

# TITLE XII

## PUBLIC SAFETY AND WELFARE

### CHAPTER 155-A

#### NEW HAMPSHIRE BUILDING CODE

##### Section 155-A:1

**155-A:1 Definitions.** – In this chapter:

I. "Building" means building as defined and interpreted by the International Code Council's International Building Code 2006.

II. "County" means the local legislative body of a county in which there are unincorporated towns or unorganized places.

III. "Local enforcement agency" means for a municipality that has adopted enforcement provisions or additional regulations under RSA 674:51, the building inspector or other local government official with authority to make inspections and to enforce the laws, ordinances and rules enacted by the state and by local government that establish standards and requirements applicable to the construction, alteration, or repair of buildings.

IV. "New Hampshire building code" or "state building code" means the adoption by reference of the International Building Code 2006, the International Plumbing Code 2006, the International Mechanical Code 2006, the International Energy Conservation Code 2006, and the International Residential Code 2006, as published by the International Code Council, and the National Electric Code 2005. The provisions of any other national code or model code referred to within a code listed in this definition shall not be included in the state building code unless specifically included in the codes listed in this definition.

V. "Person" means any individual or organized group of any kind, including partnerships, corporations, limited liability partnerships, limited liability companies, and other forms of association, as well as federal, state or local instrumentalities, political subdivisions, or officers.

VI. "Structure" means structure as defined and interpreted by the International Code Council's International Building Code 2006.

**Source.** 2002, 8:3, eff. Sept. 14, 2002. 2003, 245:1, eff. July 14, 2003. 2006, 112:1, eff. July 8, 2006. 2007, 187:1-3, eff. Aug. 17, 2007.

##### Section 155-A:2

**155-A:2 State Building Code.** –

I. Except as provided in paragraphs II and III, all buildings, building components, and structures constructed in New Hampshire beginning one year after the effective date of the section, 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, maintenance, removal, or demolition of all buildings and structures previously erected shall be governed by the provisions of the state building code.

II. Standards, including definitions, established by the most recent edition of the Life Safety Code, NFPA Doc. No. 101, shall take precedence over all standards in the state building code relative to means of egress.

III. All new buildings shall conform to the requirements of the state fire code adopted pursuant to RSA 153:5 and to the extent that there is any conflict between the state building code and the state fire code, the

state fire code shall take precedence unless otherwise determined by the board, subject to the review provisions contained in RSA 155-A:10.

IV. To the extent that it does not conflict with any other provision of law, the issuance of permits and the collection of fees pursuant to the state building code is expressly reserved for counties, towns, cities, and village districts.

V. Except for buildings owned by the state or the university system, the issuance of certificates of occupancy pursuant to the state building code is expressly reserved for counties, towns, cities, and village districts.

VI. Counties, towns, cities, and village districts may adopt by ordinance pursuant to RSA 674:51 any additional regulations provided that such regulations are not less stringent than the requirements of the state building code pursuant to this chapter and the state fire code pursuant to RSA 153.

VII. For any municipality which has not adopted an enforcement mechanism under RSA 674:51, the contractor of the building, building component, or structure shall notify the state fire marshal concerning the type of construction before construction begins excluding one- and 2-family dwellings.

VIII. The contractor of a building, building component, or structure shall be responsible for meeting the minimum requirements of the state building code. No municipality shall be held liable for any failure on the part of a contractor to comply with the provisions of the state building code.

IX. Nothing in this chapter shall be construed as amending, repealing, or superseding any local law, ordinance, code, or regulation, except local building code requirements that are less stringent than the state building code, and all buildings, building components, and structures shall comply with all applicable state or local building and fire code requirements, land use restrictions including but not limited to subdivision regulations, use and location restrictions, density and dimensional limitations, or historic district laws or ordinances.

X. Nothing in this chapter shall be construed to permit or encourage the state to initiate or assume an independent role in the administration and enforcement of the New Hampshire building code for a building or structure that is not owned or operated by the state unless otherwise authorized by law.

XI. No state agency, authority, board, or commission shall modify the state building code, unless approved by the state building code review board pursuant to RSA 155-A. Nothing in this chapter shall affect the statutory authority of the public utilities commission, the state board for the licensing and regulation of plumbers, or the state electricians' board, to administer their respective programs, provided that any changes to codes adopted under the rulemaking authority of these agencies shall not be implemented until approved by the state building code review board.

**Source.** 2002, 8:3, eff. Sept. 14, 2002. 2003, 245:2, eff. July 14, 2003.

### Section 155-A:3

**155-A:3 Local Amendments; Application.** – For a municipality which has adopted an enforcement mechanism or additional regulations to the state building code pursuant to RSA 674:51:

I. The municipality may adopt local amendments to the state building code which do not prohibit minimum implementation and enforcement of the state building code.

II. The procedure for amendment shall be in accordance with applicable statutes and local regulations.

III. At a minimum, the municipality shall ensure that implementation and enforcement includes:

- (a) Review and acceptance of appropriate plans.
- (b) Issuance of building permits.
- (c) Inspection of the work authorized by the building permits.
- (d) Issuance of appropriate use and occupancy certificates.

IV. (a) The provisions of this chapter and any local amendments under this section shall not be construed to restrict or encumber the local governing body's authority relative to the appointment, removal, or duties of municipal employees and the organization of municipal departments.

- (b) Any provision of the state building code that conflicts with existing or amended local ordinances,

regulations, policies, practices, or procedures regarding the appointment, removal, or duties of municipal employees and the organization of municipal departments, shall not apply.

**Source.** 2002, 8:3, eff. Sept. 14, 2002.

### **Section 155-A:4**

**155-A:4 Permit Required.** – Before starting new construction or renovation of schools, halls, theaters or other public buildings the person responsible for such construction shall obtain a permit signed by the board of selectmen, after its due consideration of any written recommendations of the fire chief. In municipalities that have adopted an enforcement mechanism pursuant to RSA 674:51, the permit under this section shall conform to the locally adopted process.

**Source.** 2002, 8:3, eff. Sept. 14, 2002.

### **Section 155-A:5**

**155-A:5 Accessibility of Public Buildings.** – Notwithstanding RSA 155-A:2, all new buildings constructed by the state or any of its agencies, and all new schools, halls, theaters, or other public buildings in this state in which more than 100 people can be assembled shall be required to provide at least one entrance and exit designed so that the public areas of the entire building are accessible to persons with disabilities.

**Source.** 2002, 8:3, eff. Sept. 14, 2002.

### **Section 155-A:6**

**155-A:6 Inspection of State Buildings.** – The commissioner of safety and the commissioner of transportation shall provide for periodic safety inspection of all occupied public buildings owned by the state.

**Source.** 2002, 8:3, eff. Sept. 14, 2002.

### **Section 155-A:7**

#### **155-A:7 Enforcement Authority.** –

I. The local enforcement agency appointed pursuant to RSA 674:51 shall have the authority to enforce the provisions of the state building code, provided, however, that where there is no building inspector, the state fire marshal or the state fire marshal's designee shall have the authority to enforce the provisions of the state building code, subject to the review provisions contained in RSA 155-A:10.

II. Upon the request of a local enforcement agency, state agencies, boards, and commissions may provide advisory services and technical assistance concerning any building or any construction project in the local enforcement agent's jurisdiction.

III. The local enforcement agency appointed to enforce the state building code shall have the authority to inspect all buildings, structures, construction sites, and other places in the jurisdiction. If consent for such inspection is denied or not reasonably obtainable, the local enforcement agency may obtain an administrative inspection warrant under RSA 595-B.

**Source.** 2002, 8:3, eff. Sept. 14, 2002.

### **Section 155-A:8**

**155-A:8 Penalty.** – Fines, penalties, and remedies for violations of this chapter shall be the same as for

violations of title LXIV, as stated in RSA 676:15 and 676:17.

**Source.** 2002, 8:3, eff. Sept. 14, 2002.

### **Section 155-A:9**

**155-A:9 Fees.** – The municipality may establish fees to defray the costs of administration, implementation, and enforcement of the state building code and any local amendments. Such fees shall be for the general use of the municipality having responsibility over the local enforcement agency.

**Source.** 2002, 8:3, eff. Sept. 14, 2002.

### **Section 155-A:10**

#### **155-A:10 State Building Code Review Board. –**

I. There is established a state building code review board consisting of the commissioner of safety or the commissioner's designee, and additional members appointed by the commissioner of safety as follows:

(a) One architect licensed in this state for a minimum of 5 years, nominated by the board of architects established in RSA 310-A:29.

(b) One structural engineer licensed in this state for a minimum of 5 years, nominated by the board of engineers established in RSA 310-A:3.

(c) One mechanical engineer licensed in this state for a minimum of 5 years, nominated by the board of engineers established in RSA 310-A:3.

(d) One electrical engineer licensed in this state for a minimum of 5 years, nominated by the board of engineers established in RSA 310-A:3.

(e) One representative of the state's municipalities, nominated by the New Hampshire Municipal Association.

(f) One municipal building official, nominated by the New Hampshire Building Officials Association.

(g) One municipal fire chief, nominated by the New Hampshire Association of Fire Chiefs.

(h) One active fire prevention officer, nominated by the New Hampshire Association of Fire Chiefs.

(i) One building contractor, primarily engaged in the business of constructing non-residential buildings, nominated by the Associated General Contractors of New Hampshire.

(j) One building contractor primarily engaged in the business of constructing residential buildings, nominated by the New Hampshire Home Builders Association.

(k) One representative from the state energy conservation code office under RSA 155-D, nominated by the New Hampshire public utilities commission.

(l) One master plumber licensed in this state for a minimum of 5 years, nominated by the state board for the licensing and regulation of plumbers established in RSA 329-A.

(m) One mechanical contractor with a minimum of 5 years experience, primarily engaged in the business of mechanical construction, nominated by the New Hampshire Plumbing and Mechanical Contractors Association.

(n) One master electrician licensed in this state for a minimum of 5 years, nominated by the electricians' board established in RSA 319-C.

(o) One representative of the Committee on Architectural Barrier - Free Design nominated by the governor's commission on disability.

(p) One master electrician licensed in this state for a minimum of 5 years, nominated by Electrical Contractors Business Association.

II. The term of each member shall be 3 years. The chair shall be appointed by the commissioner of safety. Board members shall be appointed for no more than 2 consecutive 3-year terms.

III. The board shall be administratively attached to the department of safety under RSA 21-G:10.

IV. The board shall meet to review and assess the application of the state building code and shall

recommend legislation, as the board deems necessary, to modify the requirements of the state building code and the state fire code in order to provide consistency with the application of other laws, rules, or regulations, and to promote public safety and best practices.

V. The board may adopt rules to update or change the state building code for the codes described in RSA 155-A:1, IV, to the extent the board deems that such updates or changes are necessary, provided that any such updates or changes are ratified by the adoption of appropriate legislation within 2 years of their adoption. If such updates or changes are not ratified, then the rules shall expire, notwithstanding RSA 541-A:17, I, at the end of the 2-year period. With the approval of the commissioner of safety, the board shall be authorized, pursuant to RSA 541-A, to adopt rules relative to procedures of its operation and appeals to the board.

VI. The board shall review the National Fire Protection Association Building Code and its companion manuals when published, and shall review any other building codes when published, in order to evaluate whether the state should continue with the International Building Codes and its manuals, switch to other codes or adopt a combination of codes.

**Source.** 2002, 8:3, eff. April 17, 2002; 270:4, eff. April 17, 2002 at 12:01 a.m. 2003, 245:3, 4, 6, eff. July 14, 2003. 2007, 11:1, 2, eff. July 1, 2007.

## **Section 155-A:11**

### **155-A:11 Appeals of Decisions of the State Fire Marshal. –**

I. The board shall hear appeals of variances or exceptions to the state fire code that have been granted or denied by the state fire marshal or the state fire marshal's designee, and appeals of a decision of the state fire marshal or the state fire marshal's designee, in enforcing provisions of the state building code pursuant to RSA 155-A:7, I.

II. The board shall hold a hearing within 40 days of receipt of a complaint, unless an extension of time has been granted by the board at the written request of one of the parties and shall render a decision within 30 days of the conclusion of a hearing.

**Source.** 2002, 8:3, eff. Sept. 14, 2002.

## **Section 155-A:11-a**

### **155-A:11-a Appeal of Decisions of the Electricians' Board and the State Board for the Licensing and Regulation of Plumbers. –**

I. The board shall hear appeals of final decisions of the board established under RSA 319-C:4, the board established under RSA 329-A:3, and the board established under RSA 310-A:186.

II. The board shall hold a hearing within 40 days of the receipt of an appeal, unless an extension of time has been granted by the board at the written request of one of the parties and shall render a decision within 30 days of the conclusion of the hearing.

**Source.** 2004, 257:55, June 15, 2004. 2008, 339:3, eff. July 1, 2008.

## **Section 155-A:12**

### **155-A:12 Appeal From Board's Decision. –**

I. A party to the proceeding shall have the right to file a petition in the superior court of the county in which the building or structure is located to review the final order of the board within 30 days of the date of the final order.

II. At the earliest practical time, the court shall review the record as developed before the board, together with any written legal argument presented to the court. Based on that review, the court may affirm or reverse

the decision of the board or order that oral argument be held. As justice may require, the court may remand the case to the board for further findings and rulings. The petition for appeal shall set forth all the grounds upon which the final order is sought to be overturned. Issues not raised by the appellant before the board shall not be raised before the superior court. The burden of proof shall be on the appellant to show that the decision of the board was clearly unreasonable or unlawful.

III. No new or additional evidence shall be introduced in the superior court, but the case shall be determined upon the record and evidence transferred, except that in any case, if justice requires the review of evidence which by reason of accident, mistake, or misfortune could not have been offered before the board, the superior court shall remand the case to the board to receive and consider such additional evidence.

**Source.** 2002, 8:3, eff. Sept. 14, 2002.