



# NH BUILDING & FIRE CODES

## Local Building and Fire Codes

### What is a local building code?

Counties, towns, cities and village districts may adopt by ordinance pursuant to RSA 674:51 or RSA 47:22 any additional regulations provided that such regulations are not less stringent than the requirements of the state building code and state fire code. (RSA 155-A:2 (V))

The minimum requirements for all buildings and structures within the State of NH are those listed above in the state building code and state fire code. A locality may adopt more stringent requirements only.



### What is a local fire code?

Municipalities may adopt local bylaws or ordinances in accordance with RSA 47:22 or RSA 155-A:3, provided that such regulations are not less stringent than the requirements of the state building code and fire codes. (RSA 153:5)

## What codes make up the state building code?

The International Building Code 2009, the International Existing Building Code 2009, the International Plumbing Code 2009, the International Mechanical Code 2009, the International Energy Conservation Code 2009, and the International Residential Code 2009, as published by the International Code Council, and the National Electric Code 2011, as amended by the NH State Building Code Review Board. (RSA 155-A:1 (IV))

## What codes make up the state fire code?

The Life Safety Code 2009, Saf-C 6000 Rules, and the Uniform Fire Code NFPA1, 2009 edition. (RSA 153)

## What do the building codes and fire codes apply to?

### The Building Code Applies to:

All buildings, building components, and structures constructed in NH shall comply with the state building code and state fire code. The construction, design, structure, maintenance, and use of all buildings or structures **to be erected and the alteration, renovation, rehabilitation, repair, removal or demolition of all buildings and structures previously erected** shall be governed by the provisions of the state building code. (RSA 155-A:2)

### The Fire Code Applies to:

All persons constructing, reconstructing, modifying, maintaining or **occupying any building or structure** and all owners or occupants of existing structures or premises shall comply with the requirements set forth in the State Fire Code "PART Saf-C 6008 through 6015" as adopted and amended by the State of NH except as amended in Sections 2 and 4.

All new construction and existing buildings, even if not in renovation. Pre-existing, occupied buildings are **not exempted**, but may not have to comply with standards for new construction.

New Hampshire Division of Fire Safety

<http://www.nh.gov/safety/divisions/firesafety/index.html>

NH Building Code Review Board

<http://www.nh.gov/safety/boardsandcommissions/bldgcode/>

NH Association of Fire Chiefs

<http://www.nhafc.org/>

NH Building Officials Association

<http://nhboa.net/>

NH Planners Association

<http://www.nhplanners.org/>



## What is the local process for appealing the state building code or state fire code?

The local Building Code Board of Appeals can be one of the following organizations (RSA 673:1 and 673:4):

- A separate appointed board of 3 or 5 members; or
- The appointed or elected ZBA; or
- If no appointed board and no ZBA, then it is the Board of Selectmen

The local Building Code Board of Appeals shall only hear appeals of decisions made by the local building official or local fire official **as to the application and interpretation** of the state building code or state fire code (RSA 674:34).

The Standard of Review (RSA 674:34) for the local Building Code Board of Appeals is:

- The true intent of the code or the rules adopted thereunder have been incorrectly interpreted; or
- The provisions of the code do not fully apply; or
- An equally good or better form of construction is proposed.

The local appeal process decision is not a variance or a waiver. The local appeal process has no authority to waive or vary requirements of the state building code or state fire code. Decisions of the local Building Code Board of Appeals, whether related to the state building code or state fire code, are reviewable only in Superior Court. (RSA 677:16)

## Is there any way to seek a variance or exemption from the state codes?

A variance or exemption can be requested from the state fire code through the state Fire Marshal pursuant to Saf-C 6005.04 Consideration of Variances or Exceptions for any code or rule provision. Any request for an exception or variance shall contain an alternative method of achieving the same level of code compliance as outlined in the code section, or rule provision item.

The State Fire Marshal may exempt a building, structure, or equipment from the state fire code if he or she finds that such exemption does not constitute a hazard to the public welfare and safety (RSA 153:5 (IV)). There is no agency, individual, or municipal official empowered to grant a variance or exemption from the state building code.

## What happens when a conflict arises between the building and fire codes?

To the extent that there is any conflict between the state building code and the state fire code, the code creating the greater degree of life safety shall take precedence, subject to the review provisions contained in RSA 155-A:10. If the municipal building and fire code officials cannot agree which code creates the greater degree of life safety, the property owner may notify the 2 officials in writing that if agreement is not reached within 2 business days of delivery of said notification, that the decision shall be made by the property owner to comply with either the applicable building code or fire code. Such decision by the property owner after proper notification shall not be grounds for the denial of a certificate of occupancy. (RSA 155-A:2)

Decisions of landowners as to which code will apply under RSA 155-A:2, II are not reviewable, since the decision is not a ground for denial of a certificate of occupancy.

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