

## Live free? A rather long list of regulations on development in New Hampshire - by Philip Hastings

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Considering the myriad rules and regulations governing real estate development in the Granite State, you might wonder whether New Hampshire's official motto of "Live Free or Die" has gone the way of the Old Man in the Mountain. The list of regulations that a real estate developer is likely to encounter (or will at least have to think about) for virtually any project in any New Hampshire community, regardless of the project's size or nature, is long and requires a thoughtful and comprehensive approach in the planning stages.

At the local level, the list includes:

- Zoning ordinances
- Subdivision regulations
- Site plan review regulations
- Impact fee ordinances
- Wetland and wetland buffer ordinances

- Floodplain ordinances
- Sign ordinances
- Driveway/curb cut rules
- Solid waste disposal/septic or sewer connection rules
- Well/community water system or water connection regulations
- Demolition regulations
- Building and fire codes
- Health codes

Many municipalities also have historic district regulations and architectural design regulations. Some have their own shore land protection and similar regulations.

Each of these regulations imposes constraints on the design and use of a project. In addition to ordinary use restrictions, dimensional requirements and density limitations, a typical zoning ordinance often includes specific restrictions on certain types of uses. For example, a zoning ordinance may have special buffer requirements for commercial uses near a residential district or restrict the outdoor storage of goods and merchandise by a retail store.

Similarly, a municipality's subdivision and site plan review regulations contain other development limitations. For example, site plan review regulations may restrict the location, length and width of driveways, prohibit parking between a building and the street or require detailed plantings and other landscaping features.

Architectural design review laws can be particularly onerous, often regulating the minutest details of the construction process, such as the type, texture and color of building materials.

Historic district and demolition rules can inhibit (and sometimes prohibit) the redevelopment or retrofitting of older properties, based on age alone and regardless of the property's actual historic significance.

Aside from the substantive restrictions contained in the various land use regulations, any given project will require separate permits and approvals from the local planning board, zoning board of adjustment, selectmen or city council (or mayor, board of Alderman or town council, as the case may be), heritage or historic district commission, architectural design review committee, building inspector, fire chief, road agent, health inspector and others. Changes to the zoning ordinance in most New Hampshire towns will require a vote at the town meeting, which is a once-a-year occurrence.

Each local board has its own set of rules governing its procedure and processes. While there is some uniformity in the process from community to community, local variations are important. For example, Concord's site plan review process requires a pre-planning board staff review, plus review by the architectural design committee, and the planning board holds at least two separate meetings on any application, the first to determine whether the application is complete and the second to hold a public hearing. Other communities require a pre-application meeting with a technical review committee to vet a project before formal consideration.

In addition to the local rules, development projects are almost always subject to regulation at the state level, including:

- Wetlands regulations
- Alteration of terrain rules
- Water quality regulations
- Air quality regulations

- Solid waste disposal/septic regulations
- Well/community water system regulations
- Driveway/curb cut regulations

Properties adjacent to water bodies will involve the state's Shoreland Protection Act.

On account of these state rules, permits are often required through the New Hampshire Department of Environmental Services (involving multiple bureaus) and the New Hampshire Department of Transportation.

Larger subdivisions and condominium projects are subject to the Land Sales Full Disclosure Act and Condominium Act, with registration or exemption certificates required from the Attorney General's Office.

Each layer of regulation, and each step in the permit process, adds complexity and cost to a project. Requirements are sometimes contradictory or inconsistent. Being unaware of the requirements or ill-prepared to deal with them can delay or derail an otherwise good project. Assembling a team of qualified professionals – including engineers, surveyors, architects, lawyers and other consultants – will pay significant dividends in the long run.

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