



# CITY OF LYNN

INSPECTIONAL SERVICES DEPARTMENT

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## RULES AND REGULATIONS RENTAL UNIT INSPECTION PROGRAM

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### Section 1.0 Purpose

In October 2020 the City of Lynn's City Council enacted an ordinance creating a rental unit registration and inspection program. The purpose of this inspection program is to implement a proactive rental registration and inspection program that maximizes the effectiveness of City resources in rental property code enforcement. The program is tasked with identifying all residential rental units in the City and their owners on a continuous and recurring basis, to accommodate the transient nature of the rental market. The program also prioritizes notorious problem properties in order to economically target City resources toward chronic and problem offenders.

### Section 2: Definitions

"*Authorized inspector*" shall mean

1. any ISD inspector or an inspector contracted with by ISD or his/her employer or;
2. any other person who:
  - a. is a Commonwealth of Massachusetts Registered Sanitarian or a Commonwealth of Massachusetts Certified Health Officer or a Commonwealth of Massachusetts Certified Home Inspector, or has proof of training acceptable to ISD;
  - b. has demonstrated a proficiency in the application of the State Sanitary Code; and
  - c. has received prior approval from the Chief of Inspectional Services.

All authorized inspectors shall perform all inspections in a manner consistent with these rules and regulations and shall within one hour refer to Inspectional Services Department any issue involving imminent life safety or health problems. Authorized inspectors accept the designation to perform these inspections with the understanding that the failure to adhere to the standards of good faith, fair dealing, and honesty will result in the revocation of the status as authorized to perform these inspections, action against the professional license, and if relevant, notification to authorities for criminal prosecution.

ISD shall immediately revoke the approval of any authorized inspector who misrepresents the condition of a unit or fails to inspect a unit with due care, misrepresents any information on the application form or any form or document submitted under this section, or for any reason demonstrates a failure to honor the requirement of good faith and fair dealing. An authorized inspector may request a hearing if aggrieved by such a revocation of approval. A hearing shall be held within thirty (30) days upon a written request from the aggrieved party.

"*Commissioner*" shall mean the Chief of the Inspectional Services Department or a designee.

"*Complex*" shall mean two or more buildings on the same property owned by one entity.

"*Chronic offender*" shall mean

1. any property where the property owner has failed to register the property in compliance with the Ordinance after notice or;
2. any property that fails to remediate more than one violation of the Building or Sanitary Code or;
3. any property that violates a provision of the City of Lynn Zone Ordinance within the time frame prescribed by a duly issued Order of the Inspectional Services Department.

For purposes of this definitions, only failures to register or to remediate committed within the past twelve (12) months shall be considered. Upon meeting the definition of a chronic offender in this Ordinance, ISD shall notify owners of their classification as a "chronic offender" by mail, return receipt requested. The owner shall have fourteen (14) days to request a hearing before the Chief of Inspectional Services and/or his designee to contest their classification as a "chronic offender".

Chronic offenders are subject to fines of three hundred dollars (\$300.00), or the maximum allowed, for each subsequent violation notice received in a twelve (12) month rolling period, and may also be subject to court prosecution under the applicable codes and regulations. Each day shall constitute a separate offense.

"Days" shall mean consecutive calendar days

"Owner" shall mean a for profit or not-for-profit individual or corporation, an agent of a for profit or not-for-profit individual or corporation, or any person having legal charge of or authority over a private dwelling, tenement, lodging house, or other residential rental property dedicated to residential use.

"Problem property" shall mean a property that meets the following criteria and is designated as such following recommendation by the City of Lynn's Problem Properties Task Force:

- (i) the Lynn Police Department has been called to the property not fewer than four (4) times within the preceding twelve (12) month period for any incident involving any arrestable offense including but not limited to disturbing the peace, trespassing, underage drinking or assault; or
- (ii) the Lynn Police Department has received not fewer than four (4) sustained complaints for noise within the preceding twelve (12) month period; or
- (iii) the Inspectional Services Department or the Public Health Division thereof has received not fewer than four (4) sustained complaints within the preceding twelve (12) month period for noxious, noisome or unsanitary conditions; or
- (iv) any other reason as enumerated in the Ordinance Establishing a Problem Property Task Force in the City of Lynn.

"Rental unit" shall mean 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. A rental unit shall also mean a non-owner-occupied condominium unit. Dwelling units that have current Lodging House Licenses issued by the Licensing Commission for the City of Lynn shall not be considered as rental units for the purposes of this section, and will continue to be annually licensed and inspected pursuant to M.G.L. 140 sections 22 and 25.

### Section 3.0 Registration:

All owners of private residential rental housing units ("Owners"), including condominium units, in the City of Lynn shall register no later than July 1st of each year with the Inspectional Services

Department ("ISD") on a form generated and issued by ISD. All owners must register each rental unit annually with ISD, and must attest to and affirm that they are familiar with their obligations to comply with Rental Inspection Ordinance, the State Sanitary Code (105 CMR 410), the State Building Code (780 CMR), the City of Lynn Zoning Code, Federal, State and Local fair housing regulations, and all other regulations applicable to residential dwellings, and that they intend to comply with said regulations.

An owner owning multiple units in the same building may submit one form representing all said units. Any owner residing outside of the Commonwealth of Massachusetts must designate a locally based resident agent authorized to accept service on the owner's behalf.

#### Registration Fees

All rental unit registrations shall be annually registered.

- a. The initial registration fee is twenty-five dollars (\$25.00).
- b. Annually thereafter a renewal fee of fifteen dollars (\$15.00) is required for each rental unit.
- c. Exempt and governmental units are not required to pay a registration fee.

Registration fees may be adjusted at the sole discretion of the Commissioner and will be reviewed on an annual basis.

#### Section 4.0 Transfer of ownership

Transfer or ownership of rental units must be reported to ISD within thirty (30) days of closing. New property owners must register within thirty (30) days of closing and must submit a reasonable maintenance plan that identifies and address any significant code deficiencies within the subject property. If the property was acquired during its inspection year and the inspections did not occur before the transfer of ownership, then the new owner must, within ninety (90) days, complete any required inspection.

#### Section 5.0 Property Posting

An owner of a rental unit, who resides within the subject dwelling is not subject to the property posting requirement,

All other owners shall conform to the property posting requirement. The owner 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 twenty (20) square inches in size, bearing the information below depending upon the ownership entity of the structure.

- A. If the owner of a rental unit is an individual(s) who does not reside within the subject dwelling the posting shall bear her/his name(s), address and telephone number. P.O. boxes do not satisfy the address requirement of this section.
- B. If the owner is a realty trust or partnership, the name, address and telephone number of the managing trustee or partner shall be posted. P.O. boxes do not satisfy the address requirement of this section.
- C. 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 who does not reside in such dwelling, such manager or agent's name, address and telephone number shall

also be included in the notice. P.O. boxes do not satisfy the address requirement of this section.

#### Section 6.0 Inspections:

All non-exempt rental units must be inspected at least once every five (5) years unless the property is classified by the City of Lynn Problem Property Task Force as a Problem Property or is defined as a Chronic Offender within these regulations by the Commissioner. All inspections performed in this inspection program shall be performed in accordance with the requirements of the State Sanitary Code and recorded on a form provided or approved by the ISD.

To conform to the City's rental inspection program inspections requirement, residential rental unit owners must contact ISD or ISD's vendor SafeBuilt within thirty (30) calendar days from issuance of an inspection notice. The rental unit will be subject to an inspection schedule and the inspection will be performed in accordance with its classification as outlined below in items 1 – 4. All inspection forms shall include a sworn statement and shall be signed by an ISD employed and/or contracted with Inspector, Lynn Housing Authority Inspector, or an approved "authorized inspector". Results of all inspection shall be provided to both the owner and the rental unit occupant.

#### 1. Exempt units

The following rental units shall be exempt from the inspection requirements of this section:

- a. Rental units owned or operated by Federal, State, or City Government entities.
- b. Rental units occupied by the owner of the property. The owner must be identified on the property deed recorded at the South Essex Registry of Deeds. The owner must file an Owner Exemption form with ISD and include two proofs of residency such as a telephone, utility, cable tv bill and a copy of the deed. Property tax or water and sewer bills will not be accepted as proof of occupancy.

#### 2. Non-exempt units:

- a. The owner may contact the City's vendor, SafeBuilt, to arrange for an inspection at a fee set by the Chief of Inspectional Services. SafeBuilt will contact the owner with a mutually agreeable date and time for this inspection. Every effort shall be made by the owner and/or the owner's agent to coordinate ISD conducted inspections in a single building/dwelling on the same date to the maximum extent possible.
- b. The owner of non-exempt rental units which receive an annual comprehensive apartment inspection conducted by the Lynn Housing Authority leased housing program, or by other Federal, State, or City inspection programs that are accepted by ISD as being substantially equivalent, may be used to satisfy the five (5)-year inspection requirement. This governmental inspection form must be submitted to the City's vendor for filing and must contain the date of inspection, signature of the inspector and a statement indicating the the rental unit has passed inspection. The fee for filing this non-city inspection is \$15.00 per unit inspection form.
- c. The owner of non-exempt rental units may engage a third party "authorized" non-ISD employed or contracted with inspector meeting the qualifications outlined above in the definition of authorized inspector. Any property owner proposing to use an authorized inspector must submit the authorized inspectors resume with a list of references and copies of any and all certifications held by the inspector within seven

(7) days of receipt of an inspection notice from ISD or its vendor. Upon receipt of this information ISD will notify the owner within ten (10) days as to the suitability of the proposed inspector.

ISD shall cause to be performed periodic and random audit inspections of no less than five percent (5%) of the "authorized" inspections that are filed with ISD.

3. Problem Properties: Any rental building determined to be a problem property as defined by the Rental Unit Inspection Ordinance or the Ordinance Establishing a Problem Property Task Force in the City of Lynn, as it may be adopted and amended from time to time, must annually request an inspection from ISD or its approved vendor. Third party or other governmental agency inspectors will not be allowed for problem property unit inspections. This annual inspection shall apply to all residential units within the building regardless of whether the violations were limited to a single residential unit therein.

Each owner of a problem property shall also file with ISD an annual management plan, within thirty (30) days of its classification as a problem property, outlining the remediation of any outstanding code violations or other persistent conditions requiring the landlord's affirmative response as identified by the Task Force. Said management plan shall identify the deficiencies in the property, identify consultants and contractors engaged to proceed with any remediation work, detail any proposal made by the contractors or consultants, and set out a timeline over which the work will be completed.

4. Chronic offenders: Residential rental property classified as a chronic offender by the Commissioner shall be subject to additional inspection requirements. Chronic offenders shall be required to request an inspection of each rental unit once every three (3) years, and it shall be mandatory that ISD or its vendor conduct said three (3) year inspections. Chronic offenders with no violations in a rolling thirty-sixth (36) month period shall have the chronic offender's classification removed on the last day of the thirty-sixth (36th) month following their classification.

#### Section 7. Notice of inspection

Prior to conducting an inspection pursuant to these regulations of an occupied unit, reasonable advance notice shall be provided to the occupant by the owner in writing on a form provided or approved by ISD.

- A. If an owner's agent is denied access by the occupant for purposes of conducting an inspection, the owner of said unit shall notify ISD of such denial within seven (7) calendar days. Such denial shall be noted on a sworn, dated statement filed by an authorized inspector.
- B. If any person is denied access to a unit for the purposes of conducting such an inspection by the occupant, then ISD shall verify and document in writing such denial. The owner and/or owner's agent shall have thirty (30) days from such denial to take all necessary actions, legal or otherwise, necessary to permit an inspection as required by the Rental Inspection Ordinance. The failure by the owner to take all reasonable and necessary actions to obtain an inspection, as determined by the Commissioner and the City Solicitor, shall subject the owner to a three hundred (\$300.00) dollar per day fine. The provision of a written request to permit an inspection along with a judicial filing and prosecution seeking an Order for the same, shall be deemed sufficient actions on the part of the owner and thus shall not subject the owner to any fine under this section.

- C. Nothing in these sections shall prevent ISD from causing any unit to be inspected pursuant to the terms herein in the manner provided for in the State Sanitary Code.

#### Section 8.0 Inspection Fees

1. The fee for an ISD or its vendor's inspection shall be \$100 per unit.
2. A filing fee of fifteen dollars (\$15.00) per unit is required for any inspection performed under options 6.2.b or 6.2.c. above; said filing fees shall be capped at a maximum of two thousand five hundred dollars (\$2,500.00) per building or five thousand dollars (\$5,000.00) per complex.
3. An authorized inspector shall be prohibited from charging more than one hundred thirty-three percent (133%) of the fee charged by the City of Lynn or its vendor for an inspection performed under the Rental Inspection Program.

Inspection fees will be reviewed yearly by the Commissioner.

#### Section 9.0 Failed Inspections:

1. Failed inspections performed by ISD or its vendor will require the owner to conform to the written order and directions in the time manner set forth by said inspector. A reinspection will be performed by ISD or its vendor at the posted re-inspection cost and scheduled by ISD or its vendor. Failure to comply with the written order in the time specified by ISD or its vendor will result in fines issued for violation of the State Sanitary code in accordance with the noncriminal disposition process of M.G.L. c. 40, s. 21D, with each day constituting a separate offence.
2. Failed third party inspections must reported to ISD's vendor within two (2) hours of the inspection failure. This notification must include all sections of the Massachusetts State Sanitary Code not in compliance at the time of inspections, and include a copy of the inspection report.

All failed third party inspections will require the owner to submit a compliance plan acceptable to ISD that will bring the subject rental unit into compliance with the minimum standards for human habitation for a residential dwelling as set forth in the Massachusetts State Sanitary Code (105 CMR 410), as it may be adopted and amended from time to time. This compliance plan will be submitted to ISD's vendor within 24 hours of the failed inspection. ISD or its vendor will respond with a written order within twenty-four hours of receipt, the owner's failure to comply with the written order in the time specified within the order will result in fines issued for violation of the State Sanitary code in accordance with the noncriminal disposition process of M.G.L. c. 40, s. 21D, with each day constituting a separate offence

#### Section 10.0 Failure to Comply

Failure to comply with any provisions of this inspection program shall be punishable by a fine issued may be enforced in accordance with the noncriminal disposition process of M.G.L. c. 40, s. 21D, provided that nothing in these rules and regulations shall preclude the City of Lynn from proceeding to restrain a violation by injunction. The assessment of a fine of three hundred dollars (\$300.00) per day beginning in the first day in which the property is found not to be in compliance and continuing for each subsequent day thereafter. Each day shall be considered a separate offense.

#### Section 11.0 Review

These rules and regulations, included fees, as allowed, will be reviewed by the Chief of Inspectional Services on a yearly basis and are subject to change therewith.