CHAPTER 48
HOUSING STANDARDS
Section 48-A:14

48-A:14 Minimum Standards Established. — No landlord, as defined by RSA 357-A, shall maintain and keep the premises in habitable condition, which includes, but is not limited to, the following:

I. The premises are heated by a heating system and the landlord is not conducting a periodic inspection and evaluation program; effective January 1, 2014.

II. There is defective internal plumbing or a back-up of sewage caused by a faulty 10,000 gallon septic or sewage system.

III. There are odors, smoke, steam or gas issuing from pipes, wires, ducts or fittings, or from the operation of a heating, ventilating or air conditioning system, or from faulty plumbing or a defective or unsafe heating system.

IV. The roof or walls leak consistently.

V. The plaster is falling or has fallen from the walls or ceilings;

VI. The floors, walls or ceilings contain substantial holes that seriously reduce their structural strength;

VII. The porches, stairs or railings are not structurally sound;

VIII. There is an accumulation of garbage or rubbish in common areas resulting from the failure of the landlord to remove or provide a sufficient number of receptacles for storage prior to removal unless the tenant has agreed to be responsible for the collection of garbage.

IX. There is an inadequate supply of water or whatever equipment that is available to heat water is not properly operating;

X. There are leaks in any gas lines or leaks or defective pilot lights in any gas appliances furnished by the landlord; or

XI. The premises do not have heating facilities that are properly installed, safely maintained and in good working condition, or are not capable of safely and adequately heating the premises to a temperature of at least an average of 65 degrees F.; or, when the landlord is not conducting a periodic inspection and evaluation program; effective January 1, 2014.

When the Minimum Housing Standards: When the Minimum Standards Fail

Case Studies of Local Health Officers’ Intervention Strategies and Resources

NH Health Officers’ Association Fall Conference
October 24, 2013

Compiled by Chuck McMahon, Portsmouth Herald

Source: Portsmouth Herald

10/25/2013
Definitions: Rooming House/Boarding House

- "Lodging or rooming houses" - 2009 National Fire Protection Association 101
  - sleeping accommodations for < 16
  - transient or permanent basis
  - with or without meals
  - without separate cooking facilities
  - Bed and breakfast occupancies ≥ 3, but < 17

- No definition of Boarding House in the NFPA

- Boarding House - 2009 International Building Code
  - used for lodging for compensation
  - with or without meals, and
  - not a single family unit.

- No definition for Rooming House in the IBC

Use Local Ordinances if Possible

- Chapter 3 Public Health Article I:
  - Section 3.101 The Health Officer shall inquire into all nuisances and all causes of danger to the public health, and whenever (SHE) shall know, or have cause to suspect, that any nuisance or other thing injurious to the public health is in any building, vessel, or enclosure and (SHE) shall make complaint under oath to some justice of the peace who shall issue a warrant directed to the proper authority to search such building, vessel or enclosure and may enter therein and make search

Chapter 3 Public Health Article I: Public Nuisances

- Section 3.102 Notices
  - The Health Officer shall notify the owner or occupant of any building, vessel or enclosure to remove or destroy any nuisance or other thing therein deemed by them, upon careful examination, to be injurious to the public health, within a reasonable time limited, and in case such owner or occupant shall neglect to comply therewith, the HO shall cause such nuisance to be removed or destroyed.

Facility Amenities

- 35 rooms total, Occupancy ~ 43
  - 25 single occupancy
  - 9 double
  - 1 live in "manager"
  - 5 shared bathrooms
  - One washer, one dryer
  - Was no water supply other than bathroom sinks for drinking, cooking or dishwashing
Considerations
- People need a place to live
- Housing in a cramped market/ NOT affordable housing
- Food service, service industry worker
- 8 employees from 6 restaurants reside there
- Communicable disease
- Convicted felons
- Mentally ill residents
- Medically Fragile residents
- Registered sex offenders
- Substance abuse, V & D in common areas common
- Infectious disease
- Infestation

Issues
- Unclean shared bathrooms and uncleanable bathroom surfaces
- General grime, mold, and hair buildup

Issues
- Improper bathroom ventilation
- Exposed lead paint
- Cockroach and bedbug infestation
- Uncapped abandoned plumbing & conduits
- Disconnected dryer vent resulting in mold growth
- Human remains and biohazardous materials
- Feces and vomit on carpets in common areas throughout
- Soiled bedding: feces, urine, blood, grime, insects

Condition of Provided Bedding
- General grime, body fluids, infestation and in some cases, people had expired on mattresses that were reused

Condition of Provided Bedding
Additional Health Issues

Remedy: Clean water supply for cooking, drinking, and washing dishware

- Common kitchen sink with a separate mop sink on each floor
- Allowed residents access to a safe supply of water separate from the toilet facilities, for drinking, cooking and cleaning their utensils, tableware, and cookware in compliance with City Ordinance Section 14.107: "Cooking on the premises shall be done in kitchens or kitchenettes approved by the Health Officer."

Remedies

- 71 box springs and mattresses were ordered discarded
- New box springs and mattresses are required to have hypoallergenic sealed covers
- Monthly Licensed Pest Control (or more often if needed) – monthly reports submitted to the Health Department
- Capping/removal of abandoned plumbing and other conduits

Remedies

- Replacement of cracked sinks, toilet seals, appropriate shower repairs
- Removal of carpet in common areas throughout the facility
- Annual inspections or more frequent if needed
- Installation of kitchen sinks on each floor in areas designed to be "clean" rooms
- Deaths must be reported to the Health Department prior to re-renting rooms

Case Study Motel

Arthur Capello

Health Officer/Building Inspector

October 24, 2013

Background

You have worked in Wakefield for the past six years. You are the Towns Building Inspector, Code Enforcement Officer and Health Officer. Over a period of time you have received several complaints a year about bed bugs in the rooms, unsafe living conditions, general cleanliness and the overcrowding of rooms. You have done several inspections and the owner of the motel is not very cooperative about allowing you into rooms in question.
On February 6, 2012, there was a minor fire in one of the rooms. During a routine fire investigation, the State Fire Marshal was called. The State found multiple violations in all of the rooms. The local fire department reports to the Health Officer that there are multiple health concerns with many of the rooms. One room has an eye tearing odor of urine and there are two children under the age of 5 residing there. Another room has large amounts of mold in one of the rooms. The State Fire Marshal, based on observations, has requested a through inspection of all the rooms by the State Electrical, Plumbing, and Mechanical Inspector, the local Health Officer and Building Inspector.

During the inspections, a list is compiled of all code and health violations. Over the next several months, you work with the State Inspectors to put a comprehensive list together of all the violations. You repeatedly requested the owns to allow inspections but received no cooperation. During the process to dealing with all the code and health issues, you find you are running into roadblocks with the town and the owner.
Definitions of Hotels/Motels

International Building Code

- **Transient** - One that is transient, especially a hotel guest or boarder who stays for only a brief time. (The free dictionary)
- **Hotels/Motels (Transient)** - Residential occupancies containing sleeping units where occupants are primarily transient in nature
- **Hotels/Motels (Not Transient)** - Residential occupancies containing sleeping units or more that two dwelling units where the occupants are primarily permanent in nature

Difference between Hotel and Motel

- **Hotel vs. Motel**
- **Definition**: The term “Hotel” refers to an establishment that provides paid lodging, for a short duration to tourists. Hotels provide a number of other services such as a restaurant, a swimming pool, or childcare. They also have arrangements to hold conference and meetings.
- The term “Motel” is derived from the term “motorists hotel,” which originally meant that the hotel provided parking. Motel referred initially to a single building of connected rooms whose doors face a parking lot and/or common area or a series of small cabins with common parking.

NFPA Definitions

- Chapters 28 & 29 cover Hotels and Dormitories (new and existing respectively).
- **Hotels** are defined as: “A building or group of buildings under the same management in which there are sleeping accommodations for more than 16 persons and primarily used by transients for lodging with or without meals.”
- **Dormitories** are defined as: “A building or a space in a building in which group sleeping accommodations are provided for more than 16 persons who are not members of the same family in one room, or a series of closely associated rooms, under joint occupancy and single management, with or without meals, but without individual cooking facilities.”
- **Transients** are those who occupy accommodations for less than 30 days.
- The explanatory material included in the handbook states that a “rooming house” that accommodates more than 18 people is classified as a hotel. There are cases where distinguishing between a hotel or dormitory and an apartment occupancy can be confusing and there is some discussion about that as well.

Challenges:

- Getting information verbally from the local fire department
- Dealing with the health issue of the children’s living conditions i.e. extreme odor of urine.
- Getting a report from the State Fire Marshal
- Working with all departments to find which RSA’s work in this case to gain access, deal with all health and code issues. The Following RSA’s Code references and information were used to resolve the case: RSA 155A State Building Code, NFPA 101, The Motel website to pull supporting information about the use, RSA 353.3 Trade and Commerce, Registration, Open to Inspection, RSA 147:3 Investigations and Complaints, RSA 143:4 Removal, Notice. RSA 155 B.1 Definitions, RSA 155 B.2 Repair or Removal of Hazardous Buildings, Reports from the State Electrical and Plumbing Inspector and Photographs
- Preparing all documentation for the possible closing of the Motel
- Working with the Welfare Director to find other arrangement for any clients that may be staying at the motel
- The establishment has been a staple part of the community for over 30 years
- The Town uses the motel for the sheltering of welfare clients
- The property Owner is uncooperative and will most likely not allow you access to all rooms

Outcome:

- On a general note, all letters were sent regular mail and certified return receipt. The reasoning behind this is that if the regular mail is not returned but the certified is, in the eyes of the court, the letter is considered delivered. Starting in July, a formal written request with a deadline was sent to the Wakefield Fire Department asking them to inspect the hotel. It was determined that failure to perform an inspection puts the owner with a list of all health issues and code issues letting them know they had 30days to comply.
- With the letter was also a copy of the reports I had from the State Inspectors. While all tears were being compiled and sent, work was started with the Welfare Director to move out any clients that the town may have placed there for temporary housing. On September 7, 2012 a follow up letter was sent alerting the owner the inspection would be performed on September 14, 2012 at 10am as stated in the letter placed September 7, 2012. Knowing that the owner was not cooperative, research to make sure I would be able to gain access to all rooms was done. RSA 353.3 of Trade and Commerce seemed to work. My interpretation of the RSA was that if a police officer requested to enter and inspect the premises there was no right of refusal. I had a meeting with the Police Chief and he agreed that is one way the RSA could be interpreted.
- The inspection was conducted on September 14, 2012 After being threatened with an injunction by the attorney for the motel owner, the owner’s work was completed by 1:35pm. The deadline was 2pm before the property closed down.
Section 353:3

353:3 Register, Open to Inspection. – All hotel keepers and all persons keeping public lodging houses, tourist camps, or cabins shall keep a book or card system and cause each guest to sign therein his own legal name or name by which he is commonly known. Said book or card system shall at all times be open to the inspection of the sheriff or his deputies and to any police officer. The term “public lodging house” as here used shall mean a lodging house where more than 2 rooms are habitually let for less than a week at a time for the accommodation of transients. Whoever violates any provision of this section shall be guilty of a misdemeanor. Source. 1927, 68:1. 1933, 107:1. RL 208:7. 1945, 133:1. RSA 353:3. 1973, 528:246, eff. Oct. 31, 1973 at 11:59 p.m.

Section 147:4

147:4 Removal, Notice. – The health officers may notify the owner or occupant of any building, vessel, premises, or property to remove or destroy any nuisance or other thing therein deemed by them, on examination, to be injurious to the public health, within a time limited; and in case the owner or occupant, after such notice in writing, given to the owner or occupant or left at the owner's or occupant's abode, shall neglect to comply with the order, the health officers may forcibly enter and cause the nuisance or other thing to be removed or destroyed. Source. RS 119:3. CS 125:3. GS 101:3. GL 111:3. PS 108:4. PL 140:4. 1935, 29:1. RL 165:4. 1998, 312:5, eff. Aug. 25, 1998.

Memo

You: Sarah Minard - Captain NFD
From: Arthur Capello
CC: 
Date: 9/14/2012
Re: 

I would like to make a formal request for the Wakefield Fire Department to determine the occupancy load for each room as well as any apartments. This property is located at 3301 White Mountain Highway known as Palermo Hotel. I would request this information as soon as possible but no later than July 20, 2012.

Thank you for your help in this matter.

Building Department
TOWN OF WAKEFIELD, NEW HAMPSHIRE
CODE ENFORCEMENT OFFICE

August 7, 2012

Aunt Nano Blues LLC
221 County Highway
Wakefield, NH 03872

Dear Property Owners:

An inspection of the premises was conducted on July 26, 2012. The inspection was required in order to comply with the Land Use Regulations. The code enforcement officer found that the building was unsafe and required immediate action to ensure the building was safe and in compliance with the code requirements.

The building is located at 901 White Mountain Highway, Wakefield, NH 03872. The required repairs include:

- Repair foundation
- Repair roof
- Repair windows
- Repair doors
- Repair electrical system
- Repair plumbing system
- Repair exterior

The inspector has provided a repair estimate for the required work. The repairs must be completed within 30 days from the date of this letter.

If you have any questions or concerns, please contact me at 603-774-2717 or via email at codeenforcement@wakefieldnh.gov.

Sincerely,

[Signature]

CC: Wakefield Board of Selectmen
Toni Williams, Town Administrator

[Addresses and phone numbers provided]
Housing Standards

When the Minimum Standards Fail
October 24, 2013

Condemnation Order
Page 2

- Trash and debris were noted on the back deck.
- Trash, junk, old appliances, mattresses and other debris were noted throughout the exterior property.
- The answered above-ground pool is full of stagnant water and may provide a breeding habitat for mosquitoes.

The conditions noted above present a clear and imminent danger to the health and safety of any occupants of 31 Twinbrook Avenue. This dwelling is unfit for human habitation at this time and must not be re-occupied until these violations are corrected and an inspection by this office is conducted to verify compliance.

Failure to comply with this order may result in court action. If you have any questions, please contact this office at 890-2050.

If you want to contest this order, you can file a written request with the Salem Board of Health, 33 Geremonty Drive, Salem, NH 03079, c/o Brian Lockard. The hearing will be held no later than 30 days after your request is received. You will be sent a hearing notice of the date and time.

Sincerely,
Brian A. Lockard
Health Officer

CERTIFIED MAIL
cc:
Tenants
Jonathan Sistare, Town Manager
Salem Police & Fire Departments
William Scott, Community Development Director
NH DHHS, Children, Youth & Families, Attn: Brian Murphy, 154 Main Street, Salem, NH 03079

Lawrence Eagle-Tribune
STATE OF NEW HAMPSHIRE
ROCKINGHAM COUNTY
SALEM DISTRICT COURT

PETITION FOR AN ADMINISTRATIVE INSPECTION WARRANT

NOW COMES Petitioner, Brian A. Lockard, Health Officer, and requests an Administrative Inspection Warrant in accordance with RSA 595-B. In support of this request, Petitioner respectfully states as follows:

1. The Petitioner currently functions as the Health Officer for the Town of Salem, NH. His business address is Town Hall, 33 Geremonty Drive, Salem, NH 03079. His telephone number is 603-890-2050.

2. In accordance with RSA 128:5 the Petitioner has the authority to enforce public health laws and rules and to make sanitary investigations. In conducting sanitary investigations the Petitioner can enter private property, but he cannot enter and inspect living quarters without an inspection warrant.

3. The Petitioner has probable cause to believe that certain property located within the Town of Salem, NH does not comply with statutes, rules and/or ordinances governing housing sanitation standards. The property in question is located at the following address: 6 MacFarland Road, Salem, NH 03079. Owner is listed as Georgina Morrison.

4. The purpose of this inspection is to determine whether the dwelling at 6 MacFarland Road is in a safe and sanitary condition for occupancy and to determine if the home meets minimum housing standards.

5. The specific statutes, rules and/or ordinances with which this property does not comply are as follows: Town of Salem Municipal Code, Chapter 208 (Housing Standards) and RSA 147 (Nuisances).

6. If testing or sampling is requested, I understand that a receipt must be given to the owner or occupant or left at the place to be inspected. Please describe the time and manner of such testing or sampling: No testing or sampling will be conducted. However, it is expected that photographs of the interior premises will be taken.

Condemnation Order

Page 1

Due to a request by the Police Department, I obtained an Administrative Inspection Warrant and conducted an inspection of the following property on September 2, 2008: 6 MacFarland Road. The following violations of the Town of Salem Municipal Code, Chapter 208, Article I, Section 8 and RSA 48-A:7, 48-A:8, 147:4, 147:16-a and 147:17 were noted:

- A strong offensive odor of ammonia and rotting waste permeates the dwelling.
- Animals (flies and maggots) were observed throughout the dwelling.
- A large accumulation of trash, food containers, soiled clothing, animal hair and other debris is evident throughout the dwelling, kitchen area, floors and other areas.
- The kitchen facilities (refrigerator, counters, stove, sink) are unsanitary due to the accumulation of old food, rodent droppings and debris preventing safe and sanitary food preparation activities. The refrigerator is not functioning and is full of rotted food.
- The bathroom facilities are unsanitary due to lack of cleaning and an accumulation of soiled clothing and debris.
- The bedrooms and other areas are unsanitary due to the accumulation of old food, clothing, and other debris.
- The property has accumulated a large amount of garbage, trash, and other debris.
- The property also contains a bird cage with a large bird. Bird waste is scattered throughout the cage.
- The property is unsanitary due to the accumulation of old food, clothing, and other debris.
The unfinished portion of the basement contains several bags of trash and soiled clothing is strewn about this area. The furnace is connected to a five gallon plastic container.

The large shed/outbuilding is full of trash and debris. The conditions noted above present a clear and imminent danger to the health and safety of any occupants of 6 MacFarland Road. This dwelling is unfit for human habitation at this time and must not be re-occupied until these violations are corrected and an inspection by this office is conducted to verify compliance.

Failure to comply with this order may result in court action. If you have any questions, please contact this office at 890-2050.

If you want to contest this order, you can file a written request with the Salem Board of Health, 33 Geremonty Drive, Salem, NH 03079, c/o Brian Lockard. The hearing will be held no later than 30 days after your request is received. You will be sent a hearing notice of the date and time.

Sincerely,
Brian A. Lockard
Health Officer

CERTIFIED MAIL

DANGER
JULY 1, 2013
35 FRIENDSHIP DRIVE

THIS DWELLING IS DECLARED UNSAFE FOR HUMAN OCCUPANCY OR USE. IT IS UNLAWFUL FOR ANY PERSON TO OCCUPY THIS DWELLING BECAUSE OF THE FOLLOWING DANGEROUS & UNSANITARY CONDITIONS:

- LACK OF ELECTRICAL & WATER SERVICE.
- ACCUMULATION OF OLD FOOD, TRASH AND DEBRIS.
- SEVERE WATER AND MOLD DAMAGED FLOORS, WALLS AND CEILINGS.

EFFECTIVE IMMEDIATELY, OCCUPANCY IS PROHIBITED BY ORDER OF THE HEALTH OFFICER OF THE TOWN OF SALEM, UNDER AUTHORITY OF RSA 147:16-a.

DETAILS OF THESE VIOLATIONS ARE ON FILE AT THE HEALTH DEPARTMENT AT 33 GEREMONTY DRIVE, SALEM, NH 03079.

ANYONE ATTEMPTING TO OCCUPY THIS DWELLING AT 35 FRIENDSHIP DRIVE WITHOUT PERMISSION OF THE HEALTH OFFICER, OR ANYONE REMOVING THIS NOTICE, SHALL BE GUILTY OF A MISDEMEANOR.

PERSONS AGGRIEVED BY THIS ORDER MAY REQUEST A HEARING IN THE SALEM DISTRICT COURT, AND MAY ASK THE COURT TO DIRECT THE RESPONSIBLE PARTY TO REMOVE OR ABATE THE DANGEROUS CONDITION.

Resources

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| NATIONAL FIRE PROTECTION ASSOCIATION 101 (NFPA) |
| 2009 INTERNATIONAL BUILDING CODE (IBC) |

Check your local ordinances