



TOWN OF DURHAM
8 NEWMARKET RD
DURHAM, NH 03824-2898
603/868-8064
www.ci.durham.nh.us

MEMORANDUM

TO: Chris Sterndale, Chair Durham ZBA
FROM: Audrey Cline, Code Administrator
DATE: November 8, 2019
RE: Miller - Building Code Board of Appeals

Dear Chair Sterndale,

I offer this memorandum to bring clarity and historical context to the issues surrounding the NH Fire Code appeals. The RSA that authorizes the ZBA to hear these cases defines the scope and basis of what the ZBA can deliberate and approve.

674:34 Powers of Building Code Board of Appeals. – The building code board of appeals shall hear and decide appeals of orders, decisions, or determinations made by the building official or fire official relative to the application and interpretation of the state building code or state fire code as defined in RSA 155-A:1. An application for appeal shall be based on a claim that the true intent of the code or the rules adopted thereunder have been incorrectly interpreted, the provisions of the code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of the state building code or the state fire code.

Source. 1983, 447:1, eff. Jan. 1, 1984. 2012, 242:17, eff. June 18, 2012.

Appeal #1 asks the Board to review the case based on whether *the provisions of the code fully apply* to the issue presented. My reading is, a decision that the code *does not apply* would not be a “waiver” of the code requirement (as restricted above), as it is not possible to waive a requirement that does not otherwise encumber the applicant.

NH State Statute RSA 153:1 defines the word “building” to exclude single family dwellings (ATTM1). This has been the case since the State Board of Fire Control was created in 1947 (ATTM 2-4).

Under the authority of RSA, administrative rules are made to further clarify allowances. The State Fire Code, Saf-C 6000 is the set of rules adopted under the authority of RSA 153:1 above.

Part Saf-C 6001.19 dictates that the word “building” is to be defined as in RSA 153:1. (ATTM 5a-5c)

Part Saf-C 6008 adopted “as rules” NFPA 101 (life safety code book written by the National Fire Protection Association) in 1973. At some point thereafter, 2015 NFPA 1 was also adopted “as-rules”. I contend the NFPA documents have both RSA and rule language that excludes single family dwellings from being included in any use of the word “building”.

The first paragraph of all code books defines the *scope* of authority of the code language within. 2015 NFPA 1, Chapter 1 Administration, Section 1.1 Scope includes many references “buildings” (ATTM 6).

Again, RSA 153:1 defines “building” to exclude single family dwellings, as does Saf-C 6000 (NH Fire Code rules.) It is clear that prior to adoption of NFPA in 1973, legislation was written specifically to exclude single-family from being under the authority of fire codes. It seems likely that after the adoption of NFPA documents “as-rules”, legislation continued to specifically exclude single-family from the authority of the fire codes.

In 2009, the Fire Service became concerned that the (then new) State Building Code adopted as RSA in 2003 would supersede fire code authority should a conflict arise in code language common to both publications (generally, RSA supersedes Rules). To “level the playing field”, the two NFPA documents were then adopted into RSA153:1 VI-a (State Board of Fire Control) as a new RSA section.

The question remains, when NFPA documents were adopted into RSA in 2009, did the legislators intend to frustrate the original intent of RSA153:1 and Saf-C rules by automatically included single-family in the new RSA section? Or was their intent to honor the original intent of RSA 153:1 by continuing the application of the definition of “buildings” by way of the scoping language in NFPA 1?

Having done much research on this issue including reading all the historic legislation and minutes from 1947 forward, I expect there are just two paths for clarifying this issue. One is through new legislation brought forth with clarifying language, or by way of appeal to the judicial system for a determination of the intent of the present language. The local appeal to this Board would be the first step in the judicial process.

This is a complicated subject and I will be available to answer any questions at the hearing Tuesday evening.

Should the Board not rule in favor of appeal #1 above, appeal #2 will be proposed:

Appeal #2 asks the Board to determine whether the applicant has proposed *an equally good or better form of construction*. Within in the context of the fire codes, it is more accurate to think of a proposal that offers an *equally safe environment for occupants* as the prescriptive code language would allow.

The appeals asks the Board to review code application as it pertains to a hardship in meeting the prescriptive requirements for fire department access in 2015 NFPA 1 Section 18.2.3. (ATTM #7). Keeping in mind that the intent of the codes is to provide a *reasonable* level of safety, the applicant asks the Board to apply the strategies in sections 18.2.3.1.3 and 18.2.3.1.4 to their specific case.

Respectfully,

Audrey Cline, Code Administrator

RSA giving Authorities relevant to this appeal process:

Authority of the ZBA to act as the BCBA:

RSA 673:3 Local Land Use Boards

IV. The building code board of appeals shall consist of 3 or 5 members who shall be appointed in a manner prescribed by the local legislative body; provided, however, that an elected zoning board of adjustment may act as the building code board of appeals pursuant to RSA 673:1, V. Each member of the board shall be a resident of the municipality in order to be appointed.

155-A:7 Enforcement Authority:

(excerpt, underlined for clarity)

IV. All local enforcement agencies and selectmen and the state fire marshal in those communities without a local enforcement agency shall provide information on the local and state appeals process when issuing a building permit or notice of violation.

V. Any notice of violation issued by an enforcement authority as described in paragraph I shall include the relevant section of the state or local building or fire code.

Source. 2002, 8:3. 2012, 225:1, eff. Aug. 14, 2012; 242:14, eff. June 18, 2012. 2019, 48:2, eff. Aug. 4, 2019.

TITLE XII

PUBLIC SAFETY AND WELFARE

CHAPTER 153

STATE BOARD OF FIRE CONTROL

Section 153:1

153:1 Definitions. –

When appearing in this chapter:

- I. "Automatic fire warning device" means a wall or ceiling mounted assembly containing an ionization chamber or photoelectric type of smoke detector, control equipment, and audible alarm in one unit which detects visible or invisible particles of combustion and which, upon detection of smoke, activates the alarm; which device is listed by a nationally recognized laboratory that maintains periodic inspections of the listed equipment where produced, and whose listing states either that the equipment meets nationally recognized standards or that the equipment has been tested and found suitable for use in a specified manner.
- II. "Building" means any structure, framework or housing, public or private, excluding single family dwellings as defined in paragraph X and multi-unit dwellings as defined in paragraph VI, but including tanks, receptacles and containers for the storage of commodities or other materials.
- III. "Dwelling unit" means a single unit providing complete and independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.
- IV. "Explosives" means any chemical compound, mixture, or device, the primary purpose of which is to function by explosion or through the substantially instantaneous release of gas or heat.
- V. "Fire hazard" means any building, premises, place or thing which, because of its nature, location, occupancy, condition, or use, constitutes an unreasonable danger of loss, damage or injury to persons or property by fire or explosion of any origin.
- V-a. "Fire protection and warning devices" means, but is not limited to, water sprinkler systems; heat detection systems; non-battery operated smoke detection units or systems; and heat sensing automatic closing fire doors with a door minimum fire retardant rating of not less than 20 minutes as defined by the Underwriters Laboratories, Inc.
- V-b. "Health care facility" means any hospital, nursing home, hospice, hostel, or any other facility which accommodates 2 or more residents for medical, recovery from medical, psychological, maintenance, or other than ordinary domiciliary purposes.
- VI. "Multi-unit dwelling" means any structure not defined in paragraph II, which contains 2 or more single units which provide permanent or transient living facilities which may or may not include cooking and eating facilities, for one or more persons. This term shall include but not be limited to: rooming houses, dormitories, motels, hotels, apartment buildings, buildings which contain condominium units, duplexes, and houses; provided, however, that such buildings contain 2 or more units.
- VI-a. "New Hampshire fire code" or "state fire code" means the adoption by reference of the Life Safety Code 2015 edition and the Uniform Fire Code NFPA 1, 2015 edition, as published by the National Fire Protection Association and as amended by the state board of fire control and ratified by the general court pursuant to RSA 153:5. The provisions of any other national code, model code, or standard referred to within a code listed in this definition shall be included in the state fire code unless amended in accordance with RSA 153:5.
- VII. "Officer" means such officer or officers as the marshal shall nominate or designate to execute the powers and perform the duties which the fire marshal is authorized to delegate under this chapter.
- VIII. "Owner" means a person with legal title to or a freehold interest in property, including any trustee or a board of trustees of property. A lessee or mortgagee of property is not considered an owner.
- IX. "Premises" means any lot or parcel of land, excluding the buildings upon it, and includes parking lots, tourist camps, trailer camps, airports, stockyards, junkyards, wharves, piers, and other places or enclosures, however owned or occupied.

IX-a. "Rental unit" means any residential unit in a building or single family dwelling which provides permanent or transient living facilities for one or more persons, which is occupied by tenants on a rental basis. This term shall include but not be limited to: hotels, motels, dormitories, apartments, duplex units, rooms rented out of the home of another, and single family dwellings, so long as they are rented.

X. "Single family dwelling" means any structure not defined in paragraph II which contains one dwelling unit which is designed to be occupied for living purposes, and which is used by one, 2 or more families exclusively as a home.

XI. "Substantial rehabilitation" means any improvement to a building or single family dwelling which is valued at an amount greater than 1/2 of the assessed valuation of the building or dwelling.

Source. 1947, 251:1, par. 1. RSA 153:1. 1955, 190:6. 1975, 442:1, 2. 1981, 497:1. 1983, 446:1; 450:1. 1986, 14:1, 2. 2012, 242:2, eff. June 18, 2012. 2016, 282:1, eff. June 30, 2016. 2019, 186:1, eff. Sept. 8, 2019.

1947

- 4. **Repeal of Laws.** All laws and parts of laws inconsistent with the provisions of this act are hereby repealed.
- 5. **Takes Effect.** This act shall take effect as of July 1, 1947.

[Approved June 30, 1947.]

CHAPTER 251.

AN ACT RELATIVE TO THE ESTABLISHMENT OF A STATE BOARD OF FIRE CONTROL.

Be it enacted by the Senate and House of Representatives in General Court convened:

- 1. **Fire Protection.** Amend the Revised Laws by inserting after chapter 175 the following new chapter:

Chapter 175-A

State Board of Fire Control

- I. **Definitions.** For the purposes of this chapter, the following words shall be construed as follows:

- I. The term "officer" means such officer or officers as the fire marshal, hereinafter mentioned, shall nominate or designate to execute the powers and perform the duties which the fire marshal is authorized to delegate herein.

- II. The word "building" means any structure, framework or housing, public or private, **excluding dwellings occupied by not more than three families**, but including tanks, receptacles and containers for the storage of commodities or other materials.

- III. The word "premises" means any lot or parcel of land, exclusive of buildings thereon, and including parking lots, tourist camps, trailer camps, airports, stockyards, junkyards, wharves, piers, and other places or enclosures, however owned or occupied.

- IV. The term "fire hazard" means any building, premises, place or thing which, by reason of its nature, location, occupancy, condition or use, constitutes an unreasonable danger of loss, damage or injury to persons or property by fire or explosion of whatsoever origin.

- V. The word "owner" shall be given its ordinary mean-

1975

441:5 Rules and Regulations. Amend RSA 157-A:3 (supp), as inserted by 1967, 236:1, by striking out said section and inserting in place thereof the following:

157-A:3 Rules and Regulations. The commissioner shall formulate definitions and promulgate rules and regulations in New Hampshire consistent with the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, with the amendments and interpretations thereto made and approved by the council of the society, to carry out the purposes of this chapter. In addition, the commissioner may promulgate reasonable rules and regulations to facilitate administration and enforcement of this chapter.

441:6 Effective Date. This act shall take effect sixty days after its passage.

[Approved June 20, 1975.]

[Effective date August 19, 1975.]

CHAPTER 442.

AN ACT AMENDING IN GENERAL THE RSA CHAPTER RELATIVE TO THE STATE BOARD OF FIRE CONTROL.

Be it Enacted by the Senate and House of Representatives in General Court convened:

442:1 Definition of Building Changed. Amend RSA 153:1, II by striking out in line two the word "three" and inserting in place thereof the following (two) so that said paragraph as amended shall read as follows:

II. The word "building" means any structure, framework or housing, public or private, excluding dwellings occupied by not more than two families, but including tanks, receptacles and containers for the storage of commodities or other materials.

442:2 Definition of Associate Advisor Repealed. RSA 153:1, VI, relative to the definition of associate advisor, is hereby repealed.

442:3 Duties of State Fire Marshal. Amend RSA 153:4-a (supp), as inserted by 1971, 486:3, by striking out said section and inserting in place thereof the following:

153:4-a Duties of State Fire Marshal.

I. The state fire marshal shall have the power to approve, disapprove or allow exceptions to any fire safety regulation of any state agency except fire safety regulations established under RSA 224 and shall be responsible for supervising and enforcing all laws of the state relative to the protection of life and property from fire, fire hazards and related matters, for supervising and enforcing all laws of the state relative to the storage, handling and transportation of explosives, and shall assist the several counties, cities, towns, village districts and precincts in supervising and enforcing local laws, bylaws and ordinances where existent, relative to (a) the prevention of fires; (b) the storage, sale and use of combustibles and explosives; (c) the installation and maintenance of automatic or other fire alarm systems and fire extinguishing equipment; (d) the construction, maintenance and regulation of fire escapes; (e) the means and adequacy of exit, in case of fire, from factories, asylums, hotels, hospitals, churches,

1975

scho and from origi phys gero II. his c ing auth safet state resp and gani:

44 said

15.

such and with tions publi befor cord and J trans and ; simil the c shal : tion i circu. gethe tions also g

who : with come notice state the s the l: admin and 1 subse and e ment that : and r

442 Buildi lowin;

496:3 Effective Date. This act shall take effect upon its passage.

[Approved June 29, 1981.]

[Effective Date June 29, 1981.]

CHAPTER 497 (HB 262)

AN ACT REQUIRING AUTOMATIC FIRE WARNING SYSTEMS IN ALL NEW AND EXISTING SINGLE FAMILY DWELLINGS COMPLETED OR SUBSTANTIALLY REHABILITATED AFTER JANUARY 1, 1982.

Be it Enacted by the Senate and House of Representatives in General Court convened:

497:1 Definitions. Amend RSA 153:1 as amended by striking out said section and inserting in place thereof the following:

153:1 Definitions. When appearing in this chapter:

I. "Automatic fire warning system" means a wall or ceiling mounted assembly containing an ionization chamber or photoelectric type of smoke detector, control equipment, and audible alarm in one unit which detects visible or invisible particles of combustion and which, upon detection of smoke, activates the alarm; which system is listed by a nationally recognized laboratory that maintains periodic inspections of the listed equipment where produced, and whose listing states either that the equipment meets nationally recognized standards or that the equipment has been tested and found suitable for use in a specified manner.

II. "Building" means any structure, framework or housing, public or private, excluding single family dwellings as defined in paragraph III, but including tanks, receptacles and containers for the storage of commodities or other materials.

III. "Single family dwelling" means any structure not defined in paragraph II which contains one, 2 or more dwelling units which are designed to be occupied for living purposes, and which are used by one, 2 or more families exclusively as homes.

IV. "Dwelling unit" means a single unit providing complete and independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

V. "Explosives" means any chemical compound, mixture, or device, the primary purpose of which is to function by explosion or through the substantially instantaneous release of gas or heat.

VI. "Fire hazard" means any building, premises, place or thing which, because of its nature, location, occupancy, condition, or use, constitutes an unreasonable danger of loss, damage or injury to persons or property by fire or explosion of any origin.

VII. "Officer" means such officer or officers as the fire marshal shall nominate or designate to execute the powers and perform the duties which the fire marshal is authorized to delegate under this chapter.

VIII. "Owner" means a person with legal title to or a freehold interest in property, including any trustee or a board of trustees of property. A lessee or mortgagee of property is not considered an owner.

IX. "Premises" means any lot or parcel of land, excluding the buildings upon it, and includes parking lots, tourist camps, trailer camps, airports, stockyards, junkyards, wharves, piers, and other places or enclosures, however owned or occupied.

X. "Substantial re single family dwellin assessed valuation of

497:2 Automatic RSA 153:10-a (supp) inserting in place th

153:10-a Automa

I. Every hotel, bo substantially rehabi an automatic fire wa hallway. Such syster and fire detection de

II. Every single f: multiple family dwe January 1, 1982, sha

III. The state fire i he thinks are necessa the provisions of this enforce the provision

IV. Any party agg requirement or dire days after the servic

V. Any person wh rules adopted under

497:3 Effective I

[Approved June 29, [Effective Date Aug

AN ACT INCR

Be it Enacted by the convened:

498:1 Fees. Amen striking out said par

I. If the applicant the agent shall there the licensee to hunt transport game birc

II. If the applican the agent shall there the licensee to kill, restrictions of this t:

III. If the applica \$16.50, and the age license, which shall the use of traps, and water smelt, under

IV. If the applicar animals by the use of

STATE FIRE MARSHAL
 Department of Safety
 James H. Hayes Bldg.
 33 Hazen Drive
 Concord, NH 03305
 Tel. # (603) 271-3294

CHAPTER Saf-C 6000 STATE FIRE CODE

Statutory Authority: RSA 153:5; RSA 153:10-a, III; RSA 153:14, IV; and RSA 158:28, V(a)

REVISION NOTE:

NOTICE OF EXEMPTION FROM RSA 541-A

Chapter Saf-C 6000 titled "State Fire Code" was subject to RSA 541-A until 2012, 242:5 and 242:20, effective 6-18-12, respectively amended RSA 153:5, I and adopted RSA 541-A:21, I(ff) to create an exemption from RSA 541-A for the State Fire Code. The existing rules in Saf-C 6000 which were subject to RSA 541-A were last filed under Document #10058, effective 12-23-11.

Pursuant to 2012, 242:5, RSA 153:5, I was amended to read:

I. Notwithstanding RSA 21-G:9, II(b), the fire marshal, with the board of fire control, may adopt rules with the approval of the commissioner of safety, which shall be exempt from RSA 541-A, to amend the state fire code described in RSA 153:1 to the extent the board deems such amendments are necessary, provided that any such amendments are ratified by the adoption of appropriate legislation within one year of their adoption. If such amendments are not ratified, then the amendments shall expire at the end of the one-year period.

2012, 242:21, effective 6-18-12, stated that:

242:21 Transfer of Rulemaking Authority Relative to State Fire Code. Existing rules known as the state fire code and adopted under RSA 541-A and RSA 153:5 prior to the effective date of this act shall remain in effect until they expire or are amended, superseded, or repealed by the adoption of rules in accordance with RSA 153:5, I as amended by section 5 of this act.

The rules filed under Document #10058 will remain effective to 12-23-19, unless the Fire Marshal, with the Board of Fire Control, uses their own procedures under RSA 153:5, I before that date to amend, supersede, or repeal the provisions of Saf-C 6000. But those rule changes must be ratified by the legislature within one year after the adoption of such changes, or those changes will expire at the end of the one-year period. **The rules as filed under Document #10053 may therefore no longer be accurate, and questions for the latest version should be directed to the State Fire Marshal and the Board of Fire Control.**

PART Saf-C 6001 DEFINITIONS

Saf-C 6001.01 "ANSI" means the American National Standards Institute.

Source. #2230, eff 12-31-82; ss by #2898, eff 11-8-84; ss by #4971, eff 11-8-90; amd by #5765, eff 12-28-93; ss by #6339, eff 9-25-96; amd by #7052, eff 7-2-99; amd by #7892, eff 5-21-03; ss by #8180, eff 9-23-04; ss by #10058, eff 12-23-11

Saf-C 6001.02 "Approved" as used in these rules and codes adopted by reference means:

- (a) Determined to be acceptable by the state fire marshal;
- (b) Installed in accordance with all applicable provisions of the code adopted; and

(c) In reference to appliances, that they have been tested and found suitable for installation and use by a nationally recognized laboratory acceptable to the state fire marshal.

Source. #2898, eff 11-8-84; ss by #4971, eff 11-8-90; ss by #6339, eff 9-25-96; ss by #8180, eff 9-23-04; ss by #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.03 “Approved detection system” means a combination of smoke and heat detectors providing detection in occupied rooms and designated hazardous areas of the building. Detectors are interconnected electrically and the entire system is electrically monitored and has a battery back-up system.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.04 “Automatic fire warning device” means “automatic fire warning device” as defined in RSA 153:1, I.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.05 “Authority having jurisdiction” as used in any code adopted by reference means the state fire marshal, unless the state fire marshal has delegated such authority to the local fire official.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.06 “Commissioner” means the commissioner of the New Hampshire department of safety.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.07 “Code official” as used in any code adopted by reference means the state fire marshal, unless the state fire marshal has delegated such authority to the local fire official.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.08 “Cultural properties” means buildings, structures or sites, or portions thereof, that are culturally significant, or that house culturally significant collections. Such properties include but are not limited to museums, libraries, historic structures, and places of worship.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.09 “Exception” means the inapplicability of a specific rule to a specific set of circumstances.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.10 “Local fire official” means the fire chief of the applicable jurisdiction, or his/her designee.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.11 “Multi-unit dwelling” means “multi-unit dwelling” as defined in RSA 153:1, VI.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.12 “NFPA” means the National Fire Protection Association.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.13 “State Fire Code” means the compilation of all rules inclusive in Saf-C 6000.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.14 “State fire marshal” means the state fire marshal of the state of New Hampshire.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.15 “State fire marshal’s office” means the state fire marshal, any of his deputies, fire investigators, fire inspectors or authorized agents.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.16 “Unvented space heater” means a heating device either wick, wickless or potburner, which uses gas, oil or kerosene oil as fuel, and is either stationary or portable and the products of combustion of which are not directly conducted to the outside of the building via a chimney connector pipe. The term includes “vent free”.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.17 “Rental unit” means “rental unit” as defined in RSA 153:1, IX-a.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.18 “Variance” means an alternative to strict code compliance.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

Saf-C 6001.19 Statutory Definition. Any term used in the state fire code that is not defined in the text or in this part shall be defined as in RSA 153, if applicable.

Source. #10058, eff 12-23-11 (See Revision Note at chapter heading for Saf-C 6000)

PART Saf-C 6002 DESCRIPTION OF FIRE MARSHAL’S OFFICE

Saf-C 6002.01 State Fire Marshal. The state fire marshal shall be responsible for:

- (a) The enforcement of all applicable state laws pursuant to RSA 153:4-a; and
- (b) Ensuring that the following functions are performed by the appropriate personnel in the state fire marshal’s office:
 - (1) Approve or disapprove, and grant exemptions from fire safety regulations promulgated by any state agency to the extent authorized by RSA 153:4-a, I;
 - (2) Certify private firefighting units pursuant to RSA 153:4-a, I;
 - (3) Assist counties, cities, towns, village districts and precincts in supervising and enforcing local ordinances relative to:
 - a. The prevention of fires;
 - b. The storage, sale and use of combustibles;
 - c. The installation and maintenance of fire alarm and fire extinguishing equipment;
 - d. The construction, maintenance and regulation of fire escapes;
 - e. The means and adequacy of exits from places of assembly;
 - f. The investigation of the cause of fires; and
 - g. The storage and handling of flammable liquids and gases;
 - (4) Coordinate the activities of the state fire marshal’s office with those of other state and local agencies and officials responsible for developing or enforcing fire safety regulations pursuant to RSA 153:4-a, II;
 - (5) Assist, advise and counsel officials responsible for the enforcement of fire safety regulations and assist them in the organization and efficient operation of fire departments pursuant to RSA 153:4-a, II;
 - (6) Coordinate state services during an accident involving the transportation of hazardous material;

NFPA 1
Fire Code
2015 Edition

IMPORTANT NOTE: This NFPA document is made available for use subject to important notices and legal disclaimers. These notices and disclaimers appear in all publications containing this document and may be found under the heading "Important Notices and Disclaimers Concerning NFPA Standards." They can also be obtained on request from NFPA or viewed at www.nfpa.org/disclaimers.

NOTICE: An asterisk (*) following the number or letter designating a paragraph indicates that explanatory material on the paragraph can be found in Annex A.

A reference in brackets [] following a section or paragraph indicates material that has been extracted from another NFPA document. As an aid to the user, the complete title and edition of the source documents for extracts in mandatory sections of the document are given in Chapter 2 and those for extracts in informational sections are given in Annex F. Extracted text may be edited for consistency and style and may include the revision of internal paragraph references and other references as appropriate. Requests for interpretations or revisions of extracted text shall be sent to the technical committee responsible for the source document.

Information on referenced publications can be found in Chapter 2 and Annex F.

Chapter 1 Administration

1.1 Scope.

1.1.1 The scope includes, but is not limited to, the following:

- (1) Inspection of permanent and temporary buildings, processes, equipment, systems, and other fire and related life safety situations
- (2) Investigation of fires, explosions, hazardous materials incidents, and other related emergency incidents
- (3) Review of construction plans, drawings, and specifications for life safety systems, fire protection systems, access, water supplies, processes, hazardous materials, and other fire and life safety issues
- (4) Fire and life safety education of fire brigades, employees, responsible parties, and the general public
- (5) Existing occupancies and conditions, the design and construction of new buildings, remodeling of existing buildings, and additions to existing buildings
- (6) Design, installation, alteration, modification, construction, maintenance, repairs, servicing, and testing of fire protection systems and equipment
- (7) Installation, use, storage, and handling of medical gas systems
- (8) Access requirements for fire department operations
- (9) Hazards from outside fires in vegetation, trash, building debris, and other materials
- (10) Regulation and control of special events including, but not limited to, assemblage of people, exhibits, trade shows, amusement parks, haunted houses, outdoor events, and other similar special temporary and permanent occupancies

- (11) Interior finish, decorations, furnishings, and other combustibles that contribute to fire spread, fire load, and smoke production
- (12) Storage, use, processing, handling, and on-site transportation of flammable and combustible gases, liquids, and solids
- (13) Storage, use, processing, handling, and on-site transportation of hazardous materials
- (14) Control of emergency operations and scenes
- (15) Conditions affecting fire fighter safety
- (16) Arrangement, design, construction, and alteration of new and existing means of egress

1.1.2 **Title.** The title of this Code shall be NFPA 1, *Fire Code*, of the National Fire Protection Association (NFPA).

1.2* **Purpose.** The purpose of this Code is to prescribe minimum requirements necessary to establish a reasonable level of fire and life safety and property protection from the hazards created by fire, explosion, and dangerous conditions.

1.3 Application.

1.3.1 This Code shall apply to both new and existing

1.3.2* Referenced Standards.

1.3.2.1 Details regarding processes, methods, special equipment testing and maintenance, design standards, performance, installation, or other pertinent criteria in those codes and standards listed in Chapter 2 shall be considered a part of this Code.

1.3.2.2 Where no applicable codes, standards, regulations, ordinances, or bylaws adopted by a local authority having jurisdiction (AHJ), compliance with codes and standards of NFPA or other nationally approved standards shall be deemed as prima facie evidence of compliance with the intent of this Code.

1.3.2.3 Nothing herein shall diminish the authority of an AHJ to determine compliance with codes or standards for those activities or installations within the AHJ's jurisdiction.

1.3.2.4 **Retroactivity of Referenced Standards to Existing Conditions.** Unless otherwise specified by 1.3.2.4.1 through 1.3.2.4.3, the current provisions of the referenced standards shall not apply to facilities, equipment, structures, or installations that existed or were approved for construction or installation prior to the effective date of this Code.

1.3.2.4.1 Where specified by a reference standard for existing occupancies, conditions, or systems, the provisions of the referenced standards shall be retroactive.

1.3.2.4.2 Facilities, equipment, structures, and installations, installed in accordance with a reference standard, shall be maintained in accordance with the edition of the standard in effect at the time of installation.

1.3.2.4.3 In those cases where the AHJ determines that the existing situation constitutes an imminent danger, the AHJ shall be permitted to apply retroactively any portions of the current referenced standards deemed appropriate.

1.3.3 Conflicts.

1.3.3.1 When a requirement differs between this Code and a referenced document, the requirement of this Code shall apply.

Chapter 18 Fire Department Access and Water Supply

18.1 General. Fire department access and water supplies shall comply with this chapter.

18.1.1 Application.

18.1.1.1 This chapter shall apply to public and privately owned fire apparatus access roads.

18.1.1.2 This chapter shall apply to public and privately owned fire hydrant systems.

18.1.2 Permits. Permits, where required, shall comply with Section 1.12.

18.1.3 Plans.

18.1.3.1 Fire Apparatus Access. Plans for fire apparatus access roads shall be submitted to the fire department for review and approval prior to construction.

18.1.3.2 Fire Hydrant Systems. Plans and specifications for fire hydrant systems shall be submitted to the fire department for review and approval prior to construction.

18.2 Fire Department Access.

18.2.1 Fire department access and fire department access roads shall be provided and maintained in accordance with Section 18.2.

18.2.2* Access to Structures or Areas.

18.2.2.1 Access Box(es). The AHJ shall have the authority to require an access box(es) to be installed in an accessible location where access to or within a structure or area is difficult because of security. The access box(es) shall be of an approved type listed in accordance with UL 1037.

18.2.2.2 Access to Gated Subdivisions or Developments. The AHJ shall have the authority to require fire department access be provided to gated subdivisions or developments through the use of an approved device or system.

18.2.2.3 Access Maintenance. The owner or occupant of a structure or area, with required fire department access as specified in 18.2.2.1 or 18.2.2.2, shall notify the AHJ when the access is modified in a manner that could prevent fire department access.

18.2.3 Fire Department Access Roads.

18.2.3.1 Required Access.

18.2.3.1.1 Approved fire department access roads shall be provided for every facility, building, or portion of a building hereafter constructed or relocated.

18.2.3.1.2 Fire department access roads shall consist of roadways, fire lanes, parking lot lanes, or a combination thereof.

18.2.3.1.3* The provisions of 18.2.3.1 through 18.2.3.2.2.1 shall be permitted to be modified by the AHJ where any of the following conditions exists:

- (1) One- and two-family dwellings protected by an approved automatic sprinkler system in accordance with Section 13.1

- (2) Existing one- and two-family dwellings
- (3) Private garages having an area not exceeding 400 ft²
- (4) Carports having an area not exceeding 400 ft²
- (5) Agricultural buildings having an area not exceeding 400 ft²
- (6) Sheds and other detached buildings having an area not exceeding 400 ft²

18.2.3.1.4 When fire department access roads cannot be installed due to location on property, topography, waterways, non-negotiable grades, or other similar conditions, the AHJ shall be authorized to require additional fire protection features.

18.2.3.2 Access to Building.

18.2.3.2.1 A fire department access road shall extend to within 50 ft (15 m) of at least one exterior door that can be opened from the outside and that provides access to the interior of the building.

18.2.3.2.1.1 Where a one- or two-family dwelling, or townhouse, is protected with an approved automatic sprinkler system that is installed in accordance with NFPA 13D or NFPA 13R, as applicable, the distance in 18.2.3.2.1 shall be permitted to be increased to 150 ft (46 m).

18.2.3.2.2 Fire department access roads shall be provided such that any portion of the facility or any portion of an exterior wall of the first story of the building is located not more than 150 ft (46 m) from fire department access roads as measured by an approved route around the exterior of the building or facility.

18.2.3.2.2.1 When buildings are protected throughout with an approved automatic sprinkler system that is installed in accordance with NFPA 13, NFPA 13D, or NFPA 13R, the distance in 18.2.3.2.2 shall be permitted to be increased to 450 ft (137 m).

18.2.3.3 Multiple Access Roads. More than one fire department access road shall be provided when it is determined by the AHJ that access by a single road could be impaired by vehicle congestion, condition of terrain, climatic conditions, or other factors that could limit access.

18.2.3.4 Specifications.

18.2.3.4.1 Dimensions.

18.2.3.4.1.1 Fire department access roads shall have an unobstructed width of not less than 20 ft (6.1 m).

18.2.3.4.1.2 Fire department access roads shall have an unobstructed vertical clearance of not less than 13 ft 6 in. (4.1 m).

18.2.3.4.1.2.1 Vertical clearance shall be permitted to be reduced, provided such reduction does not impair access by fire apparatus, and approved signs are installed and maintained indicating the established vertical clearance when approved.

18.2.3.4.1.2.2 Vertical clearances or widths shall be increased when vertical clearances or widths are not adequate to accommodate fire apparatus.

18.2.3.4.2 Surface. Fire department access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with an all-weather driving surface.

18.2.3.4.3 Turning Radius.

18.2.3.4.3.1 The turning radius of a fire department access road shall be as approved by the AHJ.

Attachment #7

TITLE LXIV PLANNING AND ZONING

CHAPTER 673 LOCAL LAND USE BOARDS

Appointment and Terms of Local Land Use Board Members

Section 673:3

673:3 Zoning Board of Adjustment and Building Code Board of Appeals. –

- I. The zoning board of adjustment shall consist of 5 members. The members of the board shall either be elected in the manner prescribed by RSA 669, or appointed in a manner prescribed by the local legislative body. Each member of the board shall be a resident of the municipality in order to be appointed or elected.
- II. Zoning board of adjustment members who are elected shall be elected for the term provided under RSA 673:5, II. A local legislative body which has previously provided for the appointment of zoning board of adjustment members may rescind that action by majority vote and choose to elect board members. The terms of appointed members of zoning boards of adjustment in municipalities in office on the effective date of an affirmative decision to elect such board members shall not be affected by the decision. However, when the term of each member expires, each new member shall be elected at the next regular municipal election for the term provided under RSA 673:5, II.
- III. A local legislative body which has provided for the election of zoning board of adjustment members may rescind that action by majority vote, in which event members shall thereafter be appointed in a manner prescribed by the local legislative body. The elected board shall, however, continue in existence, and the elected members in office may continue to serve until their successors are appointed and qualified.
- III-a. A local legislative body's decision to change from an elected to an appointed zoning board of adjustment, or from an appointed to an elected zoning board of adjustment, may be made without amending the zoning ordinance. In a town operating under the town meeting form of government, the decision may be made at any annual or special town meeting. If the town has adopted the official ballot for the election of town officers, the question may be, but is not required to be, placed on the official ballot. If the question is not placed on the official ballot, the question shall be placed in the warrant and shall be voted on as a separate article at the town meeting.
- IV. The building code board of appeals shall consist of 3 or 5 members who shall be appointed in a manner prescribed by the local legislative body; provided, however, that an elected zoning board of adjustment may act as the building code board of appeals pursuant to RSA 673:1, V. Each member of the board shall be a resident of the municipality in order to be appointed.

Source. 1983, 447:1. 1990, 71:1. 2009, 286:2, eff. Jan. 1, 2010.