



MERRIMAC BOARD OF HEALTH

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MERRIMAC BOARD OF HEALTH REGULATIONS GOVERNING CERTIFICATION OF RENTAL DWELLING AND ROOMING UNITS IN MERRIMAC

Adopted: September 7, 2006

Section 1: **Purpose:** The purpose of these regulations is to protect the health, safety and well being of the occupants of rental housing.

Section 2: **Authority:** These regulations are enacted by the Town of Merrimac Board of Health under the authority of Sections 31 and 127A of Chapter 111 of the General Laws of Massachusetts and any other power thereto enabling.

Section 3: **Scope:** These regulations apply to all owners, managers or persons in charge of rental dwelling units or rooming units in Merrimac whether or not a written rental or lease agreement is signed.

Section 4: **Definition:** In these regulations the following terms have the meanings indicated:

Board: The Merrimac Board of Health or its designated Agent.

Chapter II: Chapter II of the State Sanitary Code, 105 CMR 410.00

Dwelling Unit: A unit defined in 105 CMR 410.025, as it now exists or may hereafter be amended, that provides facilities for living and sleeping and is rented or intended for rental.

Exit: That portion of a means of egress which is separated from all other spaces of a building or structure by construction and opening protectives as required for exits to provide a protected way of travel to the exit discharge. Exits include exterior exit doors, exit stairways, exit passageways.

Fire Protection: The provision of construction safeguards and exit facilities, and the installation of fire alarms, fire-detecting and fire-extinguishing service equipment to reduce the fire risk.

Habitable: Spaces used for living, sleeping, eating or cooking.

Housing Compliance Inspector: The housing compliance inspector shall be the Board of Health Agent or a combined inspection effort of qualified persons from the Board of Health, the Inspectional Services Department or the Fire Department. Upon receipt of an approved field compliance report the Board of Health Office Administrator shall be authorized to issue the *Certificate of Rental Compliance*.

Housing Inspection Request Form: Form is available at the Board of Health, to be completed when requesting a rental dwelling unit inspection.

Occupant: Person(s) who lives in or has possession of a dwelling unit as a tenant.

Occupiable: A room or enclosed space designed for human occupancy (e.g. bathroom, closet, hallway, utility space).

Residential Structures: Shall include any dwelling, building or structure classified as Use Group R-2 through R-5, as defined by 780 CMR and those unclassified occupancies that have the same characteristic as R-2 through R-5.

Rooming Unit: A unit defined in 105 CMR 410.040, as it now exists or hereafter be amended, that is rented or intended for rental.

State Building Code: 780 CMR, Massachusetts State Building Code.

State Electrical Code: 527 CMR, Massachusetts State Electrical Code.

State Fire Code: 527 CMR, Massachusetts State Fire Code.

State Fuel Gas Code: 248 CMR 4.00-8.00 Massachusetts State Fuel Gas Code.

State Plumbing Code: 248 CMR 2.00 Massachusetts State Plumbing Code.

State Sanitary Code: 105 CMR, Massachusetts State Sanitary Code.

Tenant: A person who resides in a rental house or apartment dwelling unit for a fixed period.

Section 5: Inspection and Certification Process: No dwelling unit or rooming unit shall be occupied without a valid Certificate of Compliance, except as provided by Section 8 or Section 9.b herein.

a. **Dwelling Units:**

- (1) Prior to requesting a rental dwelling unit inspection, the owner, manager or person in charge of the property should make certain of the following:
 - Merrimac Light, Water and Sewer bills (where applicable) must be current for the address.
 - Real estate taxes for the property must be current.
 - A dwelling unit must be in “move-in condition”, i.e. vacant, clean, walls painted, appliances clean, bathroom fixtures of a smooth, impervious material; floors, walls and ceilings in good condition; handrails and guardrails installed to code; no obvious tripping hazards, no broken glass, and all required egress pathways shall be unobstructed.
 - A multi-family building with several dwelling units must conform to Code requirements defined by 780 CMR, Use Group and Construction Type, i.e. smoke and carbon monoxide alarms, fire extinguisher, exit sign, emergency lighting, etc.
- (2) Whenever a dwelling unit is vacated by the occupant(s) thereof, the Board shall certify, prior to re-occupation, that the unit meets the applicable standards set forth in Chapter II.
- (3) (a) The owner, manager or person in charge of a dwelling unit must complete a Housing Inspection Request Form. Notice must be given so as to provide adequate time for the unit’s inspection and repair, if required, and to reasonably assure compliance with the standards of Chapter II prior to its re-occupancy. This application is available at the Board of Health in the Merrimac Town Hall. Complete the application and obtain Tax Collector and applicable utility signoffs. Return to the Board of Health and submit the form for processing. An inspection fee shall be paid at the time of request form submittal. Fees are as follows:
 - **\$40.00** per unit for Compliance Inspection, including one re-inspection
 - **\$40.00** per unit for second re-inspection and **\$40.00** for each subsequent re-inspection, payable by the owner or manager
 - **\$100.00** per each Variance request, plus any additional legal advertising expense

NOTE: Each dwelling unit is unique in address, occupant data, etc. For that reason a Housing Inspection Request Form must be completed for EACH dwelling unit.

(b) The owner, manager or person in charge of a new unit or a previously uncertified unit shall apply for a Housing Inspection not more than thirty (30) days after the completion of the unit or from the effective date of these regulations.

b. Rooming Units:

- (1) The Board shall inspect and certify annually each rooming unit to insure that it meets the applicable standards of Chapter II.
- (2) The owner, manager or person in charge of a rooming unit shall apply to the Board for the Housing Inspection at least thirty (30) days in advance of the expiration date of the previous Certificate of Compliance.
- (3) If the rooming unit meets the applicable standards, the Board shall issue a Certificate of Compliance, certifying that it meets those standards.

Section 6: Inspection of Dwelling and Rooming Units: If the dwelling is vacant, the Board shall conduct the compliance inspection within seven (7) working days after receipt of the application and required fee. The Housing Inspection Request Form shall be marked with a date of receipt by the Board of Health. The unit shall be made available for inspection access during that time.

- a. **Failure of the Board to Perform Inspections:** If the Board fails to perform the inspection within the required time period, a dwelling unit or rooming unit may be reoccupied without the certification required by this regulation.
- b. **Subsequent Inspection not Precluded:** Failure by the Board to inspect in a timely manner does not preclude the inspection of the dwelling unit or rooming unit at a later date for compliance and enforcement of these regulations and the standards in Chapter II.
- c. In cases where a new tenant needs immediate occupancy of a dwelling unit, the Housing Inspection Form shall be completed and submitted as required by this Regulation, with a brief explanation of circumstances noted thereon. Tenant must provide unrestricted access for required compliance inspection(s) and repairs, if necessary, during regular business hours. Inspections shall be performed no later than seven (7) business days from filing date.
- d. Payments made at submission of the Housing Inspection Request Form are not refundable.

Section 7: ADMINISTRATIVE ACTIONS

A Rental Housing Inspection must be obtained before re-occupancy is permitted following the steps set forth in "Inspection and Certification Process", above. The owner, manager or person in charge who fails to obtain a rental housing inspection and Certificate of Rental Compliance required by this Regulation is liable for a one-hundred-dollar (\$100) per day penalty for each day the unit is occupied. Also pursuant to MGL Chapter 148A and 780 CMR, a Violation Notice Ticket may be issued by the Fire Department or Inspectional Services Department for Fire Code or Building Code violations.

Section 8: Temporary Certificate of Compliance: If, after inspection of the dwelling unit or rooming units, the Board determines that: (a) a period of time should be granted in which to make repairs necessary for compliance with the regulations to qualify the unit for certification; and (b) delay will not produce a condition which may endanger, as defined in 105 CMR 410.023, the Board may issue a temporary Certificate of Compliance whose term shall not exceed sixty (60) days.

Section 9: Exclusion of Certain Dwelling and Rooming Units:

- a. No dwelling unit need be certified for occupancy more than once in any consecutive twelve-month period, provided there has been no change in occupancy.

- b. The certification required herein does not apply to hotels, bed & breakfasts or motels. Dormitory rooms operated exclusively by an educational institution are also excluded, except that such institutional housing in a facility containing not more than twelve (12) beds where rooms are let and occupants have free access to complete kitchen facilities shall be inspected annually using the same criteria that apply to dwelling units. Nothing in this exclusion shall exempt these rooming units from complying with all applicable regulations and standards set forth in Chapter II.
- c. Dwelling units which are the primary resident of the owner, and rental dwelling units which have been certified within the previous twelve (12) consecutive months, need not be inspected if used for a summer season rental of a period not to exceed three (3) consecutive months.

Section 10: Variances

- a. Applicant: The owner, manager or person in charge of a dwelling or rooming unit may make written application to the Board of Health for a variance from these regulations. Each request for a variance shall state the specific variance sought and the reasons therefore, accompanied by a \$100 payment.
- b. Public Hearing: Every variance is subject to a public hearing. Notice of a hearing upon an original application for a variance shall be posted as part of the public notice of the Board of Health meeting at which the Board of Health will consider the application. The notice shall be posted not less than one week before the meeting. Notice also shall be given to all affected occupants.
- c. Procedure: By vote of a majority of its full authorized membership, the Board of Health may vary the application of any provision of these regulations with respect to any particular case in which, in the Board of Health's opinion, all of the following requirements are fulfilled:
 - (1) The enforcement of the regulation would do manifest injustice.
 - (2) The applicant has proved that the same degree of protection of the public health, safety and welfare can be achieved without strict application of the particular provision. Where required, an alternative means of protection shall be detailed and documented by the applicant to the satisfaction of the Board.
 - (3) The variance would not conflict with the spirit of the minimum standards prescribed by Chapter II.

A variance may be granted subject to appropriate conditions, including but not limited to duration.

- d. Variance in Writing: Any variance granted by the Board of Health shall be in writing. Any denial of a variance shall also be in writing and shall contain a brief statement of the reasons therefore.

A variance is not effective until it is filed by the owner in the registry of deeds for the county.

Section 11: Enforcement: Compliance with the provisions of these regulations shall be enforced by the Board of Health or the Merrimac Health Agent, who may institute appropriate legal proceedings to enforce these regulations, restrain by injunction, or both.

Section 12: Penalties: Whoever - himself or by his servant or agent, or as the servant or agent of any other person, firm, or corporation - violates any of the provisions of these regulations shall be subject to a Penalty as stated in the Town of Merrimac Non-Criminal Disposition Bylaw. Each day's failure to comply with an order, after written notice, shall constitute a separate violation and be subject to the \$100 per day penalty.

Section 13: Amendments: These regulations or any portion of them may be amended, supplemented, or repealed from time to time by the Board of Health, with notice, as provided for by MGL Chapter 111, Section 31. A proposal to amend these regulations may be initiated by the Board or by petition.

Section 14: Repealer: As of the effective date of these regulations, all prior Merrimac Board of Health Regulations governing Certification of Dwelling and Rooming Units in Merrimac are repealed.

Section 15: Severability: If any provision of these regulations is declared invalid or unenforceable the other provisions shall not be affected thereby, but shall continue in full force and effect.

Section 16: Effective Date: The effective date of these regulations is November 15, 2006.

Section 17: FUNDING AND EXPENSES:

The Town of Merrimac shall establish a 53E ½ Account with an initial funded amount of one thousand dollars (\$1,000). This account shall be used for deposit of all rental housing inspection receipts. Such receipts shall be used, in part, to pay for field supplies associated with performing requested inspections, office supplies, administrative oversight and recordkeeping, and payment made for Compliance Inspector(s) services. Vendor and payment warrants from this account shall be reviewed and authorized by the Board of Health Chairperson, the Building Commissioner and/or the Fire Chief as applicable.