

CHAPTER 14

HOUSING CODE

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| Article I | Definitions, Certificate of Occupancy, Requirements for Plumbing, Electrical, etc., Garbage/Rubbish Disposal, Dangerous Buildings Defined, Standards for Repair/Demolition, Penalties, Duties of Housing Code Inspector, Building Commission, Duties of Commission and Authority, Appeal, Enforcement, Administrative Liability, Duties of Police and Fire Departments, Separability Demolition | 14.101 - 14.121 |
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Article I:

Section 14.101: DEFINITIONS

- A. For the purpose of this Ordinance, certain terms and words are herewith defined as follows: Words used in the plural number indicate and the singular includes the plural; The word "building" includes the word "structure" and the word "shall" is mandatory and not directory.
1. "Abandoned Structures and Buildings" shall mean any abandoned or unused structures or buildings or portions thereof which because of disaster, lack of repair, willful abandonment, absence of legal ownership, have been condemned by the Fire Chief and declared unfit for human habitation and hazardous to the public welfare by the Health Department.
 2. "Automatic Smoke Detecting Device" is a device approved and/or labeled by the Underwriter's Laboratories (U.L.), Factory Mutual (F.M.) or any similar nationally recognized testing laboratory designed for the automatic detection of visible or invisible particles of combustion and capable of generating an audible alarm signal from detecting such combustion.
 3. "Dwelling" shall mean a building or structure used in whole or in part for human habitation, including all barracks, dormitories, dwelling units, lodging units, and mobile homes therein and the premises thereof.
 4. "Dwelling Unit" shall mean a room or group of rooms designed or used as a place of occupancy by a person or family for cooking, living and/or sleeping purposes.
 5. "Garbage" shall mean the animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.
 6. "Habitable Room" shall mean a room used or intended to be used for living, sleeping, cooking or eating, excluding bathroom, water closet, hall, foyer, cellar space and storage space.

7. "Lodging Unit" shall mean a rented room or group of rooms, located within a dwelling, containing no cooking facilities, used for living purposes by a separate family or group of persons living together or by a person living alone, within a dwelling.
8. "Ordinary Minimum Winter Conditions" shall mean the temperature above 15 degrees F above the lower recorded temperature for the previous 10-year period.
9. "Person" shall mean and include any individual, firm, corporation, association, partnership or trustee.
10. "Plumbing" shall mean and include all the following supplied facilities and equipment: water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water/sewer.
11. "Rubbish" shall mean combustible and non-combustible waste material except garbage and the term shall include the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust, and other similar substances.

Section 14.102: GENERAL PROVISIONS

- A. Every building used in whole or in part as a dwelling for one or more persons shall conform to the requirements of Sections 14.103 to 14.110 inclusive, irrespective of when such building may have been constructed, altered or repaired.

The Department of Inspections or its authorized representatives which shall include the Housing Code Inspector, the Building Inspector, the Electrical Inspector and the Plumbing Inspector who are hereby empowered and directed to make inspections to determine the condition of dwellings located within the City in order that the health and safety of the occupants of all dwellings and the general public shall be safeguarded.

- B. For the purposes of making such inspections, the representatives so named are hereby authorized to enter, examine, and survey at all reasonable times all dwellings and premises within the City of Portsmouth, N.H.
 1. The individual must identify himself and show credentials.
 2. The individual must tell the citizen:
 - a. that he is conducting a systematic inspection of properties; or
 - b. that a complaint (or complaints) has been made about conditions on the premises.
 3. The citizen has the constitutional right to refuse the inspector the right to inspect the premises.

4. When the refusal is made, then the inspector must obtain a search warrant from a magistrate before entry is made for the purpose of inspection.

The above provisions shall be spelled out on the back of the credentials of the inspector.

Any person maintaining a vacant residential unit to let to another for the purpose of persons residing therein shall promptly notify the Housing Code Inspector of said vacancy, and said Housing Code Inspector shall promptly make an inspection, and said Certificate of Occupancy shall be posted in a conspicuous place within the residential unit; and no new Certificate of Occupancy shall be required within a 12-month period.

Section 14.102A: CERTIFICATE OF OCCUPANCY REQUIRED

- A. Any person maintaining a residential unit to let to another person for the purpose of persons residing therein shall first obtain a Certificate of Occupancy from the Housing Code Inspector, said certificate to be posted in a conspicuous place within the residential unit.

"Residential Occupancy" means the occupancy or use of a building or structure or any portion thereof by persons for whom sleeping accommodations are provided, but who are not harbored or detained to receive medical, charitable or other care or treatment or are not involuntarily detained; including among others:

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|----------------|--------------------|
| Apartments | Hotels |
| Motels | Club Houses |
| Dormitories | Multifamily Houses |
| Convents | Dwellings |
| Lodging Houses | |

- B. Before said Certificate of Occupancy shall be issued the Housing Code Inspector shall be satisfied that said residential unit conforms to the requirements of Sections 14.103 to 14.110 inclusive.
- C. Certificates issued under this Section shall be valid for a period of 3 years from the date of issue, unless the residential unit should become vacant during the 3-year period. If the unit should become vacant during the 3-year period, the Certificate of Occupancy shall expire and a new Certificate of Occupancy must be obtained before the unit may be let to another person or persons, except that no certificate shall be required within a 12-month period. Any certificate may be revoked by the Housing Code Inspector if after inspection be determined that the residential unit does not meet the requirements of Sections 14.103 to 14.110.
- D. No person shall let a residential unit to another person for occupancy without a Certificate of Occupancy.
- E. The cost of said fee to be determined in accordance with Chapter 1, Article XVI or similar wording. (Amended 3/18/2002).
- F. The Housing Code Inspector shall periodically inspect every occupied residential unit in the City to insure compliance with this Section.

Section 14.103: SERVICES, EQUIPMENT, FACILITIES FOR PLUMBING

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 the following requirements:

- A. Every dwelling unit having cooking facilities shall have reasonable available a kitchen sink properly connected to a sewer system and to water lines in accordance with applicable ordinances. Such water and sewer system shall be approved by the Health Officer. (Amended 12/4/2006).
- B. Each dwelling unit shall have available a room or rooms which afford privacy and such room or rooms shall be equipped with a flush water closet, lavatory basin, and bath or shower. All such facilities shall be in good working conditions, properly connected to water and sewage systems in accordance with applicable ordinances and approved by the Health Officer. Such facilities above described shall be available in lodging units and shall not be shared by more than 8 persons living therein. (Amended 12/4/2006).
- C. Every kitchen sink, lavatory, and bathtub or shower required by this Code shall be properly connected to water lines.
- D. Water heating facilities contained within dwelling units shall be properly installed and maintained in safe and good working order and such water heating facilities must be safety and properly connected to the dwelling's water supply system.

Section 14.104: SERVICES, EQUIPMENT, FACILITIES FOR LIGHT, VENTILATION AND HEATING

No person shall occupy or let to another person for occupancy any dwelling or dwelling unit, for the purpose of persons living therein, which does not comply with the following:

- A. Every habitable room shall have at least one window or skylight capable of admitting light and air from the outdoors. The minimum total window or skylight area measured between stops, for every habitable room shall be 10% of the floor area of such room, 45% of which shall be openable.
- B. Every bathroom and water closet compartment shall be well lighted and ventilated. Three foot candles of light (3 lumens per square foot) shall be provided by either natural or artificial means and shall be available at all times. Such light shall be measured 36 inches from the floor at the center of the room. Every bathroom and water closet compartment shall have at least one window or skylight, which can be easily opened. The total openable window area shall be equal to at least 45% of the minimum window area or minimum skylight area as required in subsection 14.104 (A) of this Ordinance. Such window area requirements of this subsection may be waived provided that there is installed mechanical ventilation or a system approved by the Health Officer.

- C. For illumination every habitable room shall contain at least 2 separate wall type electrical outlets and/or ceiling fixture, all properly installed and safely connected to a source of power, and maintained in a safe working condition so that:
 - 1. All exposed electrical wire is insulated and in good working condition.
 - 2. Every switch, outlet, plate, and fixture is properly fastened in position.
 - 3. No short circuit, break or shock hazard exists.
 - 4. No temporary wiring is used except extension cords which run directly from portable electrical fixtures to convenient outlets, and which does not lie under rugs or other floor covering, nor extend through doorways, transoms, or similar openings through structural elements.
- D. Every bathroom, water closet compartment, laundry room, furnace room and all interior stairs shall be adequately lighted.
- E. In bathrooms, laundries, kitchens, electric lights shall be controlled by wall switches or pull chains containing insulating links, and any lamp sockets within reach shall have non-metallic shells.
- F. All interior passageways or staircases common to two or more dwelling units shall be adequately lighted at all times.
- G. Every occupied dwelling shall contain heating facilities which are properly installed, vented where necessary and maintained in good working condition, and are capable of safely and adequately heating every dwelling unit located therein to a temperature of at least 65 degrees F under ordinary winter conditions.

**Section 14.105: BASEMENT OR BELOW GROUND SURFACE DWELLINGS/
DWELLING UNITS**

No person shall occupy or let to another for occupancy any dwelling, dwelling unit or portion thereof which does not comply with the following requirement:

- A. Before a basement whose floor level is below its immediately average ground level may be used as a dwelling or dwelling unit, said basement shall be approved by the Health Officer.

Section 14.106:

No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of persons living therein, which does not comply with the following requirements:

- A. Every dwelling foundation, floor, wall, and roof shall be capable of supporting the structural and other loads required by the building ordinances of the City or other applicable laws or ordinances.
- B. The exterior of every dwelling shall be so drained as to prevent chronic dampness in walls, ceilings, and floors.

- C. Every exterior opening shall be weather-tight and shall be kept in proper working condition and in good repair.
- D. Every inside and outside stairway, porch, and every appurtenance thereto shall be so constructed and maintained as to be safe to sue and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in safe condition and good repair.
- E. Every means of egress from a dwelling unit of lodging unit shall be safe and unobstructed.
- F. Every dwelling shall be weather tight.
- G. Every plumbing fixture and waste pipe shall be properly installed and maintained in accordance with applicable plumbing ordinances and codes.
- H. The floor of every water closet compartment or bathroom shall be so constructed and maintained as to be reasonably impervious to water. Tile, linoleum, varnished or painted floors without wide cracks or breaks will meet this requirements.
- I. Every provided service, facility, equipment, or utility which is required under this Ordinance shall be so constructed and installed that it will function safely and effectively and shall be maintained in proper working condition.
- J. No service, facility, equipment or utility which is required under this Ordinance shall be removed or shut off or disconnected or discontinued from any occupied dwelling except for such temporary interruptions as may be necessary while actual repairs or replacements are in progress, during temporary emergencies or when public utility service suppliers find it necessary to discontinue services because of non-payment by the occupant or owner, occupant and tenants shall use provided facilities and equipment only for their proper intended use.
- K. No vacated dwelling unit shall again be occupied unless it is clean and sanitary.
- L. Except in single family homes, every dwelling unit and every common hallway shall be protected by an automatic smoke detecting device as defined herein. All automatic smoke detecting devices should be maintained in operating condition at all times and shall be the responsibility of the property owner to maintain, except that the replacement of batteries in battery operated smoke detectors within dwelling units shall be the responsibility of the occupant or tenant of each dwelling unit.

Section 14.107: RESPONSIBILITIES OF OWNERS, OCCUPANTS, OTHERS

- A. Every occupant of a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling and dwelling unit, which he occupies or controls.
- B. Every owner of a dwelling containing two or more dwelling units shall be responsible for the elimination of any unsanitary condition or uncleanness in the shared or public areas of the dwelling.

- C. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this sub-section, whenever infestation is caused by failure of the owner to maintain a dwelling in a rat proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units, in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.
- D. Every occupant of a dwelling or of a dwelling unit shall keep all plumbing fixtures, electrical fixtures, heating units and other provided facilities therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care and in the proper use and operation thereof.
- E. The owner or operator of every lodging unit shall change supplied bed linen and towels at least once each week, and prior to letter of any room to any occupant. The owner or operator shall be responsible for the maintenance of all parts of the lodging unit and shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by him. Cooking on the premises shall be done only in kitchens or kitchenettes approved by the Health Officer.

Section 14.108: DANGEROUS BUILDINGS DEFINED

All buildings or structures, which have any or all of the following defects, shall be deemed "dangerous buildings":

- A. Those whose interior walls or other vertical structural members, list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
- B. Those which, exclusive of the foundation, show 33% or more of damage or deterioration of the supporting member or members, of 50% of damage or deterioration of the non-supporting enclosing or outside walls or covering.
- C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonable safe for the purpose.
- D. Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the City of Portsmouth.
- E. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease so as to work injury to the health, morals, safety or general welfare of those living therein.
- F. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

- G. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communications.
- H. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- I. Those which because of their conditions are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of this City.
- J. Those buildings existing in violation of any provision of this Building Code of this City, of any provision of the Fire Prevention Code, or other Ordinances of this City.

Section 14.109: STANDARDS FOR REPAIR, VACATION, AND DEMOLITION

The following standards shall be followed in substance the Housing Code Inspector and the Building Commission in ordering repair, vacation or demolition:

- A. If the "dangerous building" can reasonably be repaired, so that it will no longer exist in violation of the terms of this Ordinance it shall be ordered repaired.
- B. If the "dangerous building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants it shall be ordered vacated.
- C. In any case where a "dangerous building" is 50% damaged or decayed or deteriorated from its original value or structure it shall be demolished from its original value or structure it shall be demolished. And in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this Ordinance, it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this Ordinance or any Ordinance of the City or statute of the State of N.H., it shall be demolished.

Section 14.110: PENALTIES EFFECT OF CONFLICT WITH OTHER PROVISIONS

- A. Any person who shall violate any provision of this Ordinance shall upon conviction be punished by a fine of not more than \$100.00 or be imprisoned not more than 30 days. Each day's failure to comply with any provision of this Ordinance shall constitute a separate violation.
- B. In any case where a provision of this Ordinance is found to be in conflict with a provision of a zoning, building, fire safety or health regulations or code of the City of Portsmouth existing at the time of the adoption of this Ordinance, the provisions which establish the higher standard for the protection and promotion of the health and safety of the people shall prevail.

Section 14.111: DANGEROUS BUILDING - NUISANCES

All "dangerous buildings" within the terms of Section 14.109 of this Ordinance are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided.

Section 14.112: DUTIES OF THE HOUSING CODE INSPECTOR

The Housing Code Inspector shall:

- A. Inspect or cause to be inspected semi-annually all public buildings, schools, halls, churches, theatres, hotels, tenements, commercial, manufacturing, or loft buildings for the purpose of determining whether any condition exist which renders such places a "dangerous building" within the terms of Section 14.109 of this Ordinance.
- B. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this Ordinance.
- C. Inspect any building, wall or structure reported (as hereinafter provided for) by the Fire or Police Departments of this City as probably existing in violation of the terms of this Ordinance.
- D. Report to the Building Commission any buildings complained of and/or found by him to be existing in violation of the terms of this Ordinance.
- E. Appear at all hearings conducted by the Building Commission and testify as to the condition of "dangerous buildings".

Section 14.113: BUILDING COMMISSION

A Building Commission is hereby established. The Building Commission shall be a Board consisting of five members, who shall be the head of the Health Department, the head of the Fire Department, the head of the Planning Department, the Electrical Inspector, and the Plumbing Inspector. The Building Commission shall annually elect a Chairman from its membership. The presence of 3 members shall be necessary for a quorum. The minutes of the proceedings of the Building Commission shall be kept, showing the vote of each member upon every question or, if absent or failing to vote, indicating the fact. The Building Commission may adopt from time to time, such rules and regulations as may be deemed necessary to carry into effect the provisions of this Ordinance.

Section 14.114: DUTIES OF THE BUILDING COMMISSION

- A. Upon receipt of a petition filed with it by at least 10 residents of the City of Portsmouth charging that any building is a "dangerous building" or upon receipt of a report of the Housing Code Inspector as provided for in Section 14.113 (D) hereof 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 with interest in such building, 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 by registered mail and if there are any unascertained persons having an interest in said building, notice may be given them by publication in a newspaper having general circulation in the City of Portsmouth, 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 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 the complaint and to appear in person, or otherwise and give testimony at the time and place fixed in the complaint; that the rules of evidence prevailing in Courts of Law or Equity shall not be controlling in hearings before said Commission.
- B. Hold a hearing and hear such testimony as the Housing Code Inspector or the owner, mortgagee and parties in interest shall offer relative to the "dangerous building".
- C. Make written findings of fact from the testimony offered pursuant to subsection B as to whether or not the building in question is a "dangerous building" within the terms of Section 14.109 hereof.
- D. Issue an order based upon findings of fact made pursuant to subsection C commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building.
- E. The Building Commission, by its order, shall:
1. If the repair, alteration or improvement of the said building can be made at a reasonable cost in relation to the value of the building and the ability of the owner to assume such cost, require the owner within the time specified in the order, to repair, alter or improve said building to render it in compliance with Section 14.109 or to vacate and close the building; or
 2. If the repair, alteration of the said building or the improvement of the said building cannot be made at a reasonable cost in relation to the value of the building and the ability of the owner to assume such cost, require the owner within the time specified in the order to remove or demolish such building.

Section 14.115: APPEAL TO THE CITY COUNCIL

If the owner is aggrieved by an order of the Building Commission, he may appeal to the City Council within 10 days from the date of the order. Said City Council shall hold a public hearing upon said appeal, due notice of said hearing first having been given to the Building Commission and to the owner. The City Council may affirm or revoke the order of the Building Commission or modify the same in accordance with their findings. If the City Council shall affirm or modify such order, the Building Commission shall proceed to enforce said order as affirmed or so modified, in the manner prescribed in Section 14.117.

Section 14.116: COMPLIANCE

If the owner fails to comply with the order made pursuant to the provisions of this Ordinance to repair, alter, improve, or to vacate and close the building, or to remove or demolish the building, the Building Commission may file a petition in the Superior Court in accordance with the provisions of Section 4 of Chapter 48:A of the N.H. RSA.

Section 14.117: AUTHORITY OF THE BUILDING COMMISSION

The Building Commission and its delegated officers are authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes of the Ordinances and of the provisions of Chapter 48 of the N.H. RSA, including the following powers in addition to others herein granted:

- A. To investigate the building conditions in the City of Portsmouth in order to determine which buildings are "dangerous buildings";
- B. To administer affirmations, examine witnesses and receive evidence;
- C. To enter upon premises for the purposes 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 order for this purpose from a court of competent jurisdiction, in the event entry is denied or rejected;
- D. To appoint and fix the duties of such officers, agents and employees as deemed necessary to carry out the purposes of this Ordinance; and
- E. To delegate any of its functions under such Ordinance to such officers as it may designate.

Section 14.118: ADMINISTRATIVE LIABILITY

No officer, agent or employee of the City of Portsmouth shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Ordinance. Any suit brought against any officer, agent or employee of the City of Portsmouth as a result of any act required or permitted in the discharge of his duties under this Ordinance shall be defended by the City Attorney until the final determination of the proceedings therein.

Section 14.119: DUTIES OF THE FIRE DEPARTMENT

The employees of the Fire Department shall make a report in writing to the Housing Code Inspector of all buildings or structures which are or may be, or are suspected to be "dangerous buildings" within the terms of this Ordinance. Such reports must be delivered to the Housing Code Inspector within 24 hours of the discovery of such buildings by any employee of the Fire Department.

Section 14.120: DUTIES OF THE POLICE DEPARTMENT

All employees of the Police Department shall make a report in writing to the Housing Code Inspector of any buildings or structures, which are or may be, or are suspected to be "dangerous buildings" within the terms of this Ordinance. Such reports must be delivered to the Housing Code Inspector within 24 hours of the discovery of such buildings by any employee of the Police Department.

Section 14.121: SEPARABILITY

It is the intention of the City Council that each separate provision of this Ordinance shall be deemed independent of all other provisions herein and it is further the intention of the City Council that if any provisions of this Ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

ARTICLE II: DEMOLITION

Section 14.201 PURPOSE

The purpose of this Article is to encourage the preservation of buildings and places of historic, architectural and cultural value.

Section 14.202 DEFINITIONS

As used in this Article, the following words or phrases shall have the meanings set forth below, except when the context requires a different meaning.

Demolition: Razing or destruction, entirely or in part, of a building or structure, whether or not reconstruction is planned after demolition, or removal of a building or structure in whole or in part from its present location. For the purpose of this Article, demolition shall not include (a) interior demolition that does not affect the exterior of the building or structure, or (b) work necessary to repair or replace exterior finishes such as roofing, siding, trim or windows.

Demolition Review Committee: A committee appointed by the City Council and comprised of five members as follows: one member of the Historic District Commission, one member of the Planning Board, one member of the Portsmouth Historical Society, the Chief Building Inspector or his/her designee, and the Planning Director or his/her designee. Representatives of the Historic District Commission and Planning Board shall be appointed annually or as necessary.

Code Official: As defined in the zoning ordinance.

Section 14.203 APPLICABILITY

The requirements of this Article shall apply to any demolition except:

- (1) Demolition of a building or structure that has been granted a Certificate of Approval by the Historic District Commission or has been approved for demolition in association with a project approved, following a public hearing, by either the Planning Board or the Board of Adjustment.
- (2) Demolition of any “dangerous building” that has been ordered to be demolished pursuant to Chapter 14, Article I, Section 14.109(C).
- (3) Minor demolition projects, as determined by the Code Official, that are not located in the Historic District, including but not limited to chimneys, decks, porches, steps, small outbuildings or other similar design features.
- (4) Removal of partial roof components for vertical expansion such as dormers or skylights on structures that are not located in the Historic District.

Section 14.204: APPLICATION AND NOTICE

- A. **APPLICATION:** Prior to the commencement of any demolition, the owner(s), contractor, or agent (hereinafter Applicant) must (a) submit a completed Demolition Permit Application (hereinafter Application) to the Inspection Department, (b) post a sign or signs as required by paragraph B below, and (c) publish a legal notice as required by paragraph B below. Such Application shall include a Demolition Plan that includes a scaled site plan showing the location of the building(s) and photographs of the existing structure(s) and, if applicable, elevations of the proposed structure(s).

- B. **SIGNAGE:** The applicant shall post one or more signs on the building to be demolished, or on the lot where such building is located, so as to be clearly visible from all public ways. In the event that visibility at the building’s location would be hindered in such a manner as to obstruct notice of the sign, the applicant will be required to post a sufficient number of signs as to insure clear visibility. Said sign(s) shall be provided by the Inspection Department at the time of application for the Permit.

- C. **LEGAL NOTICE:**

(1) If the building to be demolished was constructed more than 50 years prior to the date of application and the area to be demolished (building footprint or gross floor area) is greater than 500 square feet, the legal notice shall read as follows:

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| <p>NOTICE</p> <p>An application has been submitted to demolish the building (or a portion thereof) located at _____ . Further information about the proposed demolition is available from the Inspection Department, City Hall, 1 Junkins Avenue, Portsmouth, NH 03801 (tel. 610-7243). You may object to the demolition by filing a written objection with the Inspection Department at the above address.</p> <p>If no written objection is received in the Inspection Department within 30 days from the date of this notice, the Demolition Permit will be issued. If a written objection is received within said period, the Demolition Review Committee will hold a public hearing on the matter within 75 days from the date of this notice. Notice of the public hearing will be published in a newspaper of general circulation, posted on the City’s website, and given to all parties who have filed objections to the proposed demolition.</p> <p>Date of this Notice: _____</p> |
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(2) If the building to be demolished was constructed 50 years or less prior to the date of application, or the area to be demolished (building footprint or gross floor area) is 500 square feet or less, the legal notice shall read as follows:

NOTICE

An application has been submitted to demolish the building (or a portion thereof) located at _____ . Further information about the proposed demolition is available from the Inspection Department, City Hall, 1 Junkins Avenue, Portsmouth, NH 03801 (tel. 610-7243). You may object to the demolition by filing a written objection with the Inspection Department at the above address.

If no written objection is received in the Inspection Department within 30 days from the date of this notice, the Demolition Permit will be issued. If a written objection is received within said period, the Inspector may order an additional delay in issuing the Demolition Permit, up to a maximum of 90 days from the date of this notice.

Date of this Notice: _____

- (3) In either case, the required sign(s) shall remain posted until the Inspection Department has issued a demolition permit.

D. **PUBLICATION:** The applicant shall, within seven (7) days of submitting an Application, have published the required a legal notice in a newspaper of general circulation in Portsmouth. All costs which are incurred for publication of the legal notice are to be paid by the applicant who also will provide copies of the published legal notice to the Inspection Department prior to the expiration of the thirty (30) day period contained in the legal notice. The legal notice shall include the wording required by Section 14.204.C (1) or (2), as applicable, and shall also contain the address and description of the building or structure to be demolished and the name and address of the applicant.

Section 14.205: PROCEDURE

A. If the building to be demolished was constructed more than 50 years prior to the date of application and the area to be demolished (building footprint or gross floor area) is greater than 500 square feet, the following procedure shall be followed:

- (1) If a written objection is not received by the Inspection Department within thirty (30) days of the date of notice, the Building Inspector shall verify that the notice requirements in Section 14.204 have been satisfied and the demolition may proceed.
- (2) If a written objection is received by the Inspection Department within thirty (30) days of the date of notice, the Building Inspector shall have fifteen (15) days to notify the applicant in writing that the Demolition Plan must be reviewed by the Demolition Review Committee (hereinafter Committee) before proceeding and forward the application to each member of the Committee.

- (a) The Committee shall schedule a public hearing within thirty (30) days of notification from the Building Inspector. Notice of the public hearing shall be given to all parties who have filed objections, posted in two public places and on the City's website, and published in a newspaper of general circulation at least ten (10) days prior to the hearing, not including the day of the hearing or the day of posting.
- (b) The Committee shall hear all public testimony on the building's significance. The owner or the owner's representative shall be invited to attend the hearing.
- (c) At the conclusion of the hearing, the Committee shall determine that the building is "significant" or "not significant" based on whether the building is of such historic, architectural or cultural value that its removal would be to the detriment of the public interest.
- (d) If the Committee finds the building is "not significant," no further review is required.
- (e) If the Committee finds the building is "significant," the following steps shall be taken:
 - (i) The Committee shall hold a meeting with the owner or owner's representative within fifteen (15) days, or at the applicant's earliest convenience, to discuss alternatives to the proposed Demolition Plan. Public comment shall be accepted by the Committee at the meeting.
 - (ii) After the meeting provided for in paragraph (i) above, the Committee shall:
 - a. Approve the Application as submitted; or
 - b. Approve any alternatives to the Demolition Plan which have been agreed to by the applicant; or,
 - c. Determine to delay the issuance of the demolition permit for up to the maximum time period allowed by this ordinance.
 - (iii) Following the completion of documentation as set forth in (ii) above, no further review is required.

- B. If the building to be demolished was constructed 50 years or less prior to the date of application, or the area to be demolished (building footprint or gross floor area) is 500 square feet or less, the following procedure shall be followed:
- (1) If a written objection is not received by the Inspection Department within thirty (30) days of the date of notice, the Building Inspector shall verify that the notice requirements in Section 14.204 have been satisfied.
 - (2) If a written objection is received by the Inspection Department within thirty (30) days of the date of notice, the Building Inspector shall order an additional delay period, not to exceed sixty (60) days from the date of receipt of the written objection(s) in instances where a significant building, site, or life safety condition is presented in the objection. However, in no event shall the delay period ordered by the Building Inspector exceed ninety (90) days from date of notice.

Section 14.206: DEMOLITION PERMIT

Upon completion of the procedure outlined in Section 14.205, the Building Inspector shall issue a Demolition Permit after the expiration of any delay period ordered pursuant to Section 14.205.