



Chelsea City Council

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*BIH
Removal
from Conf.
Susp.*

*BIH
will call
to adopt. MAR 24 2014
passed 10-1-0-0*

March 24, 2014

WHEREAS, the City Administration recommends that new legislation be enacted to ensure that all residential rental units in Chelsea be habitable by establishing an ongoing inspection program;

WHEREAS, the City's Administration recommendation is based upon a determination that the City's aging housing stock combined with its transient population permits a situation where numerous units are inadequate in meeting the minimum requirements pursuant to the State's Sanitary Code;

WHEREAS, the City Council for the City of Chelsea adopts ordinances to protect the health, safety and welfare of all residents of the City of Chelsea; and

WHEREAS, requiring all property owners of rental units in the City of Chelsea to undergo a habitability inspection every five (5) years and when there is a change in tenancy is a valid use of the city's inherent police power.

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHELSEA, AS FOLLOWS:

AN ORDINANCE AMENDING CHAPTER 6 OF PART II OF THE CHELSEA CODE OF ORDINANCES – BUILDING AND FIRE PREVENTION REGULATIONS

That the Code of the City of Chelsea is hereby further amended by replacing 6-2 in its entirety with the following language:

6-2 Certificates of Habitability

The purpose of this Ordinance is to ensure that all rental units within the City of Chelsea are fit for human habitation and meet the requirements of Chapter II of the Massachusetts Sanitary Code. All rental properties will be required to obtain a Certificate of Habitability at least every five years and every time a new tenant occupies a rental unit.

The objective of this Ordinance is to implement a transparent and consistent rental inspection program that maximizes city resources to protect tenants and landlords.

The City of Chelsea is not inspecting units pursuant to this Ordinance that are occupied by the property owner.

A. Definitions:

1. Days. Consecutive calendar days.
2. Owner. An owner shall be defined as a for-profit, not-for-profit, individual or corporation; an agent of a for-profit, not-for-profit, individual or corporation; a mortgagee in possession or any person having legal title, legal charge of or authority, over a private dwelling, tenement, lodging house/rooming house or other residential rental property dedicated to residential use.
3. Certificate of Habitability: An inspection conducted to ensure that rented dwelling units are fit for human habitation and comply with the requirements set forth in the State Sanitary Code, 105 CMR 410. To secure a Certificate of Habitability, a rental unit must possess separate sleeping, sanitation, and living area.
4. Enforcement: This ordinance will be enforced by the Inspectional Services Department (“ISD”) as directed by the Director of ISD and the Board of Health.
5. Dwelling: every building used or intended to be used for human habitation and all other structures located within the same lot line whose existence causes or is likely to effect noncompliance with the provisions of the State Sanitary Code, 105 CMR 410.00.
6. Dwelling Unit: A room or rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.
7. Rental Unit. A non-owner occupied room or group of related rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking, and eating in exchange for a fee or money. A rental unit shall also mean a non-owner occupied condominium unit or unit that is owned by a Trust or LLC. Dwelling units that have current Lodging House Licenses/Rooming House Licenses issued by the Licensing Board for the City of Chelsea shall not be considered as Rental Units for the purposes of this Ordinance, and will continue to be annually licensed and inspected pursuant to M.G.L. 140 sections 22 and 25.
8. Locking Device: a device operated by a key, combination, padlock, keycard or any other device used on a door for holding, closing or securing.

B. Inspections for a Certificate of Habitability: All Property Owners shall be responsible for the following inspections:

1. New Occupant/Tenant Inspection for a Certificate of Habitability: Whenever a rental unit, other than a hotel, motel or lodging house/rooming house licensed pursuant to M.G.L. Chapter 140, Sections 22-31, is vacated by the occupants thereof or when an area in an existing building is converted to a condominium it must be inspected by ISD, as meeting the standards set forth in the State Sanitary Code, 105 CMR 410.00 et seq., as amended, otherwise known as a Certificate of Habitability, prior to being re-occupied by a new occupant. Once a rental unit receives a Certificate of Habitability through this process, the owner will not be required to obtain a new Certificate of Habitability until the lesser of five years from the date of issuance or when there is a change in tenancy.
2. 5-year Inspection for a Certificate of Habitability: Every five (5) years each rental unit, other than units exempt pursuant to Section E of this ordinance, will be inspected to ensure it meets the requirements of the State Sanitary Code and the Ordinances of the City of Chelsea. This is required even if there has been no change in tenancy during this five year period.
3. The Director of ISD may cause the unit to be inspected pursuant to the terms herein and in the manner provided for in the State Sanitary Code.

C. Temporary Certificate: A temporary Certificate of Habitability may be issued, for no longer than thirty (30) days, if in the judgment of the Director of ISD or designee, the owner is entitled to a reasonable period of time to make necessary repairs and if the health and safety of the occupants is not thereby endangered.

D. Posting of Owner Information: An owner or the Condominium Trust Association of a rental unit shall post and maintain or cause to be posted and maintained on such dwelling, adjacent to the mailboxes for such dwelling, or elsewhere in the interior of such dwelling, in a location visible to the residents, a notice constructed of durable material, not less than 20 square inches in size, bearing his/her name, address, and telephone number. If the owner is a realty trust or partnership, the name, address, and telephone number of the managing trustee or partner shall be posted. If the owner is a corporation, the name, address, and telephone number of the president of the corporation shall be posted. Where the owner employs a manager or agent, such manager or agent's name, address, and telephone number shall also be included in the notice. Post Office (P.O.) Box does

not satisfy the address requirement of this section. The phone number on the notice has to be current and accessible 24 hours a day, 7 days a week.

E. **Exemption:** A dwelling unit that is occupied by its owner is exempt from obtaining a Certificate of Habitability. If a dwelling unit is owned by a Trust or LLC then it shall be inspected.

F. **Pertinent Safety Aspects of Certificate of Habitability Inspections:**

During Certificate of Habitability Inspections, ISD staff will be evaluating to ensure that each rental unit is safe and habitable for all occupants, and that the number of occupants complies with the Minimum Square Footage calculation set forth in Section F (2)(i) below. ISD will also inspect to ensure units are not being used as illegal rooming houses. ISD will determine the unit's compliance with State Sanitary Code, City Ordinances and rules and regulations. ISD will require the following:

1. No locking devices on bedroom doors, however bedroom doors are permitted to be equipped with a privacy lockset doorknob provided such device is operable from the inside of the bedroom without use of a key or tool; and
2. Each rental unit must meet the minimum square footage requirement in the State Sanitary Code. Rental units shall contain at least one-hundred and fifty (150) square feet of floor space for the first occupant and at least one hundred (100) square feet of floor space for each additional occupant.
 - i. Minimum Square Footage Calculation: the above calculation will include kitchens, living rooms, bedrooms, and dining rooms. All bathrooms, laundry rooms/spaces, foyers, communicating corridors, closets and storage space shall be excluded from the calculation of total floor space.

G. **Charges for Inspections:** All inspections performed under this Ordinance shall be undertaken in accordance with the requirements of the State Sanitary Code and recorded on a form approved by ISD. ISD shall charge an inspection fee of fifty dollars (\$50.00) per unit. This inspection fee shall cover the cost of up to two (2) inspections of the unit to achieve compliance. If additional inspections are required for the unit to achieve compliance, ISD shall charge an additional fee of fifty dollars (\$50.00) per inspection for the third and any subsequent inspections of the same unit and common areas. All fees are subjected to a scheduled issued and amended time to time by the City Manager.

H. **Owner Responsible for Notice to Occupants and Access to Units:**

1. The owner is responsible for providing reasonable advanced notice of the scheduled inspection to the occupants of the unit.

2. The owner or his/her representative may be present at and throughout the time of inspection. The tenant or his/her representative may also be present.
3. The owner or his/her representative is responsible for making sure the inspector has access to all interior and exterior spaces of the building, including the basement, the common areas and any outside space.
4. Within reason, the owner or his/her representative is responsible for ensuring that the inspector can view all rooms, all walls, all secondary means of egress, and all other aspects of the rental unit that are pertinent to health and safety.
5. If an owner is denied access by the occupant for purposes of conducting an inspection, the owner of said unit shall notify ISD of such denial no less than seventy-two (72) hours prior to their inspection appointment and provide proof that they gave adequate notice to the tenant. The owner is required to reschedule the appointment and take any and all steps necessary to obtain access to the all units in the dwelling.
6. If the inspector cannot gain access to a unit or any parts of a unit on the day of the inspection, the owner forfeits the fee and must re-schedule the inspection, paying a new fifty dollar (\$50.00) fee. If this occurs a second time, the owner will be deemed to be non-compliant and will be fined per day pursuant to section 1-8 of the City of Chelsea Ordinances until the unit is inspected and a Certificate of Habitability is obtained.
7. Results of the inspection will be provided in writing to the owner and shall be provided to the tenant upon request.

I. Penalties:

1. Failure to comply with any provisions of this ordinance will result in the property owner being liable for a fine as provided in Section 1-8 (b). Each day's failure to comply shall constitute a separate offense.
2. Failure to comply with any order issued pursuant to 105 CMR 410.830 of the State Sanitary Code will result in the owner being liable for a fine as provided in Section 1-8 (b) of the City of Chelsea Ordinances. Each day's failure to comply with an order issued by ISD shall constitute a separate offense.
3. The provisions of this ordinance may also be enforced according to Chapter 40U of the Massachusetts General Laws as accepted by the City of Chelsea, also known as the "Green Ticket" law.
4. If the Director of ISD or designee deems the conditions in the unit to endanger or impair the health and safety of the occupants in accordance with 105 CMR 410.750 of Chapter II of the State Sanitary Code, it is the owner's responsibility to take whatever measures are necessary to bring

units into compliance, including but not limited to relocating existing tenants. If this does not occur immediately, the City will use whatever means necessary to ensure the owner complies, including but not limited to deeming the property unfit for human habitation in accordance with the provisions of 105 CMR 410.831, criminal and court actions. All expenditures the City must incur to ensure this compliance will be considered the responsibility of the owner and the City will take whatever means necessary to collect these funds.

- J. **Creation of a Public Record:** Any and all notices, statements, inspection forms, applications including supporting documentation, and any other documents concerning an inspection pursuant to this ordinance, shall be a matter of public record.
- K. **Rules and Regulations:** The City Manager or his designee the Director of ISD may promulgate written rules and regulations necessary to implement and enforce the provisions of this ordinance.
- L. **Invalid Provisions:** If any provision of this ordinance is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
- M. **Date of Effectiveness:** The provisions of THIS ORDINANCE shall be effective April 15, 2014.



Councillor Brian Hatleberg

City of Chelsea, Massachusetts

MAR 24 2014, 2014

Roll Call Vote in Connection With BIH roll call to adopt.

F.S.D. ord.
passed 10-1-0-0

CHELSEA CITY COUNCIL

	YES	NO	ABSENT	PRESENT
Councillor Giovanni Recupero District Six	✓			
Councillor Chris Cataldo District Two	✓			
Councillor Calvin T. Brown At-Large	✓			
Councillor Leo Robinson At-Large	✓			
Councillor Paul Murphy District One	✓			
Councillor Matt Frank District Three	✓			
Councillor Dan Cortell District Eight	✓			
Councillor Cliff Cunningham District Seven	✓			
Councillor Paula Barton District Four	✓			
Councillor Joseph Perlatonda District Five		✓		
Councillor Brian Hatleberg At-Large	✓			

10-1-0-0

Totals _____

Comments _____
