] For areas such as living rooms and bedrooms, any low pile carpet that is smooth and cleanable would be acceptable.

Carpet used as a floor covering in any room in a single-family, residential-style home would generally be acceptable if it is kept clean and dry.

LIGHT, VENTILATION, EGRESS

Windows & the 10 Percent Rule [OAR 437-004-1120 (16)(p)]

Q₃₉ When determining the required window square footage in a living area, is it 10 percent of the actual floor square footage or 10 percent of the amount of floor square footage required for the number of occupants?

A₃₉ When calculating the required window square footage, begin with the required floor square footage determined by the type of use (sleeping room or cook, live, sleep area) and the number of occupants. (See Questions #23 through #25, and the [required square footage table](#).)

Q₄₀ Does the 10 percent window requirement still apply where the living area is air conditioned? In this situation, are all exterior doors and windows still required to be screened for ventilation?

A₄₀ Yes, because the ALH rules' requirement for windows to open half way and to have screens, serves multiple purposes. Windows provide light, and the screened openings provide ventilation with a barrier to insect pests. Although air conditioning provides ventilation it does not provide light. And, because the occupants may choose to open the windows and doors, instead of using the air conditioning, the screens are still necessary as a fly and mosquito barrier.

Q₄₁ Should the 10 percent window requirement be calculated for the entire cabin or for each room?

A₄₁ For cook, live, sleep-type occupancies, this calculation includes all windows in the entire living area. For sleeping rooms, we generally calculate for each room; however, windows in an adjacent cook and live area can be counted towards meeting the 10 percent window requirement.

Q₄₂ Are window glazing materials other than glass (such as fiberglass, *Plexiglas*[™], or other synthetic materials) acceptable? Is it acceptable for glass or non-glass window materials to be opaque or defused for privacy?

A₄₂ The rules are silent on what type of glazing materials can be used in windows. It must allow light to enter the room. Opaque or defused glazing material used for privacy is acceptable just as it is in private homes.

Q₄₃ Is it permissible to count sliding glass doors as part of the 10 percent window requirements?

A₄₃ A sliding glass door (like a patio door) can be counted toward the 10 percent window requirement, but it must meet the other applicable window requirements such as screening on the section that opens. Unlike hinged screen doors, sliding screens on patio doors are not required to be self-closing.

Measuring Emergency Egress Windows

Q₄₄ Should OSHA personnel measure emergency escape (egress) windows the same as they do the windows required for light and ventilation?

A₄₄ No, although egress windows can be included in the 10 percent window space requirements, the windows in sleeping areas that are designated as emergency escape routes must be measured to determine the actual opening size. When determining compliance for this purpose, measure the clear net opening, the minimum vertical opening, and minimum horizontal opening of 20 inches. [OAR 437-004-1120(17)(d)& (e).]

Windows, doors, and skylights for the purpose of light and ventilation are measured to the nominal size, which may include the size of the casings. For example, a standard 4.0 X 6.0 slider window is counted as 24 square ft. nominal even though the window area may only measure 3'9" X 5'9" or 21.6 square ft.

Storm Doors, Screen doors, & Mechanical Ventilation

Q45 Does a storm door count as a window and ventilation?

A45 Yes, under some conditions, such as in a living area that is only used during temperate weather, a tight-fitting, lockable storm door with at least half of its glazed window area openable and screened, could be counted towards the 10 percent window requirements for that living area. For this purpose, a screen door with screening only and no openable, screened, glass panel is not the same as a storm door and could not be counted for the purposes of the 10 percent windows rule.

Q46 What qualifies as a screen door? If someone cuts a hole and installs a screen in a solid door, is that a screen door? If so, is there a certain percentage of the door that must be screened?

A46 The rules require that screen doors be tight-fitting, in good repair, self-closing (if hinged), and the screen must be at least 16-mesh. We have no general guidelines for the percentage of a door that has screening. In the case mentioned, the structure of the converted door would dictate how much space is appropriate for a window/screen insert.

Q47 Does an openable, screened window in a regular exterior door qualify as a screened door?

A47 Yes, *OAR 437-004-1120(16)(p)* allows a window in a door to contribute toward the 10 percent window requirement if openable and screened. In this situation, there would be no need for a separate screen door.

Q48 Does a screen door count as ventilation if it is used with a solid door?

A48 No, it would not count for the purposes of the 10 percent window-square-footage rule. Because a solid door doesn't count towards the window square footage, the screen doesn't count towards the "half openable" part. However, it could contribute to the adequacy of mechanical ventilation. (See Question # 50.)

Q49 If a living or sleeping area has two doors must they both have screens?

A49 Any door used for routine entry and exit must have a screen. If a door is used only as an emergency/fire exit, it is not required to be screened.

Q₅₀ OAR 437-004-1120(16)(p) says that adequate mechanical ventilation may substitute for openable window space. What is considered “adequate” when evaluating mechanical ventilation? Does it require air circulated directly from the outside?

A₅₀ Air conditioning units, if appropriately sized for the living area, qualify as adequate mechanical ventilation because they include the input of outside air. The substitute must be something equivalent to opening a screened window. Exhaust fans, such as those typically installed in bathrooms and over kitchen stoves, would not generally meet this requirement because they draw out inside air but do not replace it with fresh, outside air. This type of substitution might be adequate in a small space if occupants could draw in fresh air through a screened door or window with an exhaust fan. The adequacy of mechanical ventilation will depend on the square footage and configuration of the space, and the uses of the living area. Activities like cooking that create a greater need for the input of fresh air must also be considered when determining adequacy.

FIRE SAFETY

Fire Extinguishers

Q₅₁ OAR 437-004-1120(17)(c) requires operators to provide fire extinguishing equipment in a readily accessible place, not more than 50 feet from each housing unit. Does Oregon OSHA expect the ALH operator comply with all the requirements in *Subdivision 4/L*, and OAR 437-004-1450?

A₅₁ Yes. Although some of the provisions in 4/L are intended more for shops and traditional work areas, all of *Subdivision 4/L, Fire*, would apply to ALH operators as agricultural employers.

The type of extinguisher, with protection equal to a 2A:10BC rated extinguisher, is established in the 437-004-1120(17)(c) rule. The other requirements from OAR 437-004-1450 that apply to fire extinguishers on an ALH site are:

- Keep original labels and marking on extinguishers attached and legible.
- Mount fire extinguishers on hangers, brackets, in cabinets, or on shelves using these guidelines:

Weight of Extinguisher	Height of Top of Extinguisher (Above floor)
40 lbs. or less	5 ft. (60 in.)
Over 40 lbs.	3 ¹ / ₂ ft. (42 in.)

- Inspect fire extinguishers yearly, or more often if needed to keep them usable and fully charged.

- Do not use fire extinguishers that contain carbon tetrachloride, chlorobromomethane or other toxic, vaporizing fluids.
- Keep fire extinguishers in plain sight, or their location clearly marked.
- Keep paths to, and space in front of fire extinguishers clear and free from obstruction.

Compliance officers may not cite the operator for extinguishers inside private living areas that are obstructed, not in plain sight, or not clearly marked because of the exemption at *437-004-1120(1)(g)* for violations relating to the occupants' personal housekeeping practices in facilities that are not common use.

Q₅₂ The note after OAR 437-004-1120(17)(c) allows the use of water hoses instead of fire extinguishers. What if the hose relied upon can reach all points of the site, but the faucet to turn it on is 500 feet away from some areas?

A₅₂ The note following (17)(c) says, "Hoses are acceptable substitutes for extinguishers only if the water supply is constant and reliable. Hoses must be immediately available for firefighting use."

Substituting a hose for an extinguisher does not change the requirement to provide equipment in a readily accessible place, not more than 50 feet from each housing unit. Therefore, occupants should never have to travel more than 50 feet to get to the point where they turn on the water. This could be the end of the hose or a connection point if the water is always on and controlled with a reliable nozzle. Generally, this distance should be to the faucet or other main connection point.

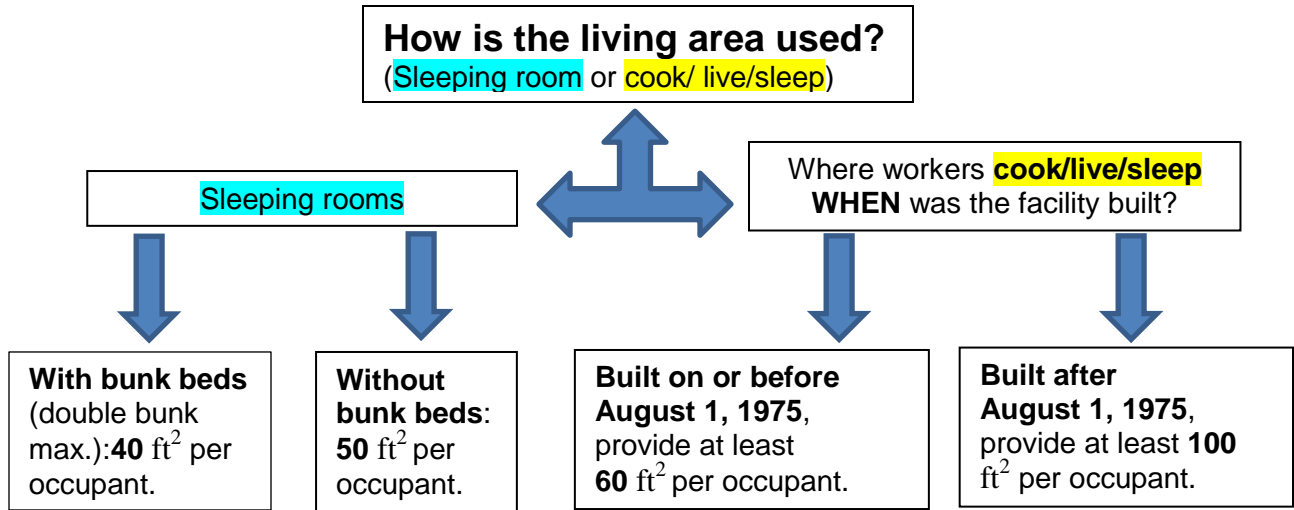
Smoke Detectors

Q₅₃ What are Oregon OSHA's expectations concerning smoke detectors in year-round camps?

A₅₃ OAR 437-004-1120(17)(b) requires operators to ensure that each season, at the time of initial occupancy, each living area must have a working approved smoke detector. It also notes the camp operator is not responsible for daily maintenance of the detector or the actions of occupants that defeat its function.

The requirement is to have a working, approved smoke detector at the time of initial occupancy. When an occupant of a living area moves out and a new occupant moves in, that is considered another initial occupancy. For units that are occupied year-round or continuously by the same occupants, we expect the operator to test and confirm the functionality of the detector at least annually or more often, if required by the manufacturer.

Required Square Footage Table



NOTE: Beginning January 1, 2018, all cook, live, sleep facilities must provide at least 100 square feet per occupant.

Provide windows or skylights with a total area equal to at least 10 percent of the required floor area. At least one-half (nominal) the total required window or skylight area must open to the outside.

Table 1:

Sleeping rooms:				(Requirements do not change)		
# workers	Req. floor space ft ²	Req. window ft ²	Req. ft ² (openable)			
2/ w-bunks	80 ft ²	8.0 ft ²	4.0 ft ²			
4/ w-bunks	160 ft ²	16.0 ft ²	8.0 ft ²			
6/ w-bunks	240 ft ²	24.0 ft ²	12.0 ft ²			
1	50 ft ²	5.0 ft ²	2.5 ft ²			
2	100 ft ²	10.0 ft ²	5.0 ft ²			
3	150 ft ²	15.0 ft ²	7.5 ft ²			
4	200 ft ²	20.0 ft ²	10.0 ft ²			
Cook/live/sleep areas				Beginning January 1, 2018		
# workers/ date built	Req. floor space ft ²	Req. window ft ²	Req. ft ² (openable)	Req. floor space ft ²	Req. window ft ²	Req. ft ² (openable)
1/pre-8/75	60 ft ²	6.0 ft ²	3.0 ft ²	100 ft ²	10.0 ft ²	5.0 ft ²
2/pre-8/75	120 ft ²	12.0 ft ²	6.0 ft ²	200 ft ²	20.0 ft ²	10.0 ft ²
3/pre-8/75	180 ft ²	18.0 ft ²	9.0 ft ²	300 ft ²	30.0 ft ²	15.0 ft ²
4/pre-8/75	240 ft ²	24.0 ft ²	12.0 ft ²	400 ft ²	40.0 ft ²	20.0 ft ²
1/post-8/75	100 ft ²	10.0 ft ²	5.0 ft ²	(Requirements do not change)		
2/post-8/75	200 ft ²	20.0 ft ²	10.0 ft ²			
3/post-8/75	300 ft ²	30.0 ft ²	15.0 ft ²			

Oregon Administrative Rules (OARs) and Oregon Revised Statutes (ORSs) Referenced in Agricultural Labor Housing and Related Facilities

1. **OAR 437-004-1120(1)(c)** allows manufactured structures an alternative to compliance with the specifications for construction of sleeping places with the sanitation and safety design provisions in ORS 446.155 to 446.185, and OAR 918-500-0020(2).

Compliance by manufactured structures can be demonstrated by being lawfully registered and titled within the United States and by displaying a state-issued insignia of compliance.

- Manufactured structure means a recreational vehicle, manufactured dwelling or recreational structure. Manufactured structure does not include any building or structure regulated under the State of Oregon Structural Specialty Code or the Low-Rise Residential Dwelling Code.
- Recreational vehicle is a vehicle with or without motive power that is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes.

[ORS 446 \(2011\)](#) — Manufactured Dwellings and Structures.

[OAR 918-500-0510](#) — Standards for the Installation of Manufactured Dwellings.

2. **OAR 437-004-1120(3)** prohibits operators from charging occupants for services required by the ALH rules. Also, in [OAR Chapter 839, Division 020 Wages](#), the Bureau of Labor and Industries (BOLI) regulates what types of charges an employer can deduct from the wages of an employee.
3. **OAR 437-004-1120(6)(I)** requires that facilities built or remodeled before December 15, 1989, must have a ceiling or wall-type electric light fixture in working order and at least one wall-type electrical outlet in every living area. Facilities built or remodeled after that date must comply with the code in effect at the time of construction or remodeling.

[Building Code Division's Electrical Program](#)

4. **OAR 437-004-1120(7)(a), Water Supply** requires that all domestic water furnished at labor housing and related facilities must conform to the standards of the Public Health Division of the Oregon Department of Human Services.

[Oregon Health Authority's Public Health Division](#) rules.

5. **OAR 437-004-1120(7)(d)** requires that employers arrange, construct and if necessary, periodically disinfect the water storage and distribution facilities to

satisfactorily protect the water from contamination. Install all new plumbing in labor housing and related facilities to comply with the Oregon state building code.

[Building Code Division's Plumbing Program](#)

6. **OAR 437-004-1120(12)(d)(B) and (g), Toilet facilities** require installation of urinals and ventilation to be done according to the Oregon state building code.

[Building Code Division's Plumbing Program](#)

7. **OAR 437-004-1120 (14)(b), Sewage disposal and plumbing** requires employers to install all plumbing in labor housing and related facilities to comply with Department of Environmental Quality standards and the Oregon state building code.

[Oregon Division of Environmental Quality \(DEQ\)](#)

(See: Division 71, Onsite Wastewater Treatment Systems and Division 73, Construction Standards.)

[Building Code Division's Plumbing Program](#)

8. **OAR 437-004-1120(16) (d)(A)(ii) and (D), Living areas** requires employers to ensure that permanently installed solid or liquid fuel heaters or stoves and all gas appliances and gas piping comply with the Oregon state building code in effect at time of installation and the manufacturer's instructions.

[Building Code Division's Mechanical Program](#)

[Building Code Division's Residential Structures Program](#)

9. **OAR 437-004-1120(17) (e), (f), and (g), Fire Protection** requires that living areas built on or after December 15, 1989 meet the requirements for emergency exits in applicable rules of the Building Codes Division, which states that a second story with an occupant load of 10 or more and all occupants on floors above the second story and in basements have access to at least two separate exits from the floor or basement. This section also includes a note reminding employers to construct and maintain all living areas in labor housing and related facilities to comply with other applicable local and state laws in effect at the time of construction or remodel.

[Building Code Division's Residential Structures Program](#)

10. **OAR 437-004-1120(19)(g) Dining halls and equipment**, requires these types of facilities to comply with the 2005 edition of the FDA Food Code.

The [2005 FDA Food Code](#), including the Food and Drug Administration's supplement published October 5, 2007.

11. **OAR Chapter 839, Division 014 Bureau of Labor and Industries [BOLI] [Regulation of Farm-Worker Camp Operator](#)** rules.