

Rental Property Registration and Inspection

8.40.010 Purpose

The purpose of this Ordinance is to protect the health, safety and welfare of the residents of Winthrop and is ordained pursuant to the Home Rule Amendment of the Constitution of the Commonwealth of Massachusetts and in support of the authority of the Board of Health under G.L. c. 111, §127A and §127B. The registration of certain rental properties and provision for the inspection of vacant or problem properties as hereinafter identified is deemed to be in the best interest of occupants of rental housing, and of all residents of and visitors to the Town of Winthrop, by enabling the identification of threats to public health and safety from substandard housing conditions, by encouraging the elimination of health and safety violations and by providing a process for remediation of such violations.

8.40.020 Definitions

- A. **Inspector:** An agent or designee of the Town of the Winthrop's Health Department, Building Department or Fire Department.
- B. **Board:** Town of Winthrop Board of Health.
- C. **Owner:** An individual, or for-profit or not-for-profit entity, corporation, limited liability corporation, or agent thereof, which alone or severally with others: has legal title to any dwelling, dwelling unit, or parcel of land, vacant or otherwise or in any capacity has care, charge or control of the foregoing, including but not limited to agent, executor, administrator, trustee or guardian of the estate of the holder of legal title; or mortgagee in possession of any such property; or agent, trustee or any other person appointed by a court and is vested with possession or control of any such property; or is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he/she were the owner.
- D. **Problem Property:** A Rental Unit or other property that meets the following criteria:
 - 1) the Police Department has been called to the Property at least four times within the preceding 12-month period for any complaint or other incident involving any arrestable offense, including, but not limited to, disturbing the peace, trespassing, underage drinking, drug use or assault; or
 - 2) the Board of Health or an Inspector has received four or more complaints within the preceding 12 month period for noxious, noisome or unsanitary conditions.

3) A property would be deemed a 'Problem Property' except where the landlord has shown diligence in alleviating this issue. This exception would be valid if the problem is created/caused by a tenant, such as a domestic issue or if the landlord has defined and implemented an acceptable plan to mitigate the issue such as a formal eviction process. The hearing officer would be the arbiter of this decision.

- E. **Rental Unit:** A space occupied or intended for occupancy by a person other than the owner of the unit, regardless of whether compensation is received for the rental, including a bedroom in a rooming house, a unit of temporary housing used or intended for human habitation or a non-owner occupied condominium unit, but excluding units within motels, hotels or lodging houses, excluding any such unit identified in section 8.40.030 as exempt from the provisions of this Chapter.
- F. **State Sanitary Code:** Chapter II, 105 CMR 410.000, et seq. Minimum Standards of Fitness for Human Habitation.
- G. **Town:** The Town of Winthrop.

8.40.030 Applicability; Exemption

The provisions of this Chapter shall apply to all Rental Units in the Town, with the exception of:

- A. Rental Units owned, operated, or managed in accordance with a state or local Housing Authority or the U.S. Department of Housing and Urban Development Section 8 Program, during the period of time as such governmental ownership, operation and management remains in effect, provided that such units file with the Board their annual inspection reports issued by any of the above organizations throughout said period.
- B. Units located in dwellings containing three (3) or fewer Rental Units, one of which is occupied by the owner, unless determined to be a Problem Property pursuant to Section 8.40. ~~030~~ below.
- C. The Winthrop Housing Authority shall maintain inspection records at its offices which shall be made available to Town Officials as necessary.

8.40.040 Registration with Board of Health; Issuance of Certificate of Registration

- A. Any Owner who shall offer for rent or lease any Rental Unit in Town to be used for human habitation shall first register with the Board to obtain a Certificate of Registration. All non-exempt Rental Units must be inspected at least once every four (4) years. The Town Manager shall develop a phase in plan so that a minimum of 25% of the units shall be inspected annually beginning October 1, 2013.
- B. During such inspection, and prior to obtaining a Certificate of Registration, the Board or an Inspector shall determine the number of persons the property being inspected may legally accommodate and whether the Rental Unit meets the standards set forth in the State Sanitary Code and other applicable health and safety codes.

- C. A Certificate of Registration shall be issued by the Inspector in accordance with the State Sanitary Code and other applicable health and safety codes. The Certificate of Registration shall include a statement that said Rental Unit is in compliance with all applicable codes at the time of inspection.
- D. Said Certificates of Registration are not transferable to subsequent owners of the Rental Unit.
- E. Failure to register, obtain and/or to post the Certificate of Registration constitutes a violation of this Ordinance.

8.40.050 Occupancy Not to Exceed Specified or Allowable Limits

The Owner of a Rental Unit may be found in violation of this Chapter if the number of occupants exceeds that specified by the Certificate of Registration, or exceeds the allowable number determined by the Inspector to be reasonable for the protection of the tenant(s) and public health and safety.

8.40.060 Denial of Certificate; Correction of violations.

- A. Following the inspection of a Rental Unit, the Inspector shall deny a Certificate of Registration when violations of the State Sanitary Code or other applicable health or safety code are observed.
- B. If the Inspector issues a denial of the Certificate of Inspection, the Inspector shall issue a written order citing each violation of the State Sanitary Code or other applicable health or safety code violation observed in the Rental Unit during the inspection which must be corrected before a Certificate of Registration may issue.
- C. It shall be the responsibility of any Owner receiving such order to notify the Board and/or Inspector when such violations have been corrected and to request a re-inspection to verify that the violation(s) have been remediated.
- D. No Certificate of Registration shall be issued and the Rental Unit may not be occupied in any manner until each violation cited by the Inspector is corrected.

8.40.070 Complaint-Based Inspections

- A. Nothing contained in this Chapter shall prevent or restrict the Board or an Inspector from inspecting any Rental Unit or the premises in which it is located, in response to a complaint alleging State Sanitary Code violations or other violations of law, and, where any violation is observed, to pursue all available code enforcement remedies permissible under this Chapter or other applicable law.

- B. In the event a complaint-based inspection reveals any violation of the State Sanitary Code and/or health and safety codes, the Inspector shall issue a written order citing each violation of the State Sanitary Code or other applicable health or safety code violation observed in the Rental Unit during the inspection which must be corrected or may result in the suspension of a Certificate of Registration.
- C. It shall be the responsibility of any Owner receiving such order to notify the Board and/or Inspector when such violations have been corrected and to request a re-inspection to verify that the violation(s) have been remediated.
- D. No Certificate of Registration may be reinstated and the Rental Unit may not be occupied in any manner until each violation cited by the Inspector warranting suspension of the Certificate of Registration is corrected.

8.40.080 Voluntary Inspection Request

- A. Nothing in this Chapter shall prohibit an Owner from voluntarily requesting an inspection pursuant to this Chapter to determine whether a Rental Unit complies with applicable health and safety laws and to obtain a Certificate of Registration.
- B. In the event a voluntary inspection request reveals any violation of the State Sanitary Code and/or health and safety codes, the Inspector shall issue a written order citing each violation of the State Sanitary Code or other applicable health or safety code violation observed in the Rental Unit during the inspection which must be corrected or may result in the suspension of a Certificate of Registration.
- C. It shall be the responsibility of any Owner receiving such order to notify the Board and/or Inspector when such violations have been corrected and to request a re-inspection to verify that the violation(s) have been remediated.
- D. No Certificate of Registration may be reinstated and the Rental Unit may not be occupied in any manner until each violation cited by the Inspector warranting suspension of the Certificate of Registration is corrected.
- E. Such voluntary inspection request shall be subject to all of the provisions in this Chapter, including but not limited to, application and fees.

8.40.090 Problem Property

- A. Any Rental Unit determined by the Board of Health or Inspector to be a Problem Property must annually request an inspection and pay the applicable inspection fee.
- B. Each Owner of a Problem Property shall also file with the Board of Health an annual management plan, within thirty (30) days of its classification as a Problem

Property, proposing the measure(s) to be taken by the Owner to correct the outstanding code violations or other repeated or reoccurring conditions as identified by the Board of Health or the Inspector. Such management plan shall identify the deficiencies cited in the Rental Unit and include a timeline for the completion of the work, and identification of any contractors or professionals hired to complete the work.

8.40.100 Fees

- A. The Fee for registration of each Rental Unit covered by this Section and for inspection of said Units, including Problem Properties, complaint-based inspections and voluntary inspections shall be seventy-five dollars (\$75.00) or, as otherwise set by the Town Council pursuant to Regulation.
- B. With the exception of inspections for Problem Properties, there will be no fee for one re-inspection per 24-month period of violations found on prior inspections.

8.40.110 Violations and Penalties

Any person in violation of any provision of this Ordinance shall be punished by a fine in accordance with the following schedule of fines. Upon first notification of violation, the Owner of any rental unit shall be granted up to thirty days to remedy such violation. After the expiration of thirty days, if it is determined by the Inspector that such violation is continuing and there is clear evidence of non-performance by the Owner to remedy the condition, the Inspector shall have the authority to impose a first offense fine of Fifty (\$50) Dollars. Absent reasonable opportunity giving to the Owner to remedy said violation, the Inspector may impose daily violation fines of One Hundred (\$100) Dollars each day to compel appropriate performance by the Owner to remedy the condition.

8.40.120 Public Record

Certificates of Registration issued by Board or the Inspector and all notices, statements, inspection forms, applications, supporting documentation, and any other documents concerning an inspection pursuant to this Chapter shall be public records to the extent permitted by law.

8.40.130 Appeal

The procedures for appealing any decision of the Inspector or Hearing Officer shall be the same as that set forth in G.L. c. 40U.