

Chapter 8

HEALTH, SANITATION AND FIRE SAFETY INSPECTIONS

Article One – Nuisances

Article Two – Fire Safety Inspections

Article Three – Rental Housing Code

Article Four – Rental Housing Inspections

ARTICLE ONE – NUISANCES

Sec. 8-1. Nuisances generally.

Whatever is dangerous to human life or health, and whatever renders soil, food, water and drink unwholesome, are declared to be nuisances.

Sec. 8-2. Emission or discharge of pollutants restricted.

No person shall cause, permit, suffer or allow the emission or discharge of dense smoke, noxious fumes, gas, soot or cinders in such quantities as to render the occupancy of property uncomfortable to a person of ordinary sensibilities.

Sec. 8-3. Unsanitary use of property.

It shall be unlawful for any person to allow his or her property to become a public nuisance:

1. the physical condition or occupancy of any premises regarded as a public nuisance at common law;
2. any physical condition or occupancy of any premises considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations, and unsafe fences and structures;
3. any premises that has unsanitary sewage or plumbing facilities;
4. any premises designated as unsafe for human habitation;
5. any premises that is manifestly capable of being a fire hazard, or is manifestly unsafe or unsecure so as to endanger life, limb or property;
6. any premises from which plumbing, heating or other facilities required by this code have been removed or disconnected, destroyed or rendered ineffective; or the required precautions against trespassers have not been provided;
7. any premise that is unsanitary, or that is littered with rubbish or garbage;

8. any structure that is in a state of dilapidation, deterioration or decay; faulty construction; overcrowded; open, vacant or abandoned; damaged by fire to the extent so as to not provide shelter; in danger of collapse or failure; and dangerous to anyone on or near the premises.

Sec. 8-4. Ponds and pools of stagnant water prohibited.

REPEALED.

Sec. 8-5. Penalty.

The administrative officer, and the Director of Public Works, and all law enforcement officials are authorized to enforce the provisions of this section. A violation of this Section is punishable by a civil penalty of One Hundred (\$100.00) Dollars for a first offense. The waiver penalty for such first offense is Fifty (\$50.00) Dollars. Each subsequent violation shall be subject to a civil penalty of Two Hundred (\$200.00); the waiver fee is One Hundred (\$100.00) Dollars. For the purposes of this Chapter, each day shall constitute a separate offense. An enforcement action may be brought by any authorized official through the Judicial Bureau.

Sec. 8-6. through 8-14. RESERVED

ARTICLE TWO - FIRE SAFETY INSPECTIONS

Sec. 8-15. Fire Hazard Inspector.

The fire hazard inspector (hereinafter "inspector") is the fire chief of the town or his designated representative.

Sec. 8-16. Duties in Connection with Prevention of Fires.

The fire department shall inspect potential fire hazards, require abatement of fire hazards, and investigate the cause, origin and circumstances of fires. The fire department shall enforce all laws and regulations regarding:

- (1) control and use of explosives and flammables;
- (2) maintenance of fire escapes;
- (3) maintenance of automatic and other private fire alarm systems and fire extinguishing equipment;
- (4) control of the means and adequacy of exits in case of fire from factories, schools, hotels, lodging houses, hospitals, churches, halls, theaters and all other places in which numbers of persons work, meet, live or congregate;
- (5) educational fire prevention programs.

Sec. 8-17. Right to Enter for Inspection.

The inspector shall have the right and authority to enter any public building, structure or premises within the town for the purpose of making inspections or investigations at all reasonable hours; provided that except in case of emergency, the right and authority conferred by this section shall not apply to the entry of a private residence unless written notice is served on the occupant thereof. Such written notice shall contain a statement of the time that inspection will be made and shall also contain a statement of the purpose of such inspection or investigation.

Sec. 8-18. Scope of inspection authorized.

The inspection and examination authorized by Section 8-17 shall be for the purpose of reporting to the State the following fire hazards pertaining to buildings and the occupants:

- (1) disrepair;
- (2) age and dilapidated condition;
- (3) faulty or unapproved construction;
- (4) inadequate fire escapes or lack of means of egress;
- (5) inadequate fire alarm protection;
- (6) inadequate fire extinguishing equipment;
- (7) materials and buildings especially susceptible to fire;
- (8) conditions endangering other property or occupants;
- (9) any other fire hazards dangerous to life or property.

Sec. 8-19. Cooperative Municipal Inspection Agreements.

Pursuant to Title 20, Vermont Statutes Annotated, Chapter 173, Section 2736, the Brattleboro Fire Chief is and shall be authorized to negotiate such Cooperative Municipal Inspection Agreements between the Department of Public Safety, Fire Safety Division and the Town, as the Fire Chief deems appropriate, taking into consideration the fire department's staffing levels, training and abilities. No such agreement shall be entered without the recommendation of the Fire Chief. Such agreements may include, but are not limited to the following:

- * Responsibility for the enforcement of fire and building safety codes and any recognized safety codes adopted by the State of Vermont for all existing public buildings except federally certified health care facilities, high-rise buildings, state owned buildings, and the testing and reporting of fire protection systems by technically qualified people.
- * Inspections of multiple family dwellings when there is a pending sale.
- * Annual inspection of independent residential schools.

A copy of such proposed agreement shall be provided to the Town Manager, the Selectboard and the Director of Finance not fewer than fourteen (14) calendar days prior

to execution for comment. The Selectboard shall have the final authority to execute the agreement, but may authorize the Fire Chief or Town Manager to sign on the Town's behalf.

Sec. 8-20. Inspection Reports.

Following an inspection performed under this Chapter, the inspector shall make available a written report to the property owner within ten (10) business days.

Sec. 8-21. Inspection Fees.

The fees for performing inspections pursuant to this ordinance shall be set either by the Cooperative Municipal Inspection Agreement or if such agreement does not establish the fees, then reasonable fees shall be set by the Selectboard pursuant to 20 V.S.A. §2736(b). A schedule of the current fees shall be made available for review at the Fire Department at any time during normal business hours. Payment of the fees for performing inspections shall be due within thirty (30) days of the date of invoice, and interest shall accrue at the statutory rate beginning the thirty first (31st) day.

Sec. 8-22. Invoices for Inspection Fees.

The fees for any inspections performed pursuant to this ordinance shall be invoiced according to town policy. The following information shall be included on the invoice: the date(s) on which services were provided by the Brattleboro Fire Department, the type of inspection under this article that is serving as the basis for the invoice, an explanation of the services provided, and the cost of the services provided.

Sec. 8-23 through 8-29 RESERVED.

ARTICLE THREE - RENTAL HOUSING CODE

Sec. 8-30. Adoption of State Rental Housing Code.

The Town of Brattleboro hereby adopts the State of Vermont Rental Housing Code, as said Code may be amended by the State from time to time.

Sec. 8-31. Enforcement of State Rental Housing Code.

The Rental Housing Code shall be a civil ordinance and shall be enforced by the following processes:

- (1) Municipal ticketing and enforcement pursuant to Chapter 1, Sections 1-4 and 1-5 in the Brattleboro Code of Ordinances, and/or
- (2) Issuance of health orders and injunctive/compliance orders as set forth in 18 V.S.A. Chapter 3 (§§ 121-131).

Sec. 8-32. Requirement for Licensed Electricians.

A Vermont Licensed Journeyman or a Vermont Licensed Master Electrician shall be required for the following types of work:

- (1) Any construction not otherwise exempt under 26 VSA Sec. 910; excepting that:
- (2) Any electrical work in a building used for dwelling or residential purposes that contains one or two dwelling units, where one or both units are intended for rent, a Vermont Licensed Journeyman or a Vermont Licensed Master Electrician shall be required.

Sec. 8-33 – 40. RESERVED.**ARTICLE FOUR - RENTAL HOUSING INSPECTIONS****Sec. 8-41. Authority.**

This Ordinance is adopted by the Town of Brattleboro under authority granted in 24A V.S.A. Ch. 107, §§ 4.6(4), 4.6(15), 4.6(25) and 4.6(27); 24 V.S.A. §§ 2291(13), (14), and (15), 24 V.S.A. § 2121, and 24 V.S.A. Chapter 59.

Sec. 8-42. Statement of Findings and Purpose.

- (1) The Brattleboro Selectboard finds that: Apartment buildings and leased residential dwelling units that are leased to tenants that become dangerous and unsafe must promptly be made safe and secure to protect the public safety.
- (2) Apartment buildings and leased residential dwelling units that do not meet the Vermont Rental Housing Code constitute public health risks to the residents thereof and to the general public.
- (3) Apartment buildings and leased residential dwelling units that are in disrepair are a blight on their neighborhoods, cause deterioration and instability in their neighborhoods, and have an adverse impact upon adjacent and nearby properties.
- (4) Apartment buildings and leased residential dwelling units that are in disrepair pose serious threats to the public health and safety and therefore are declared to be public nuisances.
- (5) Immediate abatement and rehabilitation of these buildings is necessary to abate such public nuisances, prevent unsightly blight and the deterioration of neighborhoods with the consequent adverse impact on the value of adjacent and nearby properties, secure the public safety and to ensure and enhance the vitality and livability of our neighborhoods.

- (6) A program of registering and routinely inspecting apartment buildings and leased residential dwelling units will promote compliance with the applicable codes and thereby promote the public good and safety of the Town and its residents.

The purpose of this article is to establish a rental property registry and inspection program that will have the effect of protecting life and health through the enforcement of Life Safety Codes such as the National Fire Prevention Association (NFPA) NFPA 101 and NFPA 1, (as modified by the Vermont Fire Code Amendments), the Vermont Rental Housing Code as adopted by the Town of Brattleboro, and other codes enforced by the Town of Brattleboro. This article is established to abate public nuisances, improve the quality of rental housing in town, avoid blight, and bring non-code compliant apartment buildings and leased residential dwelling units into compliance with the Rental Housing Code consistent with the authority vested in the Town to protect the health, safety and welfare of the public through the regulation of the maintenance and repair of apartment buildings and other leased residential dwelling units within the Town.

Sec. 8-43. Definitions.

Code Enforcement Personnel or Officer: For purposes of this ordinance, code enforcement personnel or code enforcement officer shall mean the Fire Chief, Assistant Fire Chief, Fire Department inspectors, Zoning Administrator, Health Officer, Deputy Health Officer, and any law enforcement officer of the Town of Brattleboro.

Apartment building or leased residential dwelling unit: For the purposes of this ordinance an apartment building and leased residential dwelling units are defined as residential dwelling units with independent cooking and bathroom facilities or leased rooms or single room occupancies with common cooking and bathroom facilities that are leased for monetary, or other consideration, and as regulated by the Rental Housing Code under the occupancy classifications of existing one and two-family dwellings, and existing apartments that are leased or rented. Apartment Building or leased residential dwelling unit shall also include, for purposes of this ordinance, all “rental housing” as defined below, and shall additionally include common areas of any apartment building. This definition does not include a building used only as an owner occupied single family residence.

Rental Housing: means all dwellings, dwelling units, rooming houses, rooming units, or mobile home lots let by the owner to one or more persons to be used as a regular residence.

Health Officer: Health Officer shall mean the Health Officer and Deputy Health Officer of the Town of Brattleboro as duly appointed.

Minor Violations of the following: missing handrails and guards for stairs, decks and porches, GFCI outlets not installed or functioning, windows not functioning, failure to follow the towns sanitary trash policy, bi-annual service of the heating system, no sprinkler head over the main heating source. For a more precise list reference is made to

the Life Safety Codes such as the National Fire Prevention Association (NFPA) NFPA 101 and NFPA 1, (as modified by the Vermont Fire Code Amendments), the Vermont Rental Housing Code as adopted by the Town of Brattleboro, and other codes enforced by the Town of Brattleboro.

Major Violations mean violations of the following: the lack of egress windows, the lack of smoke or carbon monoxide alarms, unvented heaters, liquid petroleum tank inside, locked exits, exposed energized wires, damaged and missing vent pipes, inoperable fire alarm or sprinkler system, severe structural issues, essential maintenance practices for lead paint regulations, no running water or functioning sewer system, severe infestation of bedbugs or rodents, or failure to maintain 65° inside when outside temperature is 55° or colder.

Sec. 8-44. Authority of Town Health Officer.

Nothing in this Ordinance shall affect the authority of the Town of Brattleboro Health Officer or the Town Selectboard to take any action permitted under 18 V.S.A. §§ 126, 127 *et seq.* The Health Officer and the Town Selectboard retain the authority, in their discretion, to take action under Vermont state law or under this Ordinance.

Sec. 8-45. Rental Registration Required.

All apartment building or leased residential dwelling unit owners, with the exception of the Brattleboro Housing Authority,¹ shall file an annual rental registry application identifying their leased residential dwelling units for each building located in the Town of Brattleboro. The Town of Brattleboro Fire Department is responsible for ensuring that all registered apartment buildings or leased residential dwelling units located within the Town are inspected such that the owners thereof maintain said buildings in compliance with established and adopted standards to protect the health, safety, and welfare of the occupants. Additionally, all owners of apartments and leased residential dwelling units shall ensure each leased residential dwelling unit is inspected and that Certificates of Habitability are issued a minimum of every four (4) years.

Sec. 8-46. Administration.

Administration and enforcement of this ordinance is the responsibility of the Fire Department and its Code Enforcement officials as defined herein.

Sec. 8-47. Registry Information Required.

¹ Brattleboro Housing d/b/a Brattleboro Housing Partnerships is exempted because it is subject to mandatory annual housing inspections performed under the rules and regulations of the U.S. Department of Housing and Urban Development at the expense of the Brattleboro Housing Authority.

- (1) Leased residential dwelling unit owners must provide the following information to the Fire Department.
 - (a) The address of the property.
 - (b) The number of leased residential dwelling units at that address.
 - (c) The mailing address of each leased residential dwelling unit.
 - (d) The number of bedrooms in each residential unit.
 - (e) The name, address, and phone number of the property owner, corporation, or registered corporate agent.
 - (f) The name, address, and phone number of any property management agent.
 - (g) The name, address, and phone number of a local emergency contact and/or a designated person within the state responsible for services on the property.
 - (h) Upon purchase or transfer of each property containing one or more leased residential dwelling units, the purchaser shall file a new rental registry application with the Fire Department.
 - (i) Prior to the occupancy of any newly constructed leased residential dwelling unit or any conversion of the use to a leased residential dwelling unit, the property owner shall file a rental registry application with the Fire Department.
 - (j) It shall be a violation of this ordinance for a property owner of any leased residential dwelling units within the Town to fail to register as required by this section.
 - (k) Property owners of any leased residential dwelling units shall have a continuing obligation to notify the Fire Department of any changes in the information required above during the periods between filings of the rental registry application.
 - (l) The Vermont Department of Health may request that the Town collect additional information to promote public health; such information will not be made public except to the state, or as aggregated to preserve personal privacy.

Sec 8-48. Inspection Cycle.

Any leased residential dwelling unit is subject to inspection pursuant to this ordinance and to the schedule described as follows. The rental registry fee is required once every four years for each dwelling unit within a building that contains rental housing. Every fourth (4th) year, an inspection for each leased residential dwelling unit is required. A certificate of habitability will be issued based on the results of said inspection, as appropriate.

Additional and more frequent rental housing inspections may be performed from time to time on a complaint made basis or on an emergency basis for good cause shown.

The Town will be divided into four zones as set forth below:

Zone 1 – Includes the following streets:

Buttonwood Drive, Green Street, Halladay Brook Road, Harris Place, High Street, Ivy Lane, Kelly Road, Landmark Hill Drive, Linden Street, Main Street, Mountain View Avenue, North Street, Putney Road, Quails Hill, Retting Place, Sunset Lake Road, Terrace Street, Third Level Drive, Town Crier Drive, Wantastiquet Drive, Westgate Drive.

Zone 2 – Includes the following streets:

Arbor Hill Commons, Brattle Street, Capy Way, Cedar Street, Chapin Street, Chase Street, Chestnut Hill, Cider Mill Hill, Cooke Road, Connecticut River Drive, Dickinson Road, East Orchard Street, Eaton Avenue, Ebby Drive, Forest Street, Gateway Gibson Road, Gateway Farm Lane, Gibson Road, Ginko Lane, Glen Street, Goodenough Road, Green Hill Park Way, Grove Street, Hillwinds Road, Laurel Street, Marlboro Road, Meadowbrook Road, Meeting House Lane, Melrose Street, Myrtle Street, Oak Street, Olive Street, Olson Drive, Orchard Street, Peach Tree Lane, Spruce Street, Thorn Lane, Tyler Street, Upper Dummerston Road, Upper Forest Street, Vermont Avenue, Western Avenue, West River Road, Whitney Place, Williston Street.

Zone 3 - Includes the following streets:

Atwood Street, Belair Drive, Blakeslee Street, Canal Street, Central Street, Clark Avenue, Clark Street, Cross Street, Dummer Avenue, Fairground Road, Frost Street, Fuller Drive, Highland Street, Home Street, Homestead Place, Horton Place, Hunt Avenue, Left Bank Way, Moreland Avenue, Morningside Commons, Oak Grove Avenue, Pauls Road, Pearl Street, Pellet Street, Pine Street, Prospect Street, Reed Street, South Main Street, Thomas Street, Valgar Street, Valley Street, Washington Street.

Zone 4 – Includes the following streets:

Abbot Road, Ames Hill Road, Baker Street, Barrows Road, Beech Street, Birge Street, Black Mountain Road, Bonnyvale Road, Brannon Street, Brook Street, Brookside Drive, Bullock Street, Butterfly Lane, Cherry Street, Chestnut Street, Church Place, Cottage Street, Country Hill, Covey Road, Crosby Street, Culbertson Drive, East Bonnyvale Lane, Elliot Street, Elliot Terrace, Elm Street, Estey Circle, Estey Street, Ethan Hill, Fairview Street, Fairview Village Drive, Fox Farm Road, Friendship Road, Frost Place, Garden Drive, Greenleaf Street, Guilford Street, Highlawn Road, Hillcrest Terrace, Hinesburg Road, Larkin Street, Lexington Avenue, Locust Street, Maple Street, Miller Road, Organ Street, Pleasant Street, Reynolds Drive, School Street, Scott Road, Sherwood Circle, South Street, Southern Avenue, Stark Road, Stewart Place, Stockwell Drive, Strand Avenue, Thayer Ridge Road, Vine Street, West Street, Whipple Street, Williams Street, Willow Street, Wilson Woods Road, Winter Street.

Sec. 8-49. Inspection Requirements.

Code enforcement personnel/officials authorized to perform inspections by this Ordinance shall make scheduled, periodic inspections, of all apartment buildings and all leased residential dwelling units within the Town.

Sec. 8-50. Inspection Schedules.**(A) Quadrennial Inspection Schedule:**

(1) The Fire Department shall schedule with the property owner or his/her agent the date and time of each quadrennial inspection. The owner or agent shall arrange for the inspection within thirty (30) days of the initial request, and shall be present and provide the occupant(s) with notice of an inspection not less than forty-eight (48) hours prior to the actual inspections. During the inspection the owner or agent shall provide access to the leased residential dwelling units and all common areas to include basements and other spaces.

(2) Failure of a property owner or his/her agent to schedule a quadrennial inspection within thirty (30) days of the first (1st) request, or failure of the owner or his/her agent to attend a scheduled inspection, shall constitute a violation of this ordinance subject to forfeiture and/or withdrawal of any Certificates of Habitability.

(B) Out of Cycle Inspections:

(1) If the enforcement officer has reason to believe that an emergency situation exists tending to create an immediate danger to health, safety, or welfare of the occupants of any leased residential dwelling unit or the general public, or if the enforcement officer is denied access to the unit, the enforcement officer shall be authorized to seek any Emergency Health Order pursuant to the statutory authority outlined in Title 18, Vermont Statutes Annotated, Chapters 3 and 11.

(2) Persons requesting inspections for buildings lacking proper Certificates of Habitability records with the Fire Department in order to refinance or to transfer ownership of the property will do so in writing. These out-of-cycle inspection requests will be scheduled as soon as possible and no later than thirty (30) days from the receipt of a written request.

(3) The Code Enforcement personnel or the Town Health Officer may retain such law enforcement officers, fire officials, engineers, attorneys and other qualified experts as necessary to assist with a building safety inspection and the preparation of an inspection report, and the owner of the building shall be liable to the Town for the reasonable cost of such qualified experts.

Sec. 8-51. Certificate of Habitability.

It shall be a violation of this ordinance for an owner of an apartment building or a leased residential dwelling unit within the Town to rent or allow any person to occupy any leased residential dwelling units without a Certificate of Habitability issued by the Fire Department. The Certificate of Habitability verifies that the entire property satisfies the applicable codes identified in Section 2 at the time of the issuance of the Certificate of Habitability. No leased residential dwelling units shall be occupied or used, in whole or

in part, for any purpose whatever, until a Certificate of Habitability has been issued. A Certificate of Habitability shall only be valid for a maximum of four (4) years from issue date. This section shall go into effect for each district as per the following schedule:

Zone 1: July 1, 2019 – June 30, 2020

Zone 2: July 1, 2020 – June 30, 2021

Zone 3: July 1, 2021- June 30, 2022

Zone 4: July 1, 2022 – June 30, 2023

The town will be broken up into four zones as set forth above. These zones shall be posted on the Town's website with each zone to be inspected once every four years.

Sec. 8-52. Issuance of Certificate of Habitability.

(1) Upon completion of the initial inspection of an apartment building or a leased residential dwelling unit performed pursuant to this ordinance, if said property is found to be in compliance with the codes adopted by the Town, the code enforcement officer/health officer shall issue a Certificate of Habitability, which shall expire on June 30th following the 4th year anniversary of the issuance of the certificate or upon re-inspection of the property, whichever comes sooner.

(2) Upon completion of the initial inspection of an apartment building or a leased residential dwelling unit, if an individual unit is cited for five (5) or fewer minor violations of the adopted codes referenced herein, and if all violations have been corrected within the time set for compliance by the Code Enforcement Personnel/Officer, said officer shall issue a Certificate of Habitability upon verification that the violations have been corrected, which Certificate of Habitability shall expire June 30th following the 4th year anniversary of the issuance of the certificate or upon re-inspection of the property, whichever comes sooner.

(3) Upon completion of the initial inspection of an apartment building or a leased residential dwelling unit, if any individual unit is cited for more than five (5) minor violations, the Code Enforcement Personnel/Officer shall, upon verification that the violations have been corrected, issue a Conditional Certificate of Habitability for that leased residential dwelling unit, which shall expire within one (1) year from the date of issuance.

(4) Re-inspections for verification by the code enforcement officer that the abatement and mitigation actions have been completed on violations identified on the initial inspection report shall be assessed additional fees as follows: For units cited for five (5) or fewer minor violations which are in complete compliance upon re-inspection, there will be no additional re-inspection fee. If the unit has not come into compliance by the re-inspection date, an additional inspection fee will be charged as identified in the Town of Brattleboro schedule of fees. For units with more than five (5) minor violations, an additional inspection fee shall be charged as identified in the Town of Brattleboro

schedule of fees. The schedule of fees shall be incorporated herein, as said schedule may be changed from time to time by the Town.

(5) Major Violations: Upon completion of the initial inspection of an apartment building or a leased residential dwelling unit or any subsequent re-inspections, if any individual unit is cited for any of the following conditions the Code Enforcement Personnel/Officer may declare the leased residential dwelling units uninhabitable and deny the issuance of a Certificate of Habitability, and/or issue fines against the owner:

- a) The lack of egress windows,
- b) The lack of smoke or carbon monoxide alarms,
- c) Unvented heaters,
- d) Liquid petroleum tank inside,
- e) locked exits,
- f) exposed energized wires,
- g) damaged and missing vent pipes,
- h) inoperable fire alarm or sprinkler system,
- i) severe structural issues,
- j) lead paint issues that could require immediate action,
- k) no running water or functioning sewer system,
- l) severe infestation of bedbugs or rodents.
- m) failure to maintain 65° inside when outside temperature is 55° or colder.

(6) The Fire Department shall issue a Certificate of Habitability for a newly constructed apartment building or leased residential dwelling unit upon passing a final inspection by a Code Enforcement Personnel/Officer. The Certificate of Habitability shall expire at the end of the four year term for the zone in which the dwelling unit is included, or upon re-inspection of the property, whichever comes sooner.

(7) Nothing in this Ordinance shall preclude the inspection of said apartment buildings or leased residential dwelling units more frequently than the term of the Certificate of Habitability.

(8) A Certificate of Habitability may be revoked if a subsequent inspection determines that any apartment building or leased residential dwelling unit is no longer in compliance with the requirements of this ordinance.

(9) In order to receive a Certificate of Habitability, all registration and inspection fees, taxes and utility payments (including any applicable fines or penalties) shall be paid to the Town of Brattleboro.

(10) Upon request of an existing or prospective tenant, the owner or the owner's agent shall produce the Certificate of Habitability. All apartment buildings and leased residential dwelling units located in the Town of Brattleboro are required to have a Certificate of Habitability on file with the Fire Department, without which it is a violation of this ordinance.

(11) The code enforcement officer shall have the discretion to place an apartment building or a leased residential dwelling unit on a more frequent inspection cycle for repeated violations and noncompliance.

Sec. 8-53. Issuance of Conditional Certificate of Habitability.

The Fire Department may issue a Conditional Certificate of Habitability whenever the code enforcement officer is unable to inspect a leased residential dwelling units after the expiration of an existing certificate, or more time is required to remedy a minor code violation cited on an inspection report, when the inability to inspect is not due to obstruction by the property owner or agent.

Sec. 8-54. Fees.

(1) A quadrennial application fee in accordance with the Town of Brattleboro schedule of fees shall be charged the owner of every building containing one or more leased residential dwelling units. The said property owner shall file an annual rental registry application in order to identify all leased residential dwelling units, agents, and emergency contacts. The property owner shall pay the quadrennial fee once every four years, which fee shall be assessed per leased residential dwelling unit and is due within 30 days from receipt of invoice for said application fee during the year of inspection.

(2) Pursuant to this ordinance an inspection of all apartment buildings and leased residential dwelling units within each building will be required in order for a Certificate of Habitability to be issued. In order to comply with this ordinance the property owner shall file the rental registry application every year and on every fourth (4th) year pay an inspection fee in accordance with the Town of Brattleboro schedule of fees per leased residential dwelling units. These fees are due net 30 days from receipt of invoice for said inspection fee.

(3) Re-inspection fee for non-compliance: Re-inspections for non-compliance with all applicable codes, established and adopted standards to protect the health, safety, and welfare of the occupants and re-inspections for Certificates of Habitability issued for less than the four (4) year cycle shall be assessed a fee in accordance with the Town of Brattleboro schedule of fees per leased residential dwelling unit each time they are re-inspected until a four (4) year Certificate of Habitability is issued.

Sec. 8-55. Penalty and Enforcement.

(A) If the owner fails to comply with a Health/Safety Order or Inspection Report, the owner shall be considered to be in violation of the Order and this Ordinance. In addition, any violation shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Windham County Superior Court, at the election of the Town Health Officer.

(B) A civil penalty of not more than \$800.00 per violation may be imposed for violation of this Ordinance. 24 VSA section 1974a. Each day that the violation continues shall constitute a separate violation of this Ordinance. For purposes of this Ordinance, the Town incorporates and adopts the Brattleboro Schedule of Fees and Fines (as may be changed from time to time) as attached hereto.

(C) If the owner can show that a tenant or occupant of the leased residential unit has violated fire codes or laws or codes adopted by the state, including 20 VSA Chapter 173 and 9 VSA section 4456, penalties may be imposed pursuant to 20 VSA section 2734 against the violator, in addition to any penalties that may be imposed upon the landlord.

(D) Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. For purposes of enforcement in the Judicial Bureau, the Code Enforcement Personnel/Officers shall be the designated enforcement officers. The Code Enforcement Personnel/Officers shall issue tickets and may be the appearing officer at any hearing.

(E) Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Town of Brattleboro may pursue any and all remedies available at law or in equity.

(F) If, upon inspection, the Code Enforcement Personnel/Officer, Fire Chief or his designee, or the Town Health Officer determines that an apartment building, rental housing unit, or other leased residential dwelling unit endangers the public safety or is in violation of the Vermont Rental Housing Code, the Town Health Officer shall commence an abatement action by issuing a Health Order. The Health Order shall:

(1) Identify the hazardous conditions that cause the premises, building, structure or anything attached or connected thereto to be in violation of this Ordinance and/or the Vermont Rental Housing Code as adopted by the Town of Brattleboro.

(2) Identify the actions that must be taken by the owner to bring the building into compliance with this ordinance and with the Vermont Rental Housing Code, to secure the building or premises and to abate the hazardous conditions identified in the order, including, where appropriate, removal of the building.

(3) Set a date by which the actions to abate the hazardous or unsafe conditions must be completed by the owner, which shall be not less than fifteen (15) days from the date of service of the order.

(4) Inform the owner of his/her right to appeal the Health Order and the right to be represented by legal counsel at the appeal hearing.

(G) The Health Order shall be served upon the owner of the building or premises by certified mail, return receipt requested, and by first class mail, or served in hand by enforcement personnel. A copy of the proposed Health Order shall be provided to the

Town Manager's office of the Town of Brattleboro. Compliance with the Vermont Statutes regarding the issuance of Health Orders as set forth in Title 18 shall be considered compliance with the terms of this Ordinance.

(H) If the owner continues such refusal or neglects to make the building or premises safe and in compliance with the Rental Housing Code, and the Health Order has become final by the failure to appeal or by final resolution of the appeal, the Town Health Officer shall be fully authorized to abate the nuisance. The Town Health Officer may, as necessary, install boards or otherwise secure a non-compliant building or order that a building be vacated by any occupants.

(I) The Town Health Officer may contract with such service providers or use such other Town employees as may be necessary to ensure public safety in these circumstances. The full cost of any work necessitated by a Health Order shall constitute a lien chargeable against the property owner and may be recovered in the same manner as taxes for real estate pursuant to 32 V.S.A. Ch. 133.

The charges, fees and fines levied in this chapter shall constitute a lien upon the property on which the leased residential dwelling units is situated and may be enforced within the time and manner provided for collection of taxes on property.

Sec. 8-56. Appeals.

There is hereby established an Inspection Appeal Board for purposes of hearing and determining initial appeals pertaining to this Ordinance. The Inspection Appeal Board shall be comprised of the Town Manager and two additional members, who may or may not be members of the Town Selectboard, one of whom may be the owner of an apartment building or leased residential dwelling unit. The two members shall be annually appointed by the Town Selectboard beginning with the inception of this ordinance and annually thereafter during the Town Selectboard's organizational meeting following the annual Town Meeting.

All persons who wish to appeal the findings of the Fire Chief or Code Enforcement Personnel/Officer pertaining to a building, fire, and/or life safety inspection shall do so in writing, setting forth specific reasons for the appeal, and deliver it to the Town Manager. This appeal shall be delivered to the Town Manager within 14 (fourteen) days of the issuance of inspection findings. In the event that an appeal is not filed within 14 (fourteen) days of the issuance of the inspection findings, said inspection findings shall be deemed final. Upon receipt of a written appeal the Town Manager shall convene the Inspection Appeal Board within 30 days of receipt of the notice of appeal. The Inspection Appeal Board shall hold a meeting at which the appellant may provide information about the basis for the appeal. The Inspection Appeal Board shall issue a decision in writing on the appeal within 30 days of the closure of said appeal hearing.

Sec. 8-57. Building Inspection.

Upon receiving information that any apartment building or other leased residential dwelling unit is in violation of the specifications of this Ordinance, is in violation of the Vermont Rental Housing Code, or is otherwise in such unsafe condition that the public safety is endangered, the Town Health Officer shall cause the building, structure or property to be inspected. Notwithstanding the previous sentence, the Town Health Officer shall cause all public buildings and apartment buildings and any leased residential dwelling units to be inspected once every four years as set forth above.

Sec. 8-58. Repeal of Prior Conflicting Ordinances.

The enactment of this Ordinance shall repeal all other ordinances of the Town of Brattleboro that are in direct conflict with the terms and regulations contained herein. This article shall be in addition to Article III, Chapter 8 of the Brattleboro Town Ordinances.

Sec. 8-59. Severability.

If any section of this Ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this Ordinance.

Sec. 8-60. Effective Date.

This Ordinance shall become effective upon its adoption by the Town Selectboard of the Town of Brattleboro in accordance with 24A V.S.A. Ch. 107, § 4.6.