

CHAPTER 5

[Amended 12/04/12]

HOUSING INSPECTIONS AND RENTAL REGULATIONS

**SECTION 9 HOUSING STANDARDS**

The Town of Salisbury hereby enacts a regulation whereby owners of rental property must obtain a Certificate of Habitability prior to renting or leasing dwelling units.

**5.9.001** The board of Health adopts by reference 105CMR400.000 Chapter I and 105CMR410.000 Chapter II of the Massachusetts State Sanitary Code as local regulations. Further, all future Amendments to existing laws shall be considered adopted as local regulations.

**5.9.002 HOUSING INSPECTIONS AND RENTAL PERMIT REGULATIONS**

The Town of Salisbury hereby enacts a regulation whereby owners of rental property must obtain a Certificate of habitability prior to renting or leasing certain dwelling units.

**FINDINGS**

This Regulation is enacted in accordance with the Board of Health's authority as set forth in Massachusetts General Law c.111, §31, and the Sanitary Code 105CMR410.000 Minimum Standards of Fitness for Human Habitation, and the Sanitary Code 105CMR400.100 (A) & (B)

**1. Definitions**

Board means the Salisbury Board of Health

Dwelling means every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to affect noncompliance with the provisions of 105CMR410.000.

Dwelling Unit means the room or group of rooms within a dwelling used or intended for use by one person, family or household for living, sleeping, cooking and eating. Dwelling Unit shall also mean a condominium unit. However, motels, hotels and extended stay facilities, shall be permitted and inspected annually.

Owner/Agent of owner means every person who alone or severally with others:

- a) Has legal title to any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park; or
- b) Has care, charge or control of any dwelling or dwelling unit, mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix. Trustee or guardian of the estate of the holder of legal title; or

- c) Is a mortgagee in possession of any such property; or
- d) Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
- e) Is an officer or trustee of the association of unit owners of a condominium
- f) Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. Owner also means every person who operates a rooming house.
- g) Renting or Leasing means any arrangement whereby an owner of a dwelling unit allows any third party to occupy said dwelling unit for purposes of household living, sleeping, cooking and eating, **for a rental fee.**
- h) Season and Short Term Rentals means all rentals or leases of dwelling units for term not lasting more than 5 months.
- i) Tenant means any person occupying a dwelling unit through a lease or rental arrangement with an owner.
- j) **Units occupied by family members, or any person(s) not paying a rental fee are exempt, but owners or agents must file an affidavit on a form approved by the Health Department.**

## **2. Intent**

- a. Although the laws established by the Commonwealth and Federal agencies are of a minimum nature, they are deemed to be generally adequate to protect the public health and the environment in the interest of present and future residents of Salisbury.
  - b. However, specific identifiable local conditions may require more stringent regulations to protect these interests with respect to rental housing. It is with this intent that the Salisbury Board of Health, pursuant to the statutory authority granted them in the General Laws of the Commonwealth, the amendments and additions thereto, and by the power thereto enabling, and in accordance therewith the State's Sanitary code, in the interest of and for the preservation of the public health, have adopted the following Regulation.
  - c. This is a local regulation that was adopted by the Board of Health to ensure that tenants are moving into housing that meets the Minimum standards for Fitness for Human Habitation as defined in the State Sanitary Code.

## **3. Certificate of Habitability**

- a) Prior to renting or leasing a dwelling unit to any tenant the owner of said dwelling unit must obtain a Certificate of Habitability from the Board of Health.

- b) This requirement for a Certificate of habitability shall apply to any rental or leased dwelling unit, currently occupied by a tenant or will be occupied by a tenant. In the case where dwelling units are currently occupied, property owners must receive a Certificate of Habitability within one year from the effective date of this regulation **June 17, 2008 and recodified October 6, 2009**. In the case where a dwelling unit is vacant or will be rented or leased in the future the property owner must obtain a Certificate of habitability prior to rental. Each unit must obtain a new Certificate of habitability every **five (5)** years. Nothing in this section shall be construed as limiting the Boards authority with respect to enforcement of the State Sanitary Code or local regulation for any occupied dwelling.
- c) An owner of rental or leased property must obtain a Certificate of habitability by filing an application on a form prescribed by the Board of health. The owner must be able to demonstrate that:
- Town water and wastewater bills are current
  - Real estate taxes are current
  - The unit complies with 105CMR 410.000 and local regulations.
  - **In the event of financial hardship the owner shall provide evidence, or develop a payment plan acceptable to the town to demonstrate that utilities and/or taxes are current.**
- d) Upon receipt of a completed application, the Health Department or its designee shall conduct an inspection of the premises in accordance with the procedures set forth in 105CMR410.821 and 410.822. if the inspection reveals that the dwelling unit does not comply with this Regulation or the provisions of 105CMR 410, the Health Department may deny the application or issue such orders as it deems appropriate under the circumstances. Any owner aggrieved by the Health Department's decision may request a hearing before the Board. Such request shall be in writing and received by the Board within seven (7) days of receipt of the Health Department's decision.
- e) Term-Once issued, the Certificate of habitability shall remain in effect **for a period of 5 years, and must be renewed on or before the expiration date.**
- f) Issuance of a Certificate of Habitability shall be based solely upon the condition of the dwelling unit at the time of inspection. The issuance of a Certificate of habitability shall not preclude enforcement of the State Sanitary Code or any other pertinent stature, bylaw, rule or regulation if violations are brought to the Health Department's attention after the issuance of a Certificate of habitability.
- g) The fee for inspections, administrative fees, and issuance of a Certificate of Habitability shall be in accordance with the current Board of health fee schedule.

#### **4. Seasonal and Short Term Rentals**

Owners of dwelling units wishing to rent or lease those units on a short term or seasonal basis **must** obtain a Certificate of Habitability from the Board of health. A Certificate of Habitability will be valid for **five years** notwithstanding turnovers and vacancies of the dwelling unit

##### **Penalties**

- a) Failure to obtain a Certificate of Habitability for any dwelling unit subject to this Regulation shall result in the Owner being fined for each and every day that the unit is occupied without the required certificate. The fine shall be in accordance with fines identified within the current Board of health fee schedule.
- b) The provisions of this Regulation may also be enforced in coordination with the Salisbury Police Department, Board of Health or its agent through non-criminal disposition pursuant to the provisions of G. L. c.40 § 21D, and General Bylaws Ch. 1 §1-6. For purposes of non-criminal disposition, each violation of this Regulation shall be subject to a fine as defined within the current Board of Health fee schedule. Each day's failure to comply with the provisions of the Regulation shall constitute a separate violation. The Board may enforce this Regulation or enjoin violations thereof through any lawful process, and the election of one remedy by the Board shall not preclude enforcement through other lawful process.
- c) **Effective June 1, 2013 any person who fails to comply with this Regulation shall be subject to penalty fees of 100% the original fees. Other enforcement action may be implemented as deemed necessary by the Health Department.**

#### **SECTION 10 THROUGH 20**

Reserved for future regulations, amendments, etc.

#### **SECTION 21 PENALTIES**

- 5.21.001 Any persons, firm, or corporations violating or failing to comply with any provision of these rules and regulation, shall be penalized in accordance the penalty provisions of Chapter 1, Section 19 inclusive.

#### **Section 22 severability**

5.22.001 If any paragraph, sentence, phrase or word of these rules and regulations shall be declared invalid for any reason whatsoever, the decision shall not affect any other portion of these rules and regulation which shall remain in full force and effect and to this end the provisions of these rules and regulations are hereby declared severable. Notwithstanding the provisions that may be in conflict with the Massachusetts General laws, the revised by laws of the Town of Salisbury, these rules and regulations will be binding upon all parties concerned.