

## Chapter 95

### HOUSING STANDARDS

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**[HISTORY: Adopted by the Board of Selectmen of the Town of Plaistow 4-13-1999. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Building construction — See Ch. 31.

Fire prevention — See Ch. 70.

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#### § 95-1. Authority.

Pursuant to the authority granted by RSA 48-A:14 titled “Housing Standards” and RSA 147:1, I and III titled “Local Regulations,” the Board of Selectmen of the Town of Plaistow adopt the following chapter prescribing minimum standards for the occupancy and habitation of structures in the Town of Plaistow.

#### § 95-2. Definitions.

The following terms, wherever used or referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

**DWELLING** — Any building, structure, trailer, mobile home or camp or part thereof used and occupied for human habitation or intended to be so used and includes any appurtenances belonging thereto or usually enjoyed therewith.

**GOVERNING BODY** — The Plaistow Board of Selectmen.

**MUNICIPALITY** — The Town of Plaistow.

**PUBLIC AGENCY** — The Plaistow Health Officer, or other town agent, designated by this chapter to exercise the powers and perform the duties conferred upon him by this chapter.

**§ 95-3. Findings and purpose.**

The Board of Selectmen has decided from time to time there may exist conditions in town dwellings which are unfit for human habitation. These conditions may be due to dilapidation, dangerous defects which are likely to result in fire, accidents or other calamities, or unhealthful lack of ventilation or sanitary facilities or due to other unhealthy or hazardous or dilapidated conditions, including those set forth in § 95-8 below. Therefore the following chapter is adopted to cause the repair, closing or demolition or removal of such dwellings in the manner provided in this chapter.

**§ 95-4. Enforcement officer; complaints; order to repair or remove; appeals.**

- A. The Town of Plaistow Health Officer is hereby empowered to act as the town's minimum housing standards enforcement officer who shall be qualified by training or experience to interpret, administer and enforce the provisions of this chapter, which shall be one of the Health Officer's principal duties and responsibilities.
- B. Whenever a petition is filed with the Health Officer by at least 10 residents of the municipality charging that any dwelling is unfit for human habitation or whenever it appears to the Health Officer by inspection that any dwelling is unfit for human habitation, he shall, if preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner, every mortgagee of record and all parties in interest in such dwelling (including persons in possession) a complaint stating the charges in that respect. If the person to be served resides outside the state, service may be made upon him/her by registered mail, and if there are any unascertained persons having an interest in said dwelling, notice may be given them by publication in a newspaper having general circulation in the municipality, such publication to be at least 10 days before the date set for the hearing. Such complaint shall contain a notice that a hearing will be held before the Plaistow Health Officer at a place therein fixed not less than 10 days nor more than 30 days after the serving of said complaint; that the owner, mortgagee and parties in interest shall be given the right to file an answer to that complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Health Officer.
- C. If, after such notice and hearing, the Health Officer determines according to the standards of the ordinance, code or bylaw that the dwelling under consideration is unfit for human habitation, he/she shall state in writing his/her findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order which, if the repair, alteration or improvement of said dwelling can be made at a reasonable cost in relation to the value of the dwelling and the ability of the owner to assume such cost, requires the owner, within the time specified in the order, to repair, alter or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation or, if the repair, alteration or improvement of said dwelling cannot be made at a reasonable cost in relation to the value of the dwelling and the ability of the owner to assume such cost, requires the owner, within the time specified in the order, to remove or demolish such dwelling.

- D. If an owner is aggrieved by an order of the Health Officer made pursuant to Subsection C hereof, he/she may, within 14 days of receipt of the Health Officer's decision, appeal said decision to the Board of Selectmen of the Town of Plaistow. Said Board of Selectmen shall hold a public hearing upon said appeal, due notice of said hearing having first been given to the Health Officer, or it may modify the same in accordance with its findings. If it shall affirm or modify such order, the Health Officer shall proceed to enforce said order as affirmed or so modified, in the manner prescribed in § 95-5 below. If the Board of Selectmen shall revoke said order, the proceedings shall be terminated.

**§ 95-5. Procedure for enforcement.**

If the owner fails to comply with an order, made pursuant to the provisions of § 95-4 above, to repair, alter, improve or to vacate and close the dwelling, or to remove or demolish the dwelling, the Health Officer may file a petition in the Superior Court in which he shall set forth the charges issued pursuant to RSA 48-A:3, II, as well as any other allegations bearing upon the unfitness of the dwelling for human habitation. The court shall thereupon direct notice to be given to all parties having an interest in said dwelling, including mortgagees and persons in possession thereof. Such notice shall be given, where practicable, by personal service, except that if the person to be served resides outside the state, service may be made upon him by registered mail, and if there are any unascertained persons having an interest in said dwelling, notice may be given them by publication in a newspaper having general circulation in the municipality, such publication to be at least 10 days before the date set for the hearing. The court shall set a date for hearing such charges and additional allegations. Upon hearing, the matter shall be treated as de novo, and the court shall hear such pertinent evidence concerning the fitness of the dwelling for human habitation as may be relevant.

**§ 95-6. Court order.**

The court shall, as soon as practicable, issue its order upon said petition, and if the court finds the dwelling complained against is unfit for human habitation due to any of the causes or conditions enumerated in § 95-3 above, such order shall direct the Health Officer to repair, alter or improve such dwelling to render it fit for human habitation if such repair, alteration or improvement can be made at a reasonable cost in relation to the value of the dwelling and the ability of the owner to assume such cost, or if the repair, alteration or improvement of said dwelling cannot be made at a reasonable cost in relation to the value of the dwelling and the ability of the owner to assume such cost, to remove or demolish such dwelling. If the court shall find in favor of the owner, it shall award to him/her his/her reasonable costs and expenses, including counsel fees, all as determined by the court, incurred by him/her in his/her defense of the action in the Superior Court.

**§ 95-7. Lien.**

Whenever the Health Officer shall incur cost for the repair, alteration, improvement, vacating or closing or the removal or demolition of a dwelling pursuant to an order of the Superior Court, the amount of such cost shall be a lien against the real property as to which such cost was incurred, and such lien, including as part thereof upon allowance of his/her costs and

necessary attorney fees, may be foreclosed upon order of the Superior Court made pursuant to a petition for that purpose filed in said court. Such lien shall be subordinate to mortgages of record made before the institution of proceedings under this chapter. Notice of said lien shall be filed with the Rockingham County Register of Deeds and shall be recorded by the Health Officer. If the dwelling is demolished by the Health Officer, he/she shall sell the materials of such dwelling and pay the proceeds of such sale over to the Superior Court for distribution to such persons as the court shall find entitled thereto.

#### **§ 95-8. Determination of hazardous conditions.**

The Plaistow Health Officer may determine that a dwelling is unfit for human habitation if he/she finds that conditions exist in such dwelling which are unusually, abnormally or unreasonably dangerous or injurious to the health or safety of the occupants of such dwelling, the occupants of neighboring dwellings or other residents of the Town of Plaistow. Such conditions may include the following: defects which increase beyond normal the hazards of fire, accident or other calamities; lack of reasonable adequate ventilation, light or sanitary facilities; dilapidation; disrepair; dangerous structural defects; uncleanness; overcrowding; inadequate ingress and egress; inadequate drainage; or any violation of other health, fire or safety regulations.

#### **§ 95-9. Powers of Health Officer.**

The Plaistow Health Officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

- A. To investigate the rental dwelling conditions in the Town of Plaistow in order to determine which dwellings therein are unfit for human habitation;
- B. To administer affirmations, examine witnesses and receive evidence;
- C. To enter upon premises for the purpose of making examinations, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an administrative inspection warrant under RSA 595-B for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;
- D. To appoint and fix the duties of such officers, agents and employees as deemed necessary and as authorized by the approving/appointing authority (i.e., Board of Selectmen and/or Town Manager) to carry out the purposes of this chapter; and
- E. To delegate any of his functions under this chapter to such officers as he may designate in accordance with the authorization of the Board of Selectmen and/or Town Manager.

#### **§ 95-10. Construal of provisions.**

Nothing herein shall be construed to abrogate or impair the powers of the courts or of any governing body or department of the Town of Plaistow to enforce any provision of its charter or its ordinances or regulations or to prevent or punish violations thereof, and the powers

conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law.

**§ 95-11. Nuisances.**

Nothing in this chapter shall be construed to impair or limit in any way the power of the Town of Plaistow to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

**§ 95-12. Rental dwellings.**

The Town of Plaistow herein:

- A. Prescribes minimum standards for the use and occupancy of rental dwellings throughout the town in accordance with § 95-15 below.
- B. Prevents the use or occupancy of any rental dwelling which is injurious to the public health, safety or welfare.

**§ 95-13. Conflicting provisions.**

Whenever the regulations made under the authority hereof differ from those prescribed by any statute, ordinance or other regulation, that provision which imposes the higher standard shall govern.

**§ 95-14. Minimum standards.**

- A. No landlord, as defined by RSA 540-A:1, I, renting or leasing a residential dwelling in the Town of Plaistow shall maintain those rented premises in a condition in which:
  - (1) The premises are infested by insects and rodents where the landlord is not conducting a periodic inspection and eradication program;
  - (2) There is defective internal plumbing or a backup of sewage caused by a faulty septic or sewage system;
  - (3) There are exposed wires, improper connectors, defective switches or outlets or other conditions which create a danger of electrical shock or fire;
  - (4) The roof or walls leak consistently;
  - (5) The plaster is falling or has fallen from the walls or ceilings;
  - (6) The floors, walls or ceilings contain substantial holes that seriously reduce their function or render them dangerous to the inhabitants;
  - (7) The porches, stairs or railings are not structurally sound;
  - (8) 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;

- (9) There is an inadequate supply of potable water or whatever equipment that is available to heat water is not properly operating;
  - (10) There are leaks in any gas lines or leaks or defective pilot lights in any appliances furnished by the landlord; or
  - (11) The premises have heating facilities that are not 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 located therein to a temperature of at least an average of 65° 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° F. in all habitable rooms.
- B. The number of bedrooms should be consistent with the approved number of bedrooms on a New Hampshire state-approved septic system.