



# CITY OF BOSTON

IN THE YEAR TWO THOUSAND THREE

## AN ORDINANCE AMENDING CBC 9-1.3 RE-INSPECTION OF RENTAL UNITS

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

### Section 1.

CBC Chapter IX, Section 9-1.3 is hereby amended by striking the entire section and inserting in place thereof the following:

#### **9-1.3 Re-Inspection of Rental Units.**

Whenever a rented dwelling unit, apartment, or tenement, other than a licensed rooming house, hotel, or motel or other than those otherwise exempted by this section (hereinafter referred to as "Unit" for the purposes of CBC 9-1.3) is vacated by the occupant or occupants thereof, the Commissioner of the Inspectional Services Department (hereinafter referred to as "Commissioner") shall cause the Unit to be re-inspected as meeting the standards set forth in the State Sanitary Code concerning the standards of fitness for places of human habitation, unless a comprehensive inspection by the Inspectional Services Department (hereinafter referred to as "ISD") of the Unit has occurred within the preceding twelve (12) months that resulted in no notices of violation to the Owner. The following housing units shall be exempt from the provisions of this ordinance: (i) housing units owned or operated by Federal, State, or City governments or units leased under subsidy through the Section 8 Housing Choice Voucher Program upon notice to the Commissioner from the Owner accepting the Section 8 Voucher and (ii) housing of one (1) to six (6) units, one of which is occupied by the Owner.

Effective October 01, 2004, an owner of a Unit (hereinafter referred to as "Owner" for the purposes of CBC 9-1.3) may fulfill the requirements of CBC 9-1.3 by filing with ISD a sworn statement following an inspection certifying that a Unit is in compliance with the minimum standards for human habitability for a residential dwelling as set forth in the Massachusetts State Sanitary Code, as it may be adopted and amended from time to time. The inspection shall be performed and the sworn statement shall be signed by an Authorized Inspector which shall be defined as a person who (i) is a Commonwealth of Massachusetts registered sanitarian or a Commonwealth of Massachusetts certified health officer or a Commonwealth of Massachusetts certified home inspector, (ii) has demonstrated a proficiency in the application of the State Sanitary Code by satisfactorily completing the ISD certificate program for qualifying authorized professionals to perform inspections under CBC 9-1.3, and (iii) has been issued a certificate of

completion upon payment to ISD of one hundred twenty-five dollars (\$125.00). An Authorized Inspector shall be prohibited from charging more than one hundred thirty-three percent (133%) of the fee charged by the City of Boston for an inspection performed under these sections.

All inspections performed under these sections shall be performed in accordance with the requirements of the State Sanitary Code and recorded on a form approved by the Commissioner. The Commissioner shall charge a filing fee of twenty-five dollars (\$25.00) for any sworn statement filed by an Authorized Inspector. For an inspection performed by ISD, the Commissioner shall charge a fee of fifty dollars (\$50.00) per Unit for buildings of one-to-three units and seventy-five dollars (\$75.00) per Unit for all other buildings. After such payment has been made, an Owner may charge to the tenant up to fifty percent (50%) of the fee paid to ISD on a basis of equal payments over twelve (12) months.

To comply with the requirements of these sections, an Owner shall, within forty-five (45) calendar days of new occupancy of a Unit, request an inspection from ISD of such Unit or notify ISD that an Authorized Inspector has been scheduled to perform the inspection; no such inspection of an Authorized Inspector shall be scheduled more than seven (7) business days from the forty-fifth (45th) calendar day of new occupancy. The Owner shall, no fewer than seven (7) business days prior thereto, notify ISD of the date of any scheduled inspection. ISD shall maintain a record of all requests or notifications made pursuant to these sections and shall assign to each request a unique tracking or reference number. ISD shall, no fewer than three (3) calendar days prior thereto, provide written notice to a tenant whose unit is to be inspected of the date, time, and purpose of the inspection of the inspection. An Owner shall file the sworn statement of and inspection form completed by an Authorized Inspector within sixty (60) calendar days of new occupancy. No later than the sixtieth (60th) calendar day after new occupancy, an Owner may apply to the Commissioner for an extension of the time to file a sworn statement or otherwise comply with these sections if the Owner is experiencing hardship related to the Owner's financial circumstances or a municipal approval process resulting from the physical work required to remedy any violations of the State Sanitary Code; no application for such an extension shall be complete without a written plan submitted by the Owner outlining the Owner's plan for compliance within ninety (90) days. ISD shall forward a copy of any report or statement filed by an Authorized Inspector to the tenant no later ten (10) business days after its receipt thereof. All notices provided under these sections shall be on a form approved by the Commissioner.

If a person seeking access to a Unit for the purposes of conducting an inspection pursuant to CBC 9-1.3 is denied such access, then the Owner of said Unit shall notify ISD of such denial within three (3) business days, and an ISD inspector shall verify such denial. If ISD verifies the denied access then such denial shall be noted on any sworn statement filed by an Authorized Inspector, which, when filed, shall be deemed as the Owner's compliance with this section, and the Commissioner may cause the Unit to be re-inspected pursuant to the terms herein in the manner provided for in the State Sanitary Code.

An Owner of a Unit or Units may apply to the Commissioner for an exemption to the requirement under this ordinance to inspect a Unit or Units upon new occupancy. Upon successful application, said Owner shall be subject to a periodic inspection of the Unit(s) every

five (5) years for the compliance of the same with the provisions of the State Sanitary Code. An Owner seeking such an exemption shall file an application on a form approved by the Commissioner. The Commissioner shall issue written findings regarding the approval or denial of an exemption within ten (10) business days of such application, and may base the written findings on factors including, but not limited to, the following: (i) a review of the Owner's history of property management on file with the City of Boston and a management plan submitted for the property, (ii) a review of the Unit's history of compliance with the Massachusetts State Sanitary Code, (iii) a site visit of the property for which the exemption is sought, and (iv) if relevant, a history of compliance with CBC 9-1.3.

An exemption approved by the Commissioner shall be subject to revocation following a hearing held by ISD if the Unit subject to the exemption has one (1) or more violations of the Massachusetts State Sanitary Code and if, upon proper notice of those violations to the Owner, the violations have not been corrected in the time provided in such notice. An Owner approved for an exemption shall be required to maintain maintenance records for any and all exempted Units for the duration of the exemption, and such records shall be available for review by ISD during regular business hours or upon reasonable notice to the Owner.

The Commissioner shall charge a fee of: (i) fifty dollars (\$50.00) per Unit up to the first four (4) units for a five (5) year exemption from CBC 9-1.3 and (ii) an additional ten dollars (\$10.00) for each additional Unit in the same building up to a maximum of five hundred dollars (\$500.00) per building and if two (2) or more buildings comprise a complex owned by the same Owner then the fee shall not exceed one thousand dollars (\$1,000.00). An Owner may apply for an extension of an exemption upon expiration, provided that the Owner shall complete the entire exemption application process and ISD may cause twenty percent (20%) of the Units to be inspected pursuant to CBC 9-1.3. The Commissioner shall follow the same process and procedure as for an original exemption application.

Failure to comply with the provisions of this ordinance shall be punishable by a fine of three hundred dollars (\$300.00) per month for every month that this condition continues to exist.

Any and all notices, statements, inspection forms, applications including supporting documentation, and any other documents concerning an inspection pursuant to CBC 9-1.3 shall be a matter of public record.

In an effort to evaluate the effectiveness of the inspection programs delineated herein, the Commissioner shall annually prepare a report detailing the activities of the program, including but not limited to: (a) the number of inspections requested by owners pursuant to CBC 9-1.3 for each month, (b) the number of inspections performed by ISD inspectors pursuant to CBC 9-1.3 for each month, (c) the number of sworn statements filed by Registered Sanitarians, Certified Health Officers, Licensed Home Inspectors pursuant to CBC 9-1.3 for each month, (d) the total number of sworn statements filed by Registered Sanitarians, (e) the total number of sworn statements filed by Certified Health Officers, (f) the total number of sworn statements filed by Licensed Home Inspectors, (g) the total number of violations issued as a result of an inspection pursuant to CBC 9-1.3, (h) the total number of applications for exemption received, (i) the total number of applications for exemption approved including the number of Units covered thereby,

(j) the total number of applications for exemption denied or withdrawn including the number of Units involved therein, (k) the total number of exemptions revoked including the number of Units involved therein, (l) the total number of violations issued pursuant to CBC 9-1.3, (m) the total number of fines issued pursuant to CBC 9-1.3, (n) the total amount of fines collected pursuant to CBC 9-1.3, and (o) an overall assessment of the entire CBC 9-1.3 program including a brief explanation of improvements made to the program and plans for future improvements. The Commissioner shall file originals of this annual report with the Boston City Clerk and with the Boston City Council no later than July 31 of each calendar year.

The provisions of CBC 9-1.3 may be enforced in accordance with the non-criminal disposition process of M.G.L. c. 40, s. 21D, provided that this section shall not preclude the City of Boston from proceeding to restrain a violation by injunction.

The Commissioner shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.

If any provision of CBC 9-1.3 shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

The provisions of CBC 9-1.3 shall be effective immediately but no pecuniary violations may be issued until ninety (90) calendar days after passage.

## Section 2.

The provisions of these sections shall be effective immediately upon passage.