

FREEDOM RENTAL OCCUPANCY ORDINANCE

Effective date Aug. 7, 1991

Section I. Title and Authority

This ordinance, the Freedom Rental Occupancy Ordinance, herein referred to as the Ordinance, is adopted pursuant to the town's home rule authority as found in 30-A M.R.S.A. § 3001 et sec.

Section II. Purpose

The purpose of this Ordinance is to protect the health and safety of renters and the public, both residents and nonresidents of Freedom. Persons who occupy rental units, or who are cared for in dwellings they do not own, often do not have control over the conditions that determine their own, adjacent property owners', or the public's health and safety.

Section III. Scope

- A. Anyone seeking to rent to others two or more dwelling units within the town of Freedom must first obtain an Occupancy Permit for each dwelling unit from the Town of Freedom.
- B. Anyone seeking to rent to others more than two rooming units in one dwelling unit in the Town of Freedom must first obtain an Occupancy Permit from the Town of Freedom.
- C. Anyone seeking to use their dwelling unit or dwelling for day care of more than three children or adults must first obtain an Occupancy Permit from the Town of Freedom.
- D. Anyone seeking to rent to others a dwelling unit in a structure than has outstanding local or state citations for electrical, plumbing, fire or other safety violations in the preceding six months must first obtain an Occupancy Permit from the Town of Freedom even if that dwelling unit or structure would not be covered under the other terms of this Ordinance.
- E. Only an owner, or the owner's authorized agent, can obtain an Occupancy Permit.
- F. The provisions of this Ordinance apply to rental agreements begun after the effective date of this Ordinance. Any change in occupancy in the kinds of rental situations described in this Ordinance that occur subsequent to the effective date of this Ordinance will be governed by the requirements of this Ordinance.
- H. This Ordinance does not apply to any dwelling being rented for recreational purposes unless rental extends to over 120 days during any one-year period.
- I. The property owner, or agent, is responsible for notifying the Code Enforcement Officer of rental properties.

Section IV. Definitions

The following definitions shall apply unless the context clearly indicates another meaning. Common dictionary definitions shall apply to all other terms.

Dwelling shall mean a building occupied either wholly or in part for residence purposes. It may include one or more dwelling units.

Dwelling Unit shall mean one or more rooms arranged for the use of one or more individuals living together as one housekeeping unit, with cooking, living, and sleeping facilities contained in the unit. Sanitary facilities may be included in the unit or shared with others.

Rooming Unit shall mean not more than two rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes. Sanitary facilities may be included in the unit or shared with others.

Rental Unit shall mean any room or group of rooms inhabited by a person or persons who pay some form of monetary compensation to the owner of the structure or to the primary occupant of the dwelling unit.

Occupant shall mean a person who lives in a structure.

Primary Occupant shall mean either an owner who lives in his/her own dwelling unit or a person who lives in a dwelling unit and who pays rent directly to the owner or his/her representative for the full use of that dwelling unit. That full use may include the right to rent part of the dwelling unit to others.

Owner shall mean a person who holds recorded title to the property or any person having an equitable interest in the property, any person with a leasehold of five (5) years or more, or persons owning by a bond for deed.

Nuisance shall mean any source of filth or any condition, which may cause injury, whether or not the cause of sickness or injury but deemed to be potentially injurious to health and safety to occupants, adjacent property owners, or the public.

Section V. Application Process

A. The Applicant will apply to the Planning Board giving his/her name, address, and phone number as well as the name(s), address(es), and phone number(s) of the owner(s) of record, mortgage(s) of record, or other persons having a recorded interest in the property if different from or in addition to the Applicant.

B. After all documents as set forth below in Section VI have been submitted, all inspections made as set forth below in Section VI, and a fee of twenty-five dollars (\$25) per dwelling unit paid, the Freedom Planning Board must approve or reject the application within thirty (30) days. If State licensing fees have been paid for comparable State inspections for the situations described in Section III-C, the twenty-five dollars (\$25) application fee will be waived.

Section VI. Performance Standards

An Occupancy Permit will be approved by the Freedom Planning Board if:

A. The Freedom Code Enforcement Officer determines that the dwelling is structurally sound in accordance with the standards of the Freedom Building Ordinances.

B. The Freedom Code Enforcement Officer determines that wiring meets State and local electrical codes.

C. The Freedom Plumbing Inspector determines that all plumbing meets State and local plumbing codes and that the septic system is adequate for the structure's designed use; that is, that the building has only as many dwelling units or rooming units as its septic system is capable of accommodating.

D. The Freedom Code Enforcement Officer and the Freedom Fire Chief determine that all State and local fire safety regulations are met.

E. The Freedom Code Enforcement Officer determines that the dwelling unit(s), the structure containing the dwelling unit(s), and the property on which the structure is located, do not contain known health or safety hazards such as exposed asbestos fibers, malfunctioning electrical devices, unsafe abandoned appliances, inadequately covered wells, excessive use of particleboard in poorly ventilated living or sleeping areas, inadequate or heavily creosoted chimneys, rodent or vermin infestations, or any debris that is unsanitary, unsafe, or may constitute a fire hazard or a nuisance for occupants, adjacent residents, or the public.

F. Water supply meets State guidelines for potability. Applicant must submit a State water testing report confirming that the water meets these standards.

G. Radon level is within safe levels. Applicant must submit results of radon testing by a State approved laboratory.

The Planning Board may waive any of the above performance standards if the Applicant can establish that the standard presents an unnecessary hardship.

Section VII. Duration

The Occupancy Permit will remain in force for as long as the unit(s) or dwelling(s) and the property on which the structure is located conform to the specifications of this Ordinance, as long as the Permit Holder remains the same, and as long as the dwelling unit does not go unoccupied for more than twelve (12) consecutive months. The Permit Holder must report his/her and any owner's change of address or phone number to the Freedom Planning Board by certified mail. In the event that the property is sold, conveyed or otherwise transferred to a new owner, a new Occupancy Permit will be required if any conditions described in Section III exist and the former owner has been the Permit Holder. Every three years the Code Enforcement Officer will inspect the premises and if the performance standards described above in Section VI continue to be met and the Permit Holder pays a fee of twenty dollars (\$25), the Permit will be renewed for an additional three years. Occupancy Permits obtained because of the situation described in Section III-D would not need to obtain a renewal of the Occupancy Permit if that dwelling unit or structure would not otherwise be covered under the terms of this Ordinance.

Section VIII. Enforcement and Penalties

Occupancy as described in Section III without an Occupancy Permit shall be in violation of this Ordinance. In addition, violations of State and local plumbing, electrical, fire and other safety codes, structural inadequacy, or the presence of a nuisance may result in the revocation of the Occupancy Permit as well as further legal action including condemnation and eviction.

A. The Freedom Code Enforcement Officer and the Freedom Selectmen shall enforce this Ordinance. The Freedom Planning Board shall have the power to revoke the Occupancy Permit.

B. Failure to notify the Code Enforcement Officer of rental properties that come under the provisions of this ordinance shall result in a fine of fifty dollars (\$50) per unit.

1. Occupancy Without a Permit

a. If occupancy occurs as described in Section III without the required Occupancy Permit, the Code Enforcement Officer will notify the person in need of the Occupancy Permit that he/she must apply for an Occupancy Permit within thirty (30) days. If the person in need of the Permit fails to do so, the Code Enforcement Officer will notify the Freedom Planning Board.

b. Upon notification by the Code Enforcement Officer that occupancy continues after thirty (30) days without an Occupancy Permit, the person in need of the Occupancy Permit or his/her representative as well as the owner of the property, if different from the person in need of the Permit, shall be notified by the Freedom Planning Board that a hearing about this condition will take place. Date of the hearing will be set to give the person in need of the Permit enough time to arrange to attend the hearing or to acquire representation, that is, at least ten (10) days from the date of notification. If the person in need of the Permit or his/her representative fails to appear or appears at the hearing but fails to show cause why the Permit should not be applied for, effective thirty-five (35) days after the hearing a fine of fifty dollars (\$50) per day will be assessed to the person in need of the Permit until the Occupancy Permit is obtained or the unit is no longer inhabited.

2. Revocation of the Occupancy Permit

a. If any violation of State and local plumbing, electrical, fire and other safety codes, structural inadequacy, or the presence of a nuisance is brought to the attention of the Code Enforcement Officer, he shall notify the Permit Holder. If the violation is not corrected within a reasonable time (to be determined by the Code Enforcement Officer), he/she shall notify Freedom Planning Board.

b. Upon notification by the Code Enforcement Officer that one or more of the above violations continue to exist, the Freedom Planning Board will notify the Permit Holder at the above recorded address as well as the owner of the property, if different from the Permit Holder, that since the violation has not been corrected, the Permit will be subject to revocation at a public hearing of the Freedom Planning Board. Date of the hearing will be set to give the Permit Holder enough time to arrange to attend the hearing or to acquire representation, that is, at least ten (10) days from the date of notification. If the Per Holder or his/her representative fails to appear or appears at the specified hearing but fails to show cause why the Permit should not be revoked, the Permit will be revoked by a majority vote of the Freedom Planning Board effective twenty-one (21) days after the hearing. After revocation of the Occupancy Permit, a fine of \$50 per day will be assessed until the Permit is reinstated or the unit is no longer occupied. The Occupancy Permit may be reinstated by a majority vote of the Freedom Planning Board when the Code Enforcement Officer

3. Condemnation, Eviction and Other Legal Proceedings

If occupancy continues without benefit of an Occupancy Permit, the Selectmen may initiate condemnation, eviction or other legal proceedings. In this event the owner or the person responsible for the violation of this Ordinance will be liable for all court and other costs including interest and any costs incurred in the relocation of occupants. In the event of failure to pay the above penalties and the Selectmen must sue the person in need of an Occupancy Permit or the person whose Occupancy Permit has been revoked, that person must pay all court costs including interest in addition to the accumulated penalties.

Section IX. Severability

Shall any section or provision of this Ordinance be declared to be invalid by the courts; such decision shall not invalidate any other section or provision of this Ordinance.

Section X. Effective Date

This Ordinance shall become effective when enacted by the voters of the Town of Freedom at a town meeting. Adopted at Special Town Meeting: Aug. 7, 1991.

Readopted at Special Town Meeting: June 7, 2006