

Context: the fire dept frequently encounters misinformed owners or builders who failed to notify anyone or to obtain building permits or fire inspections or approvals for a new structure, a change of use in an existing structure, or remodeling or demolition, among other things. This is often due to the general misconception that a waiver or a "construction permit" under our Land Use Ordinance ends the discussion. We then find ourselves in the position of having to try to educate them about the fire code, which legally supersedes the Ordinance, while avoiding issues of building code (which we don't enforce) and zoning code (and the Land Use Ordinance, which we don't enforce).

For example, converting a single-family home to a "tourist accommodation" requires a special exception, under the Land Use Ordinance. If the FD is uninvolved or unaware of the situation until "after the fact", the property owners may be less tolerant of our inevitable intrusion, let alone instructions about any observed fire code issues. At the very least, the "Building Code" section of the Ordinance should state that there are additional laws and regulations of structures and facilities at the state level, most of which are NOT addressed in the Land Use Ordinance.

It would also be helpful if the the forms and instructions provided by every Board notify applicants that an immediate or later fire inspection is a very real possibility, in many cases, whether or not any permit is required, and that many situations may involve nothing more than filing NOTICE to the FD.

There are literally hundreds of safety statutes, regulations, rules and codes for which the fire chief has the authority to inspect, permit or approve things, not even counting the investigation of specific complaints or hazards. This is in addition to an equally large list of things for which the fire department should at least be notified, even if not subject to any approval.

Yes, the "land use ordinance" does not currently require a "construction permit" for many types of modifications to private property or structures, or changes of use, yet the FD may have valid concerns about code-related issues that arise, whether or not actual inspection or approval are necessary. At the very least, the FD should be given the opportunity to educate owners, occupants and developers about what they need to be aware of.

Case in point: The Planning Board has received guidelines from the fire chief regarding the specification and maintenance of "access roads" to new subdivisions, which supplement existing laws and rules of the Board. We appreciate the fact that the PB has taken upon the job of educating owners, surveyors and developers in this regard. However, once a development has "approval", it may still require one or more "construction permits" from the Board of Selectmen and each "permit" may trigger additional questions under the state fire code.

Similarly, the Zoning Board of Adjustment has, in the past, reached out to the fire chief for attendance and guidance regarding possible special exceptions required when creating certain changes of use of a property. It should be understood that ANY change of use, or simply remodeling an existing use, may trigger applicable fire codes, regardless of whether the Land-Use Ordinance recognizes the need for a "construction permit". Unless people understand that they may also need permission under state laws, they might not even notify the Town, let alone the fire department. When they do inquire, they deserve an accurate answer.

Proposal For Adoption of An Amendment of the Land Use Ordinance to Facilitate FD Tasks

The current Land Use Ordinance of the Town of Jefferson is not particularly clear on the duties of property owners and developers with regard to NH building code and fire code. This makes it unnecessarily difficult for the fire department to carry out its statutory obligations for fire prevention, where people may be told that "no approval" is necessary under the Ordinance, or they were given a "construction permit", yet remain unaware that permits or inspections may actually be required under other laws.

State laws are enforceable without any town ordinance. NH Building and Fire Code apply to all structures and facilities in the state, to some extent. Some laws and regulations overlap with land-use law and the respective duties of the planning board, board of selectmen and the zoning board of adjustment.

Proposed language: Article V, Section 8 Building Code: All land-use Boards, Town agencies, property owners, occupants and developers should be aware that the state of NH building code and NH fire code, and any local Town rules, all apply to every structure in the Town of Jefferson, whether or not the Town chooses to enforce the codes directly or to require permits. Town land-use boards shall maintain forms and rules to assist in educating others about the applicable statutory and code requirements, local enforcement duties and options, including notification and involvement of the fire chief. Builders should be reminded of their obligation to follow NH building code and that they must "notify the state fire marshal concerning the type of construction before construction begins, excluding one- and 2-family dwellings", under RSA 155-A:2,VI.

Article VI Administration and Enforcement, Section 1 Approvals, new section E: Approval or waiver of a construction permit under this Ordinance does not constitute approval or waiver under the NH building code or NH fire code. Additional approvals, permits or inspections that may be required under the NH fire code are outside the scope of this Land Use Ordinance. The Town may also request assistance from the State Fire Marshal to perform the duties of building code enforcement on a case-by-case basis. RSA 155-A:2, IV. The Fire Chief has primary jurisdiction for local application of the NH Fire Code. RSA 154:2, II.

Preamble: "[Although] It is aimed at new construction rather than attempting to control changes to old construction, [the Land Use Plan Ordinance does not supersede the NH Building Code or Fire Code, both of which have regulated existing structures and facilities statewide since 2002.]