

## **5YR CERTIFICATE OF HABITABILITY ORDINANCE FREQUENTLY ASKED QUESTIONS (FAQ)**

### **1. Who is subject to the Certificate of Habitability Ordinance and who is not?**

The Certificate of Habitability is intended to ensure that rental units in the City are in compliance with the minimum standards for habitability as set forth in Chapter II of the State Sanitary Code. As such, it covers all rental units (including rented condominiums and units owned by a Trust or LLC) throughout the City, which are either occupied, and/or will be occupied, and where the property owner is receiving or will receive from tenants, rental income or other benefits in lieu of rent in exchange for occupying the unit. All such rental units are subject to the ordinance and will be inspected.

The Ordinance does not cover owner-occupied condominiums and/or single families, or the owner-occupied units within a multi-family property where the property is held in his/her name individually. All other rental units within the multi-family property are subject to the ordinance and will be inspected.

### **2. Are there any exemptions to the ordinance?**

Yes. Owner-occupied units (where the landlord lives in the unit and property is in his/her name individually) are exempt from the Certificate of Habitability inspections. All other rental units including rented condominiums and units that are owned by a Trust or LLC, are subject to the ordinance and inspected.

### **3. Are vacant units that will not be rented going to be inspected?**

Vacant units that are not rented, and will not be rented in the future, will not be inspected. The Certificate of Habitability program is for units that will be rented. The Inspector will visually inspect the unit and the City may require the landlord to provide adequate documentation (notarized affidavit and electric utility bills, etc.) to corroborate that the unit has, in fact, been vacant and will remain as such.

### **4. What is process for gaining access to rental units for inspections?**

Landlords will receive a letter from the City notifying them that their rental units will be inspected and that they must contact the City to schedule a date/time for the inspection. Landlords will have 30 days from the date of notification to comply with the request. Once the inspection appointment is scheduled, landlords are then required to provide to their tenants soon thereafter, reasonable notice of the scheduled inspection in writing. The written notice will advise the tenants of the date and time their unit will be inspected, their right to be present at the inspection if they so choose, and directions about how to prepare their unit for inspection.

### **5. How will absentee owners know about 5-year inspections, etc?**

All owners of rental property in the City, whether owner occupants, absentee landlords, property management entities, or foreclosing lenders, will be notified in writing by the City's Inspectional Services Department (ISD). ISD will send notification letters to the property owner's last known address and the landlord will have thirty (30) days to contact ISD to

schedule the inspection. Owners who do not contact ISD to schedule their inspections may be fined according to the existing \$50/\$150/\$300 policy called for in the City's Ordinance.

**6. What type of notice is considered proper to give to tenants?**

It is anticipated that the landlord will be given at least 30 days notification to schedule the inspection appointments with ISD and that inspections will be scheduled "out into the future" providing significant time for the landlord to provide proper written notice. Landlord should notify tenants of the inspections as soon as possible once the appointment is scheduled but this should generally be no less than 14 days prior to the scheduled date of the inspections to properly prepare and ensure access to all parts of the unit. Tenants must also be notified of their rights including their right to be present at the inspection. Should access be an issue on the date of the inspection, landlords will be required to provide written documentation of notices provided. Fines/penalties may be levied landlord does not demonstrate that best efforts were made.

**7. Does the landlord have to be there at inspections?**

As it is in their best interest and in the best interest of the City inspectors (with regard to familiarity with and facilitation of access to all areas of the buildings/grounds), owners and/or their representatives must attend the inspections. Tenants may also be present if they so choose.

**8. If an owner has many units and some tenants change locks or won't let landlord in, what will the City do?**

Once landlords receive a letter from the City notifying them that they must contact the City to schedule a date/time for the inspection, landlords will have 30 days to comply with the request. Once the inspection appointment is scheduled, landlords are then required to provide their tenants with reasonable notice of the scheduled inspection in writing. The written notice should advise the tenants of their right including but not limited to the date and time their unit will be inspected, their right to be present at the inspection if they so choose, and directions about how to prepare their unit for inspection. The landlord is required to take any and all measures to secure access to all parts of the unit on the date of the inspection as it is their legal right to do so with prior written notice to tenant. If a landlord anticipates that a tenant may be uncooperative and will not provide access, the landlord is required to notify the City in advance of the inspection, provide documentation that proper notice was given and the City may contact the Chelsea Police Department to secure access.

**9. What happens if tenants refuse access or have changed locks?**

The landlord is required to take any and all measures to ensure that their tenants provide access to all parts of their unit on the date of their inspection. In the event that tenants are not providing access to all parts of their units, landlords must provide documentation to the City demonstrating that they did provide reasonable notice.

**10. What areas in the buildings are inspectors going to be looking at?**

The Certificate of Habitability inspections are tied to the requirements of Chapter II of the State Sanitary Code. These are minimum standards basically aimed at ensuring that rental units are "minimally habitable". That is, persons, families, or households must be able to

safely live, sleep, bathe, cook, and eat in the unit/building. Therefore inspectors will be checking to ensure that electrical, plumbing, heating, and other critical life safety systems (smoke, carbon monoxide, fire alarms, emergency lighting, etc) are functioning properly. The building should be weather-tight and windows should operate properly. Interior systems (walls, flooring, etc.) and appliances should be in good condition and proper working order. Porches, stairwells, and other means of emergency egress should be in good condition, free of clutter, and properly illuminated. Tenants must ensure that apartments are clean and that trash is properly stored so that trash or debris does not contribute to or cause problems with cockroaches, bedbugs, rodents, and/or other pests which are also an important issue for inspectors.

**11. Will inspectors be looking at electrical panels and boilers?**

Inspectors will review electrical panels and boiler systems generally but only to the extent needed to determine that they are functioning and without major issues or to the extent that tenants express concerns about these systems specifically. That is, for example, a tenant in the winter complains that they are without heat or hot water or a tenant complains that the electricity in their unit is constantly shutting off. In these instances, inspectors will likely cite the issue in their inspection reports and request that the landlord have these systems checked/repared by licensed professionals.

**12. If the City is inspecting for minimum standards and it finds other issues, will the City note and take action?**

Yes. While the Certificate of Habitability inspection is specifically tied to the enforcement of the minimum habitability standards required by Chapter II of the State Sanitary Code, City inspectors have a responsibility to note and address any other issues or conditions that may negatively affect the health and welfare of tenants occupying a unit. If an ancillary issue is identified, inspectors will note it on their inspection reports, discuss with the landlords and tenants, as appropriate, and provide direction as to how the issues should be addressed.

**13. Are fines higher than previous?**

Fines are the **same** as they have been in recent years. Fines are based on a \$50 for the first offense, \$150 for a second offense, and \$300 for a third offense. If the landlord (or tenant) continues to be non-compliant, the \$300 fine may continue per day until such a time as the unit is inspected, passes inspection, and a Certificate of Habitability is secured.

**14. If a landlord has tickets (such as trash violations) are they tracked by unit or by property?**

Any tickets issued at the property will be tracked by unit and by property where such demarcation is possible. Otherwise they will be tracked by property.

**15. It has been said that inspections will likely take an hour for each unit that is inspected. Is this too long?**

The hour per unit expectation is a general estimate for planning purposes that takes into account the inspectors' time travelling to and from the site, conducting the inspections under conditions where there are occupants and furniture present, and developing an inspection report. The actual time will vary greatly based on the size and condition of the units, and the

number of units being inspected within the building, etc. Inspectors will try to be as efficient as possible and tenants and landlord may contribute to shortening the inspection times by preparing properly for the inspections (removing clutter, moving furniture, identifying concerns, etc.)

**16. Is gender an issue on the overcrowding of units?**

Though tenants' gender and familial relationships may be an issue for persons/families occupying a rental unit, the City will actually be using a different measure to determine when overcrowding occurs. This measure will use a calculation of "minimum square footage" within the unit to determine the number of occupants who may legally live there. Total square footage will be calculated including kitchens, bedrooms, and dining rooms. All living rooms, bathrooms, laundry rooms/spaces, foyers, communicating corridors, closets, and storage space shall be excluded from the calculation of total floor space.

Chapter II of the State Sanitary Code requires that rental units contain at least one hundred fifty (150) square feet of floor space for the first occupant and at least one hundred (100) square feet for each additional occupant.

**17. Are new, larger rental developments exempt?**

No. New, larger rental developments are also subject to the ordinance and will be inspected. New units must first be inspected for and receive Certificates of Occupancy. This is separate and different (one-time, related to the construction process) from the inspections for Certificates of Habitability, which are required prior to units being re-occupied when there is a change in tenancy or at least every 5 years.

**18. Are Housing Authority rental units exempt?**

No. Units owned by the Chelsea Housing Authority are also subject to the ordinance and will be inspected. Although these public housing and/or private subsidized units are more regularly inspected by third-parties, these parties are not employees of the City. City of Chelsea inspectors will inspect these units prior to units being re-occupied when there is a change in tenancy or at least every 5 years.

**19. Are inspections for Housing Authority units with Section 8 vouchers acceptable in place of the City of Chelsea inspection?**

No. Rental units leased and/or subsidized through the Chelsea Housing Authority Section 8 voucher program are subject to the ordinance and will be inspected. Their third party inspectors are not employees of the City. City of Chelsea inspectors will inspect units with Section 8 vouchers prior to units being re-occupied when there is a change in tenancy or at least every 5 years.

**20. When the City finds that units are not up to code, will owners have to fix/upgrade the building to meet new building code requirements?**

The Certificate of Habitability inspections are tied to the requirements called for in Chapter II of the State Sanitary Code. These are minimum standards for existing units and not necessarily what is triggered/required by current codes for new construction and/or

substantial rehabilitation projects. In general, landlords will not be asked to upgrade to the new building code requirements.

**21. What will the City do when it finds units that do not comply with minimum habitability standards where owners cannot afford to make repairs?**

The City will not sacrifice health and safety concerns because of an owner's financial hardship. The City is required by state law to ensure that minimum habitability standards (as called for in Chapter II of the State Sanitary Code) are enforced. The landlord will be required to make proper repairs to the unit(s) in order to receive the Certificate(s) of Habitability. The City has secured a limited amount of federal grant dollars to be able to offer low-interest loans to qualified income-eligible landlords of one to four-family properties to assist them in covering the cost of repairs. Rental units assisted by the program are required to be rented to low- and moderate income households at affordable rent levels for the term of 15 years. For more information on this program, contact Marilyn Garcia, Chelsea Restoration Program, at (617) 889-2277, [mgarcia@chelsearestoration.org](mailto:mgarcia@chelsearestoration.org) or David Guzman, Chelsea Department of Planning & Development, at (617) 466-4186, [dguzman@chelseama.gov](mailto:dguzman@chelseama.gov) or visit [http://www.chelseama.gov/Public\\_Documents/ChelseaMA\\_Planning/Housing%20rehab](http://www.chelseama.gov/Public_Documents/ChelseaMA_Planning/Housing%20rehab)

**22. Where elders own/rent units but can't afford to make repairs, will the City be providing some type of grant?**

The City has secured a limited amount of federal grant dollars to be able to offer low-interest loans to qualified income-eligible landlords of one to four-family properties to assist them in covering the cost of repairs. There are provisions to make the loans forgivable if the owner continues to occupy the property as their primary residence. Rental units assisted by the program be rented to low- and moderate income households at affordable rent levels for the term of 15 years. For more information on this program, contact Marilyn Garcia, Chelsea Restoration Program, at (617) 889-2277, [mgarcia@chelsearestoration.org](mailto:mgarcia@chelsearestoration.org) or David Guzman, Chelsea Department of Planning & Development, at (617) 466-4186, [dguzman@chelseama.gov](mailto:dguzman@chelseama.gov) or visit [http://www.chelseama.gov/Public\\_Documents/ChelseaMA\\_Planning/Housing%20rehab](http://www.chelseama.gov/Public_Documents/ChelseaMA_Planning/Housing%20rehab)

The City will do what is possible to assist the elderly landlord in meeting the minimum habitability standards. The landlord will be required to make proper repairs to the unit(s) in order to receive the Certificate(s) of Habitability. The City is required by state law to ensure that minimum habitability standards are met and that the units do not pose a threat to the health and safety of the tenants and/or the elderly landlord.

**23. Can the City coordinate these inspections with Certificate of Occupancy inspections? Or with Certificate of Inspection inspections?**

No. It is very unlikely that these two inspections will be able to be coordinated, at least once the units are occupied. The Certificate of Occupancy inspection is generally a one-time event, tied to the completion of either new construction or substantial rehabilitation of a project. Upon substantial completion, inspectors must make sure that the unit(s) and building(s) are building code compliant and suitable for occupancy. The Certificate of Inspection generally takes place at least every five years and is specifically targeted toward common areas, means of egress, and life safety concerns.

**24. Many years ago there was City Building Inspector who came and inspected common areas, electrical, boilers, etc. and inspected a random sample of units in a building. Will/can this be done similar to that?**

No. Under the 5 year Certificate of Habitability program, the City will inspect each rental unit within the building as well as common areas and building systems as required in order to ensure that the unit and building comply with the minimum requirements of Chapter II of the State Sanitary Code.

**25. Several months ago my unit was inspected by the Fire Department. Will that inspection cover this program as well?**

No. The City of Chelsea Fire Department conducts its own inspections and for its own specific purposes (life safety equipment, smoke and carbon monoxide detectors, emergency egress, etc.). The Certificate of Habitability inspection may review some of these same issues but will also review other standards called for by Chapter II of the State Sanitary Code.

**26. What does the City do with money collected from inspection fees and penalties?**

The monies collected from inspection fees and penalties will go into the City's general funds, where they may be used to help off-set some of the City's costs to implement the program such as hiring and training inspectors and other support staff, equipment for inspectors, and so on. The City does not expect to recoup all of the costs it expends on the program through these fees, however. The general fund may also be used to cover other important initiatives within the City.

**27. What will the City do with multi-family buildings where owners do not collect rent? Occupied by multi-generational family members?**

The Certificate of Habitability inspections are required for all rental units regardless of current occupancy status and where a rent is being collected by the owner (or some other monetary compensation is being provided in return for occupying the unit). Owners who allow family members to occupy a unit without paying rent or collecting some form of monetary compensation will be required to submit a notarized statement that, in fact, no rent is being collected at the rental unit(s) at the property along with supporting documentation in the form of personal/business tax returns and/or other documents. The owners will be required to schedule an inspection at the time that circumstances change.

**28. Can/will the City cross reference other lists (electric company turn-ons or name changes) to determine tenant turnovers?**

The City does not currently have a reliable system for determining when turnovers in tenancy occur. However, in the event that that the City can secure access to more reliable systems to determine turnovers (such as cross referencing school enrollment with addresses or electric company turn-ons), and it is found that that the landlord did not properly notify the City to request an inspection prior to re-occupying the unit, the landlord will be fined and the unit will be inspected.

**29. Does the City have an on-line tracking database?**

In the summer of 2015, the Inspectional Services Department implemented on-line permit tracking (PermitLink), which will lead to future improvements in its computer-based implementation and tracking capabilities. Although not part of the system yet, the City is working with consultants to develop software that will help inspectors to schedule inspections, develop inspection reports, track completion of repairs and schedule subsequent 5-year inspections.

**30. The City of Boston requires registration of units. Will we be doing the same?**

No. The City of Chelsea will not be requiring annual registration of units at this time.

**31. Does the City have results in from other cities that have implemented the program?  
What other communities are doing this?**

The City currently does not have any reliable history or results from other cities that have implemented a 5-year Certificate of Habitability program. The City of Boston adopted a rental inspection ordinance in late 2012. The City of Boston requires landlords to register their rental units. This is different from the City of Chelsea requirements and there are a far greater number of units in Boston than in Chelsea.

**32. Does the City provide training to inspectors?**

Yes. All City inspectors receive initial and ongoing training as a regular part of their employment and in order to secure and/or retain any licenses, certifications, or other accreditations required in order to perform their work appropriately. In addition, the City expects to purchase equipment (Desktop computers, personal mobile devices, meters, etc.) and software specifically designed to facilitate the inspectors work both in the office and in the field. Inspectors will receive training on these aspects as well. Inspectors may also participate in job specific trainings, seminars, etc. including group training with other municipalities.