

HOUSING

PUBLIC HEALTH ISSUE

A growing body of evidence links housing conditions to health outcomes such as asthma, lead poisoning, cancer, and unintentional injuries, and this number continues to grow. A “healthy home” is designed, constructed, maintained or rehabilitated in a manner that supports the health of the residents. In the State of New Hampshire it is the responsibility of the local Health Officer to enforce the minimum health and safety standards set forth in RSA 48-A:14 that are specific to rental housing. In conjunction with the municipal building and fire officials, the Health Officer may respond to complaints that buildings are unfit for human habitation, and when necessary, condemn a property until the conditions have been repaired or the building demolished.

LAWS AND REGULATIONS

- **RSA 147** Nuisances; Toilets; Drains; Expectoration; Rubísh and Waste;
<http://www.gencourt.state.nh.us/rsa/html/X/147/147-mrg.htm>
- **RSA 48-A** Housing Standards; (rental housing only)
<http://www.gencourt.state.nh.us/rsa/html/III/48-A/48-A-14.htm>
- **RSA 155-B** Hazardous and Dilapidated Buildings;
<http://www.gencourt.state.nh.us/rsa/html/XII/155-B/155-B-mrg.htm>
- **RSA 155-A** New Hampshire Building Code;
<http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XII-155-A.htm>

ROLE OF THE HEALTH OFFICER

The role of Health officers in New Hampshire can vary by community and is determined by what local ordinance may be in place in addition to state statutes. Several larger communities (Manchester, Berlin, & Nashua) have property maintenance codes that they are able to enforce in addition to state statutes. For smaller communities, the Health Officer is responsible for and may be limited to enforcing [RSA 48-A](#) for rental housing only, along with [RSA 147](#), and [RSA 155-B](#) for all housing. When facing an egregious housing situation, a Health Officer is encouraged to collaborate with the local building code and fire official who are able to enforce [RSA 155-A](#) New Hampshire Building Code and National Fire Protection Association ([NFPA 101](#)) Life Safety Codes. Together, these state statutes are strong tools towards enforcing housing standards that can protect our most vulnerable residents.

RENTAL HOUSING

A common situation is for the health officer to be called because of a dispute between the landlord and the tenant. The health officer may have a role to play in such a dispute, provided that the concerns pertain to conditions that may affect the health and safety of the residents. It is important for health officers to be impartial in their dealings with all parties, and firm in the issuance of warnings and orders. [RSA 48-A](#) allows a Health Officer upon receipt of a complaint, to conduct an investigation that a dwelling is unfit for habitation, to provide notice to the property owner, to hold a hearing and to order the owner to repair the dwelling.

In New Hampshire, [RSA 48-A](#) states that a rental property owner cannot rent a residential dwelling that has any of the following conditions:

- The premises are infected by **insects and rodents** and the landlord is not conducting a **periodic inspection** and **eradication** program.
- There is **defective internal plumbing** or a **back up of sewage** caused by a faulty septic or sewage system.
- There are exposed wires, improper connectors, defective switches, outlets or other conditions that create a **danger of electrical shock or fire**.
- The **roof or walls leak** consistently.
- The **plaster is falling** or has fallen from the walls or ceilings.
- The **floors, walls or ceiling contain substantial holes** that seriously reduce their function or render them dangerous to the inhabitants.
- The porches, stairs or railings are **not structurally sound**.
- 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 removal under the rental agreement and the landlord has removed all garbage at the beginning of the tenancy.
- There is an **inadequate supply of water**, or whatever equipment that is available to **heat water** is not properly operating.
- There are **leaks in any gas lines** or leaks or defective pilot lights in any appliances furnished by the landlord; or
- 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 all habitable rooms, bathrooms and toilet rooms to a temperature of at least an average of **65 degrees F.**; or when the landlord supplies heat in consideration for the rent, the premises are not actually maintained at a minimum average room temperature of 65 degrees F. in all habitable rooms.

A legal resource that the health officer can provide to the tenant is the Legal Advice and Referral Center for Tenant Rights (LARC). This agency may be able to provide assistance to tenants in relation to what their legal rights are as tenants. Their contact information is 1-800-639-5290 or 603-224-3333.

SUGGESTED INSPECTION PROTOCOL

When a health officer or local board of health learns of a complaint or violation, they would:

1. Call ahead to notify the current tenant (if any), that you would like to perform an inspection.
2. If you would like a second opinion, bring another town official, such as the building inspector, member of the board of health or board of selectmen, police officer, fire chief or the deputy health officer.
3. Document the date, time of inspection, who was present, and what you observed. It is recommended that you document your findings with a camera and written notes.
4. If a violation exists, issue a warning or an order to the responsible person to abate the problem.

Suggested steps include:

- Verbal warning
- Follow-up inspection
- Written warning
- Follow-up inspection
- Written order
- Follow-up inspection

DILAPIDATED HOUSING CONDITIONS

There are several statutes that give health officers authority to order a property owner to: clean a building; repair a dilapidated structure; vacate a building; or demolish the structure because of dilapidated conditions that are hazardous to the health of the public.

HAZARDOUS AND DILAPIDATED BUILDINGS

In New Hampshire, [RSA 155-B](#), *Hazardous and Dilapidated Buildings*, provides a definition of a hazardous building, which is “any building which, because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment, constitutes a fire hazard or a hazard to public safety or health.” This RSA provides the legal framework for local elected officials to order the owner of any hazardous building to correct the hazardous condition of the building, to raze or remove the building, and to recoup any expenses associated with cost of repairs, razing, or removal.

NUISANCES

The health officer may refer to [RSA 147](#), *Nuisances; Toilets; Drains; Expectoration; Rubbish and Waste* when dealing with situations such as garbage, infestation of pests, outdoor wood smoke, unsanitary living conditions, mold and indoor air quality. This statute also allows the health officer to order the owner or the occupants to clean and put the premises in proper sanitary condition when a building or dwelling has become a source of danger to the health of its occupants or others from want of cleanliness.

RSA 147:4 Nuisances

- Allows a health officer to order an owner or occupant of a building to remove a nuisance considered by the health officer on examination to be injurious to the public health.

RSA 147: 13 Offensive Matter

- Allows a health officer to order a person to dispose of any refuse or garbage or substances, which may become putrid or offensive which may be injurious to the public health.

RSA 147:17 Cleansing Premises

- Allows the health officer to order the owner or the occupants to clean and put the premises in proper sanitary condition when a building or dwelling has become a source of danger to the health of its occupants or others from want of cleanliness.