

City of Salem
FIRST PASSAGE

In the year Two Thousand and Seventeen

An Ordinance to amend the Ordinance relative to **Chapter 2, Administration, Article IV. Boards, Commissions, Committees and Authorities**

Be it ordained by the City Council of the City of Salem, as follows:

DIVISION 3. BOARD OF HEALTH

Section 2-705. - Certificate of fitness of rented dwelling unit, apartment or tenement is
hereby amended by deleting subsections (a) through (d):

“(a) *Owner/lessor responsibility.* Whenever a rented dwelling unit, apartment, or tenement, other than one in a hotel or motel, is vacated by the occupant thereof or prior to such vacancy, the owner or lessor of such residential property shall be responsible for notifying the board of health of such vacancy and for scheduling an inspection required by this section.

(b) *Certification required; fee.* Such unit must be certified by the board of health or its agents as meeting 105 CMR 410.000, State Sanitary Code, Chapter II, Minimum Standards of Fitness for Human Habitation, as promulgated and from time to time amended by the state department of public health prior to being reoccupied by a new occupant. The fee for such a certificate shall be \$50.00.

(c) *Refusal of certification.* If, after any inspection by the board of health or its agents pursuant to this section, an inspector refuses to issue a certificate of fitness, such inspector shall issue a written order or copy of the inspection form setting forth the violations of chapter 11 of the state sanitary code existing in the unit, which must be corrected before a certificate of fitness may be issued. It shall be the responsibility of the owner or lessor receiving such order to notify the board of health when such violations have been corrected.

(d) *Time limitations on inspections.* The board of health shall make such an inspection within five working days of notification. If the inspection shall not have been made within five working days, the owner or lessor may rent the unit.”

And replacing them with:

“(a) *Purpose.* To ensure that all rental units within the city are fit for human habitation and meet the requirements of the sanitary code, all rented dwelling units, apartments, or tenements, other than those in a hotel or motel or otherwise exempted from this ordinance, shall be required to obtain a certificate of fitness at least every three years and every time a new tenant occupies a rental unit.

(1) *Three-year inspection requirement.* Every three years, each rental unit, excluding those in owner occupied two- and three-family homes or those which have provided proof of passing a HUD inspection within the previous three years, shall be inspected to ensure compliance with the state sanitary code and city ordinances. Any dwelling unit, apartment, or tenement which has not been found in violation of any sanitary or building code provisions and has not received any disorderly house citations in the three-year period since last inspected will be subject to inspection every five years, provided there has been no change of ownership or tenancy. The three-year inspection requirement shall not apply to any owner-occupied unit regardless of the number of units in the building.

(2) *Inspection upon change of tenancy.* Each rented dwelling unit, apartment, or tenement, including those in owner occupied two- and three- family homes, shall be subject to inspection whenever they are vacated by the occupant thereof or prior to such vacancy. The owner or lessor of such residential property shall be responsible for notifying the board of health of such vacancy and for scheduling an inspection required by this section. A change in tenancy shall not include circumstances where the change results in an owner becoming the new occupant of the unit.

(3) *Short-term rentals.* A certificate of fitness shall also be required for any owner of residential property who rents or leases a dwelling or any portion of a dwelling on a short-term basis. “Short-term” shall be defined as fewer than fourteen days in any one year. Owners who intend to offer such short-term rentals to tourists must notify the board of health to register the property as such and schedule an inspection to receive a certificate of fitness. This registration and certificate must be renewed every year or upon a change in ownership, but not upon any change in the short-term tenancy.

(4) *Problem property.* Any rental dwelling unit, apartment, or tenement located at an address to which the police department has been called to 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 where the inspectional services department and/or the board of health have received no fewer than four (4) sustained complaints within the preceding twelve (12) month period, may be deemed a “problem property” and subject to annual inspection at the discretion of the director of inspectional services or the board of health agent.

(b) *Certification required; fee.* Such unit must be inspected and certified by the board of health or its agents as meeting 105 CMR 410.000, State Sanitary Code, Chapter II, Minimum Standards of Fitness for Human Habitation, as promulgated and from time to time amended by the state department of public health. The fee for such an inspection shall be \$50.00 per unit.

(c) *Refusal of certification.* If, after any inspection by the board of health or its agents pursuant to this section, an inspector refuses to issue a certificate of fitness, such inspector shall issue a written order or copy of the inspection form setting forth the violations of chapter II of the state sanitary code existing in the unit, which must be corrected before a certificate of fitness may be issued. It shall be the responsibility of the owner or lessor receiving such order to notify the board of health when such violations have been corrected. The initial inspection fee shall cover the cost of the initial inspection and one re-inspection of the unit. An additional fee of \$50.00 shall be imposed for the third and any subsequent inspections.

(d) *Time of inspections.* The board of health or its agents shall make such an inspection within ten working days of notification from the owner as to a change of tenancy or the intent to establish a short-term rental. If the inspection shall not have been made within ten working days, the owner or lessor may proceed to rent the unit provided the owner arranges for an inspection to occur within thirty days of notification. The health agent, in consultation with the director of inspectional services, shall establish a schedule for the inspections required under this provision.”

DIVISION 3. BOARD OF HEALTH

Section 2-705. - Certificate of fitness of rented dwelling unit, apartment or tenement is hereby amended by deleting subsections (g) through (k):

“(g) *Records.* Whether or not a certificate of fitness has been issued by the board of health for a particular unit shall be a matter of public record.

(h) *Penalties.* Any owner or lessor of such property used for dwelling purposes failing to comply with this section shall pay a fine of up to \$20.00 each and every day that he allows any person to live, occupy, or inhabit the premises without having received a certificate of fitness from the board of health for a particular unit.

(i) *Reinspections.* No rented dwelling unit, apartment, or tenement shall be required to be certified for occupancy more than once in any consecutive 12-month period.

(j) *Exemptions.* Exemptions from this section shall include property owned and managed by the city housing authority and any new construction completed less than five years prior to date on which the rented dwelling unit, apartment, or tenement becomes vacant. Also exempted from this section is property consisting of 100 or more rental units that is subject to periodic inspections by the state housing finance agency, the Metropolitan Housing Assistance Program, the Department of Housing and Urban Development, and/or the city housing authority.

(k) *Right to inspect.* The board of health reserves the right to inspect any dwelling unit, apartment, or tenement at any time.”

And replacing them with:

“(g) *Records.* Owners shall keep a register listing the names of tenants and dates of tenancy for the previous five years, including any short-term tenants, and make such record available for to the board of health inspector upon request. The owner’s register shall not be retained by the board of health and shall not be a public record under the law. Whether or not a certificate of fitness has been issued by the board of health for a particular unit shall be a matter of public record.

(h) *Penalties.* Any owner or lessor of such property used for dwelling purposes failing to comply with this section shall be subject to a fine of \$50.00 each and every day that he allows any person to live, occupy, or inhabit the premises without having received a certificate of fitness from the board of health for a particular unit upon a change in tenancy or upon failure to comply with the inspection requirement.

(i) *Certification requirement limited.* Absent a change in tenancy or ownership, no rented dwelling unit, apartment, or tenement shall be required to be certified for occupancy more than once in any consecutive three-year period, unless the property has been determined by the director of inspectional services or the board of health agent to meet the criteria for designation as a problem property so as to be subject to annual inspection.

(j) *Exemptions.* Exemptions from this section shall include property owned and managed by the city housing authority. Also exempted from this section is property consisting of 100 or more rental units that is subject to periodic inspections by the state housing finance agency, the Metropolitan Housing Assistance Program, the Department of Housing and Urban Development, and/or the city housing authority. Any new construction completed less than five years prior to the date on which the rented dwelling unit, apartment, or tenement becomes vacant shall not be required to be inspected under this section unless it has been designated as a problem property as provided above.

(k) *Right to inspect.* Notwithstanding the foregoing, the board of health reserves the right to inspect any dwelling unit, apartment, or tenement in accordance with the provisions of the state sanitary code.”

In City Council March 23, 2017

Referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole

In City Council April 13, 2017

Referred to the Committee on Public Health, Safety and Environment co-posted with Committee of the Whole

In City Council November 16, 2017

Adopted as Amended for first passage

ATTEST:

ADV: 11/29/17

CHERYL A. LAPOINTE
CITY CLERK