

## **Chapter 72**

### **HOUSING & LIFE SAFETY STANDARDS**

#### **§ 72-1. Authority & Purpose**

This chapter is adopted pursuant to authority granted to the Town in RSA 31:39, RSA 41:11-C, RSA 48-A:11, as well as the Town's general police power.

##### **A. Purpose**

- i. The purpose of this chapter is to ensure all housing units meet basic life safety and habitability standards thus safeguarding the well-being of residents.
- ii. The provisions of this chapter are a supplement to, and not in place of, state law and any other provisions of the Charter of the Town or of the Town Code, or any rule or regulation lawfully promulgated thereunder.

##### **B. Applicability**

- i. The provisions of this chapter are minimum standards which apply to all structures, including travel trailers, which are now or in the future used for human occupancy as residential dwellings and the areas, grounds or parcels on which they are located in the Town of Conway. Every portion of a building or premises used or intended to be used as a dwelling shall comply with the provisions of this chapter, irrespective of when such buildings shall have been constructed, altered, or repaired, except as otherwise provided in this chapter.
- ii. No person shall occupy or let to another for occupancy any dwelling unit for the purpose of persons living, sleeping, cooking, or eating therein, which does not comply with this chapter and applicable State Statutes.
- iii. The Town of Conway or its agent(s) shall not be held liable for any failure on the part of a property owner to comply with the provisions this chapter.

##### **C. Responsibility for Compliance**

- i. The owner(s) of the structure shall be responsible for compliance with this chapter.

##### **D. Designated Official**

- i. The Selectmen shall designate a qualified department, or one or more officers or employees of the Town to administer and enforce this chapter (the "Designated Official").

##### **E. Inspection**

- i. In order to safeguard the health, safety and welfare of the public, and ensure compliance with this chapter, the Designated Official, upon receiving consent from the

landowner or, absent consent, an administrative inspection warrant, is authorized to enter any structure or premises consistent with the scope of the landowner's consent or warrant, at a reasonable time for the purpose of making inspections and performing their duties under this chapter.

## **§ 72-2. Housing Standards**

Pursuant to RSA 31:39 and RSA 48-A:11, the Town of Conway enacts Minimum Housing Standards for the use and occupancy of all dwellings. No property owner shall maintain a dwelling in any of the conditions identified within RSA 48-A:14. These standards are in addition or supplement to all other applicable building and fire codes or Town requirements. In the event of a conflict, the more stringent regulation shall apply.

## **§ 72-3. Rental Property Permit Program**

Pursuant to RSA 41:11-C, the Town of Conway enacts the following Rental Property Permit Program. The purpose of the program is to verify rental properties are compliant with all applicable laws and regulations, including building, fire, and life safety codes, laws, and regulations..

### **A. Permit Required**

- i. No housing unit shall be rented without a rental property permit. All rental property owners shall apply for a permit for each rental property owned by them in the Town of Conway.
- ii. An owner or authorized owner's representative of all rental properties must apply for a permit by submitting the applicable application, authorized by the Selectboard to the Designated Official. A completed application, to include required fees, will render the property in compliance until the Town makes a final determination on the application. The Town will review the written application, determine if more information is needed, and will issue a final determination once the requirements of this Chapter are met.
- iii. Permits shall be issued on a per-property basis. For the avoidance of doubt, each condominium unit shall constitute a separate property.
- iv. Within 180 days of issuance, any property that has received a certificate of occupancy (CO) may apply to receive a permit without further inspection. The permit shall be valid for three years unless the property is found to be in noncompliance.
- v. Any properties advertising, renting, or intending to rent to a greater number of occupants than previously approved by the Town of Conway in its CO will be required to obtain a new CO due to the increased intensity of use. The property owner may be required to submit a building permit to verify code compliance for any construction without a permit. Removal of any unapproved construction or sleeping areas may be mandatory. Applicable fees may apply and the property owner may be required to cease current operations if found to be permitting occupancy above approved limits.

### **B. Requirements**

To obtain a rental property permit, owners shall be required to submit and/or demonstrate compliance with the following:

- i. A completed permit application form, to include a description of the property, housing units, and intended scope of rentals. Landlord agent form if required by RSA 540:1-b.
- ii. As applicable, a copy of any State permits or licenses pertaining to the property, including a Meals and Rental License if required per RSA 78-A. A current license must be maintained with the Town during the life of the use.
- iii. As applicable, verification that onsite sewage disposal systems, greater than ten years of age, have been inspected by a licensed septic designer or inspector within the past five years. The inspection must provide evidence that the existing sewage disposal system meets the requirements of NHDES for the intended usage and the minimum standards for use or occupancy prescribed under RSA 48-A:11.
- iv. Verification of compliance with all applicable building, fire, and life safety codes, laws, and regulations.
  - a. Prior to permit issuance, successful completion of an inspection may be required confirming compliance with this Chapter and all other applicable laws and regulations, including building, fire, and life safety codes, laws, and regulations.
  - b. To the extent a property is subject to inspection requirements under any other law or regulation, including building, fire, or life safety codes, laws, or regulation, proof of compliance with that inspection requirement may also be required.

### **C. Inspections**

- i. Inspections will not be required for properties lawfully used as a rental property as of the effective date of this Chapter. In lieu of an inspection, owners of such properties shall be permitted to submit a self-affidavit on an annual basis verifying that the rental property is compliant with all applicable laws and regulations, including building code, fire code, and life safety laws and regulations. Owners of such properties may continue to renew on an annual basis under this subsection so long as there is no change in use or ownership. Notwithstanding the foregoing, any such property owner may elect to undergo an inspection.
- ii. Inspections will not be required for properties for which a Certificate of Occupancy was issued within 180 days preceding the permit application.
- iii. Inspections are mandatory for all rental properties if there is a change in rental use (including establishing a first use as a rental property) or change in ownership. Inspections will be scheduled by the Town at least two weeks in advance with respect to tenant and landlord schedule limitations. The inspection should be scheduled within two months' time of the permit application.
- iv. The inspection shall be conducted by the fire department servicing the property's address or another qualified entity or individual of the Town's choosing. At the time of the inspection, the landlord or an owner's representative shall be present. The inspection shall be designed to assess the property for compliance with all applicable laws and regulations, including building, fire, and life safety codes, laws, and regulations.

- v. **Post-inspection report:** After the inspection is complete, the inspector will create a written report within 10 business days indicating the property has passed inspection or indicating the property has failed inspection. If a property fails inspection, the written report shall itemize each violation that was identified and what was seen that caused them to determine that the property was in violation of the law, code, or regulation. This report will be placed in the property file at the Town of Conway and the written report will be provided by either mail or email to the property owner.
- vi. A property that does not pass inspection can either remedy the violations and request a follow-up inspection, or they can reply to the Town of Conway staff to indicate they believe there has been either a misunderstanding of the requirements as they apply to the property, that they intend to apply for a waiver due to the historic nature of the property, or that they plan to appeal to the Selectboard.
- vii. Items found to be in noncompliance must be corrected and reinspected within 90 days unless the timeframe for corrective action is otherwise stated in the post-inspection report.
- viii. Owners that elect to make improvements needed to pass inspection shall schedule a re-inspection within three months or submit documentation to the Town demonstrating that the repair cannot be done within that timeframe but is scheduled for completion. This documentation should include the name of the contractor or tradesperson who is scheduled to complete the work and the approximate timeframe.
- ix. Dwelling structures inspected by State or Federal entities such as HUD may be exempt from additional inspections if existing oversight is deemed to serve the purpose and intent of this chapter. A Permit is still required, but the associated inspection fees shall not be imposed.
- x. Inspections pursuant to this Chapter are supplemental to any other inspection requirements imposed by other regulations or laws, including inspections of multi-family dwellings required by state statutes. Notwithstanding the foregoing, the Town may, if feasible and otherwise permitted by law, conduct a single inspection for multiple purposes.

#### **D. Fees**

The Selectboard shall adopt a schedule of fees for the permitting program. The fee schedule shall be reviewed on an annual basis and revised from time-to-time to reflect the Town's actual costs of operating the program. Fees for the rental property program shall be established to cover the administrative and inspection costs of the program and not to create revenue for the Town of Conway. The fee schedule shall include, at a minimum, the following fees:

- i. **Application fee.** to be paid at the time of submission.
- ii. **Late fee.** The property owner has the responsibility to renew their permit by the expiration date. Renewal applications received within sixty days of expiration shall be assessed a late fee. Rental properties which have not submitted an application within sixty days of expiration will be considered in violation of this chapter.
- iii. **Reinspection fees.** A reinspection fee shall be imposed for any property undergoing a follow-up inspection.

## **E. Permit Duration and Renewal**

- i. Permits issued after receipt of a self-affidavit shall expire on December 31 of the year in which it was issued.
- ii. Permits issued after an inspection shall expire the third-year from issuance.
  - a. A renewal permit issued to the same property and owner that receives a fully compliant inspection will be valid for seven years for subsequent permits as long as no violations are identified. Properties with a documented failed inspection will be given a three-year renewal, after correction, rather than a seven-year renewal.
- iii. Notwithstanding the foregoing, a permit shall expire upon any change in rental use or ownership.
- iv. The property owner is responsible for renewing their permit on a timely basis. Property owners may first submit for renewal at four months from the expiration date. In no event shall a property owner submit for renewal less than two months before the expiration date. If a completed permit renewal application is submitted during the two to four month period before the expiration, the property shall be considered in compliance with this chapter until a formal decision is made to renew or deny the permit. If a completed permit renewal application is submitted less than two months before the renewal date, the existing permit shall expire in the ordinary course.

## **§ 72-4. Enforcement**

### **A. Investigations**

- i. Upon receipt of information to believe that a violation of this chapter has occurred, the Designated Official shall promptly investigate. Written notice of the commencement of the investigation shall be provided to the property owner.
  - a. The property owner shall be afforded a reasonable opportunity to provide the Designated Official information and documents they believe are relevant or helpful to the investigation. The property owner shall be afforded a reasonable opportunity to present, in writing, any reasons why they believe they are compliant with this Chapter.
  - b. The investigation may include an inspection if the Designated Official believes it would assist them in their investigation.
    1. If consent for inspection is denied or unobtainable, the Town may obtain an administrative inspection warrant under RSA 595-B.
    2. Notwithstanding the foregoing, an inspection shall not be a condition precedent to the issuance of a Notice of Violation, provided, however, that the Designated official otherwise has sufficient information from which to conclude a violation of this chapter occurred.
- ii. After completion of the investigation, the Designated Official shall generate a written report detailing any violations found. If no violations are found, the Designated Official shall promptly notify the property owner.

## **B. Violations**

- i. If after investigation the Designated Official concludes a violation exists, they may issue a) verbal warning, b) a written warning or c) a Notice of Violation.
- ii. If a written warning is issued, it shall include a description of the violations and a reasonable time for voluntary compliance, to include a confirmatory inspection. The issuance of a written warning shall not constitute notice giving rise to a violation, or imposition of fines, under RSA 48-A:15 or RSA 651:2. However, the issuance of a written warning shall not preclude the Town from later issuing a formal Notice of Violation if the violation persists.

- iii. If a Notice of Violation is issued, it shall include a description of the violations, an order to cease the violations, and identification of the fine imposed.

In the case of a violation of subchapter §72-2, the Notice of Violation shall inform the recipient that violation of those standards is a violation under RSA 48-A:15 and that each continuing day of violation after the notice shall be a separate finable offense.

An owner who receives a Notice of Violation shall be responsible for informing the Town if or when the dwelling is brought into compliance and scheduling a confirmatory inspection.

- iv. The Designated Official shall have the sole discretion to determine whether to issue a warning in lieu of a formal Notice of Violation based on the entirety of the facts and circumstances, including the nature of the violations and any mitigating circumstances. Notwithstanding the foregoing
- v. The Selectboard shall adopt a schedule of fines not to exceed \$1,000 for each offense.

## **C. Appeals**

- i. Appeals of a denial of a permit or a Notice of Violation may be made by the property owner to the Selectboard. Appeals must be submitted within 14 days of the date of the Notice. All such appeals shall be made in writing, setting forth each basis for the appeal. The Selectboard shall hold a hearing on the appeal as its schedule permits, but no later than 45 days after the receipt of the appeal. After the hearing, the Selectboard shall issue a written decision upholding, modifying, or rescinding the Notice. The Selectboard's decision shall be final.

## **D. Court Enforcement**

- i. If a Property Owner fails to comply with a Notice of Violation, including failure to pay any fines imposed, the Town may seek judicial relief.

## **§ 72-5. Definitions**

As used in this chapter, the following terms shall have the meanings indicated:

**CERTIFICATE OF OCCUPANCY (CO)** — The written approval issued by the Town of Conway to occupy a structure or building.

**DWELLING** — A residentially occupied structure.

**DUPLEX (TWO-FAMILY) HOME** — A residentially occupied structure that provides two (separate) living, sleeping, cooking and restroom facilities, usually occupied by an individual or group of individuals occupying the structure or either of the separate facilities as an individual or as a family.

**HOUSING UNIT** - Overnight accommodation for a family or group of people that may be a single room, multiple rooms, and may or may not include a kitchen or food preparation area.

**MIXED OCCUPANCY HOUSING** - Any building that contains single-family, duplex and multifamily housing in addition to one or more nonresidential occupancies.

**MULTIFAMILY HOUSING** - A residentially occupied structure that provides three or more (separate) living, sleeping, cooking and restroom facilities with the individual (separate) facilities occupied by an individual or group of individuals occupying the facility as an individual or as a family.

**RENTAL HOUSING** - A housing unit that is occupied by someone other than the property owner in exchange for a fee.

**RENTAL PROPERTY** - A residentially occupied structure, or portion thereof, that contains one or more rental housing units. Rental property includes discrete condominium units which contain or are used as rental housing units.

**SINGLE-FAMILY (ONE-FAMILY) HOME** - A residentially occupied structure that provides living, sleeping, individual cooking and restroom facilities, usually occupied by an individual or group of individuals occupying the structure as an individual or as a family.

**STRUCTURE** - Anything constructed or erected, on or in the ground or in the water, or an attachment to something having a fixed location on the ground, including buildings, permanent or temporary; signs; carports; porches; and other building features, including stacks and antennas, but not including sidewalks; fences; driveways; septic systems; utility poles; boundary markers and field or garden walls or embankment retaining walls. For floodplain management purposes, a gas or liquid storage tank that is principally above ground is a structure.

**TRAVEL TRAILER** - A vehicular portable structure, which may legally be moved on its own wheels, being a vehicle designed as a temporary dwelling for travel, recreation or vacation use.

#### **§ 72-6. Severability**

The invalidity of any provisions of this Ordinance shall not affect the validity of any other provision

#### **§ 72-7. Amendments**

This Ordinance may be amended by a majority vote of any legal Town Meeting, when such amendment is published in the warrant calling for the meeting.