

## **§106-8 RENTAL PROPERTY**

### **§ A. Purpose**

This chapter is adopted in accordance with the Town of Mashpee's Home Rule Authority, the provisions of G.L. c. 64G, §14, and any other enabling authority in furtherance of the following public purposes: to protect the health, safety, and welfare of both the occupant(s) of rental housing units and the general public; to monitor and enhance compliance with basic life safety and sanitary codes through the registration and permitting of residential rental properties; to provide clear and accessible guidelines for the operation of rental properties for tenants, owners, landlords and neighbors; to extend awareness of related Town bylaws and health regulations related to operation of a rental property; and to maintain the quality of life in Mashpee's residential neighborhoods. This chapter will assist the Town in the enforcement of state and local health and safety laws, codes and regulations, and will provide a method for correcting violations when conditions require immediate attention, in particular, situations associated with rental tenancy in the Town of Mashpee. This chapter is intended to further the objectives of, and to be implemented in conformance with any applicable federal, state, and local laws concerning the maintenance of property and the habitation of dwellings.

### **§ B. Definitions**

For purposes of this chapter, the following terms have the meanings indicated:

- 1.) **Applicant** – any owner(s) who makes a formal application/registration with the Board of Health for a Rental Certificate.
- 2.) **Dwelling** – any building or area in a building used or intended for use for human habitation including, but not limited to, apartments, condominiums, cottages, guest houses, one-, two- or multi-unit residential buildings and rooming houses, but not including any facility licensed under any state housing or local housing laws or bylaws, including affordable housing facilities.
- 3.) **Occupant** – Anyone entitled for a period of, at minimum, one night to the use or possession, or the right to use or possession, of a rental property designed and normally used for sleeping and living purposes, or the right to the use or possession of the furnishings or the services and accommodations accompanying the use and possession of such rental property, regardless of whether such use and possession is as a lessee, tenant, or licensee.
- 4.) **Owner(s)** – any person who, alone or severally with others, has legal title to any dwelling, dwelling unit, rooming unit or parcel of land, vacant or otherwise; mortgagee in possession; or owner's representative, trustee, or other person appointed by the courts.
- 5.) **Person** – any individual, partnership, corporation, limited liability company, firm, association or group, including a governmental unit, other than the Town of Mashpee or any of its agencies.
- 6.) **Rental Property** – an owner-occupied, tenant-occupied, or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or furnished accommodation that is not a hotel, motel, lodging house, or bed and breakfast establishment where 1) at least one room or unit is rented to an occupant or sub-

occupant for a period of at least one night but not more than 31 consecutive calendar days; and 2) all accommodations are reserved in advance.

### **§ C. Rental Certificates**

1. No person(s) shall rent or lease, or offer to rent or lease, any dwelling or any portion of a dwelling to be used for human habitation without first registering with the Board of Health and obtaining a Rental Certificate. The Board of Health shall determine the number of bedrooms and the number of persons such dwelling or portion of a dwelling may lawfully accommodate under the provisions of Chapter II of the State Sanitary Code 105 CMR 410.000, Title V of the State Environmental Code 310 CMR 15.000, the State Building Code and the State Fire Marshall's Code.
2. The Board of Health shall, pursuant to the above subsection, issue a Rental Certificate which shall be renewed by the following December 31<sup>st</sup>, provided that the Certificate may be renewed each year.
3. The Rental Certificate shall be issued subject to regulations adopted by the Board of Health at a public hearing in relation to parking, refuse, food, and the Building and Fire Codes for the protection of the public health, safety and welfare.
4. The following information shall be provided on the Rental Certificate:
  - I. The owner(s) name, address and telephone number.
  - II. The number of dwelling units and the number of bedrooms in each dwelling unit.
  - III. The maximum number of occupants, as defined in Section C1 that may be permitted in each dwelling unit.
  - IV. The name, address, and telephone number(s) of the responsible individual(s) who will be available to respond to emergencies and requests for assistance from owner(s) or Town of Mashpee staff within a reasonable period of time, as defined by Board of Health regulation.
  - V. A summary of other laws, by-laws, and regulations that are applicable to the rental of dwelling units within the Commonwealth. The summary is provided to the owner(s) and occupant(s) as an advisory of the requirements for proper conduct, safety and public health.

### **§ D. Application for Rental Certificate**

1. An owner of a dwelling which is rented for residential use shall provide the Board of Health with a rental application which includes their current residential address and telephone number. If the owner is a corporation, the name, address, and telephone number of the president or legal representative of the corporation shall be provided. If the owner is a realty trust or partnership, the name, address, and telephone number of the managing trustee or partner shall be provided. If the owner is not available to provide access or to service the

occupant(s) or Town of Mashpee in a timely manner the owner shall designate one or more responsible individuals who can be reached, and who shall be available at all times (twenty-four hours per day, seven days per week) to respond to emergencies and requests for assistance from occupant(s) or Town of Mashpee staff. Said designated individual shall respond to a notification of emergency within a reasonable period of time, as defined by Board of Health regulation. The name, address and telephone number of the responsible individual(s) so designated shall be provided on the application.

2. The application shall specify the rental dwelling address, number of dwelling units, number of rooms, and number of bedrooms in each unit, as well as the size of each room in square feet. Up-to-date floor plans must be submitted if no current plans are on file.
3. The application shall include a certification by the owner(s) or their authorized agent, under pains and penalties of perjury, that they have examined each unit and have verified compliance with all applicable laws including, but not limited to, the State Sanitary Code, 105 CMR 410.000, et seq., the State Building Code, 780 CMR and the State Fire Marshall's Code.

#### **§ E. Posting of Rental Certificate**

No person(s) shall rent or lease, or offer to rent or lease, any dwelling or any portion of a dwelling to be used for human habitation without first conspicuously posting within such dwelling or portion of a dwelling a Rental Certificate issued by the Board of Health.

#### **§ F. Fee for Registration**

The fee to procure a Rental Certificate shall be listed in the fee schedule as determined by the Board of Selectmen.

#### **§ G. Inspections**

1. Dwelling units covered by this bylaw shall be subject to inspection at reasonable times by the Board of Health and its agents. The Board, at its discretion, may request other inspectional service personnel (Building, Electrical, Plumbing and Fire Departments) to accompany them to the property for inspection. All interior inspections shall be done in the company of the owner(s), occupant(s) or the representative of either.
2. Required inspections by inspection services personnel shall occur prior to issuance of a Rental Certificate and at intervals so determined by Board of Health regulation, but not more than once annually.
3. Health inspections shall be performed in accordance with Chapter II of the State Sanitary Code 105 CMR 410.000.

#### **§ H. Parking Restrictions**

Vehicles owned or operated by the owner(s) or the occupant(s) of a dwelling shall, at no time, obstruct rights-of-ways, as determined by the Town of Mashpee, its authorized agents, and/or an officer of the Mashpee Police Department.

#### **§ I. Refuse Requirements**

1. The occupant(s) of any dwelling unit shall be responsible for maintaining it in a clean and sanitary condition, and free of garbage, rubbish, and other filth or causes of sickness in that part of the dwelling which they exclusively occupy or control.
2. The owner(s) shall provide for disposal of garbage and rubbish. This requirement does not prohibit the owner(s) from requiring the occupant(s) to dispose of the refuse; however, the owner(s) shall be ultimately responsible for maintaining the dwelling unit and property in a clean and sanitary condition at the end of each lease period.

#### **§ J. Suspension, Modification or Revocation of Rental Certificate**

1. The Board of Health may suspend or revoke any Rental Certificate after a hearing, and in accordance with the procedures set forth in 105 CMR 410.830-860, for any violation of any provision of this bylaw, the State Sanitary Code, or any other applicable General Law, bylaw, or regulation intended to protect public health, safety or the environment.
2. The Board of Health may, in lieu of suspension or revocation, modify any Rental Certificate to impose additional conditions including, but not limited to, a requirement for periodic inspections and/or a limitation on the maximum number of occupants allowed.
3. If any Rental Certificate is suspended or revoked, the owner(s) of the premises shall be responsible for finding or providing alternative and comparable housing for any and all occupants, until such time as the tenancy ends or the Rental Certificate is reinstated.
4. This chapter is intended to further the objectives of, and to be implemented in conformance with any applicable federal, state, and local laws concerning the maintenance of property and the habitation of dwellings. Nothing in this chapter is intended to limit or restrict the authority of the Board of Health, or any other board, commission or officer of the Town, to act in accordance with federal, state, and local laws within their jurisdiction, including, but not limited to, the emergency condemnation procedures set forth within the State Sanitary Code.
5. The Town of Mashpee may enforce this bylaw or enjoin violations thereof through any lawful process, and the election of one remedy by the Town of Mashpee shall not preclude enforcement through any other lawful means.

#### **§ K. Enforcement, Fines and Penalties**

1. This chapter may be enforced by the Inspector of Buildings, Health Agent, Code Compliance Inspector or a police officer of the Town.
2. Any owner(s) or agent(s) thereof who shall offer for rent or lease any dwelling, or portion thereof, which has not been issued a Rental Certificate shall be punished by a fine of three hundred dollars (\$300.00) per violation.
3. If it is determined that the number of occupants in any dwelling or portion thereof used for habitation exceeds the number on the Rental Certificate, or if no Rental Certificate shall be in effect, the owner(s), lessee(s), or person(s) in control of said dwelling or portion thereof shall be punished by a fine of three hundred dollars (\$300.00) per violation.
4. Whoever violates any provision of this bylaw may be penalized by a non-criminal disposition process, as provided in M.G.L. c.40 §21D and the Town's non-criminal disposition law. If a non-criminal disposition is elected, then any person who violates any provision of this bylaw shall be subject to a penalty of three hundred dollars (\$300.00) per violation.
5. Each day or portion thereof shall constitute a separate violation. If more than one, each provision hereof violated shall constitute a separate offense.

#### **§ L. Severability**

If a court determines that any provision of this chapter is invalid or unenforceable, the other provisions hereof shall not be affected thereby, and shall continue in full force and effect.