

BUILDING REGULATIONS

Newbury, New Hampshire

“Building Regulations” last revised: March 13, 2024

“Important Notice” last revised: January 16, 2024

IMPORTANT NOTICE

Please be advised that the following are suggestions regarding our building regulations and references to applicable laws and regulations. Your attention to the regulations, applicable laws and regulations, and these suggestions will assure smooth processing of your application.

1. Septic plans must be reviewed, approved and stamped by the Code Enforcement Officer prior to being submitted to the State of New Hampshire. A copy of state issued septic “Approval for Construction” must be received by the town prior to issuance of a building permit (see Article III: B.5).
2. A building permit is required prior to start of construction. Permit application must be applied for using only Town approved application (applications available at Town Hall or Web Site). Failure to complete the application in full and obtain building permit will cause the start of construction to be delayed.
3. Knowledge of setback and height requirements are found in the Town Zoning Regulations (see Business & Residential District). You should carefully review all applicable zoning regulations for guidelines that could affect your project.
4. After Code Enforcement has approved your building permit application and issued a Zoning Compliance Form, The Code Enforcement Officer will contact you to make arrangements for you to receive the building permit.
5. All applicable permit fees are due at the time you receive the permit (see Article III: B.9). Fees are based, in part, on square footage of the livable floor area. This includes porches, closets, and upper levels, as in expandable capes, future finished basements. If attic or upper level areas are accessible (stairs) and have adequate headroom, seven (7) feet, the floor area shall be included in the square footage calculations. Cellars, basements, un-finished basements, decks, and patios are excluded.
6. Inspections required from Code Enforcement Officer: (a) foundation footings (b) foundation prior to backfill (c) Rough framing, HVAC, plumbing, electrical (d) Insulation (e) Site development according to plans (f) Final certificate of Occupancy
Note: Section “c” above is inspected separately and approved before section “d” inspection.
7. Separate permits are required for new or replacement heating systems (see Article III: C below). A separate form is used for this specifically. Heating systems (oil, gas, or wood burning heating units). The form is available at Town Hall and Fire Chief, Hank Thomas, will conduct inspections. Chief Thomas can be reached at (603) 938-5346 or email at newburyc1@aol.com to schedule appointments for permitting and inspections.
8. Please note that the Town of Newbury uses the IRC 2018 code book for insulation reference. Insulation should meet the following specification: ceilings R49, walls R21, heated basement walls R21, Basement ceilings R30 & unheated basement walls R15.

9. All new public and commercial buildings must comply with the Americans with Disabilities Act of 1990 and any current revisions.
10. Know of the following state adopted codes that may be applicable to your construction project:
 - a. 2018 International Building Code (IBC) with NH Amendments;
 - b. 2018 International Residential Code (IRC) with NH Amendments;
 - c. National Fire Protection Association (NFPA) Regulations, as amended; and
 - d. National Electric Code (NEC), as amended;
11. Be advised that your construction project needs to comply with all requirements of the Newbury Zoning Ordinance, including all of the Town's Overlay Districts. In addition, you may need to meet requirements of the State's "Shoreland Water Quality Protection Act", as amended. (Previously known as "Comprehensive Shoreland Protection Act), and Newbury's Shoreland Overlay District.
12. Please review RSA 674:41: Erection of Buildings on Streets; Appeals. This RSA address street access requirements which must be met to obtain a building permit.

TOWN OF NEWBURY

BUILDING REGULATIONS

For the protection and Direction of the Construction of Buildings and Structures in the Town of Newbury, New Hampshire.

ARTICLE I [Preamble]

This regulation is established and governed by the laws of the State of New Hampshire, Chapters 673 through 677, New Hampshire Revised Statutes Annotated, as amended.

NOTE: Building regulations apply to structural conditions only. They cannot be stretched to include limited zoning such as regulation of lot size, location of structure on lot, set-back from the street; nor can they be used to regulate the uses of land for homes, business or industry, etc.

ARTICLE II

This article does not affect any dwellings, buildings, or trailers that are existing, or under construction, at the time of its passage.

ARTICLE III

A. Buildings to be used as dwellings or for commercial purposes shall hereafter not be constructed, moved or altered except in conformity with these regulations; nor shall any outside construction be done without a building permit issued by the SelectBoard or the Code Enforcement Officer. The construction or alteration of other structures as defined in the Newbury Zoning Ordinance shall require a Building Permit. After issuance of the building permit, construction must start within six months, and the exterior completed within two years, except that said Board may extend the time, upon application. Repair, restoration or improvement, without basic structural change, interior or exterior, which does not alter the principal use of the building, will not require a Building Permit.

B. Permits will be issued under the following conditions:

1. Every new and/or altered dwelling shall have a minimum of two (2) easily accessible exits, windows excluded. Any building to be erected or altered for use as rented apartments shall have a minimum of two (2) readily accessible exits, windows excluded, from each apartment.
2. All new garages attached to a dwelling shall have the attached wall and entire ceiling covered with Type X (fireproof) dry wall and shall have a B Rated door installed between the garage and residence. All new drive-in basements shall have the ceiling covered with Type X (fireproof) dry wall.
3. Chimneys shall be constructed of stone, brick, concrete, or cinder blocks from the ground upward and shall be internally lined with tile. All other chimney construction must be approved by the Code Enforcement Officer and/or the Fire Department.

4. Thimbles: Wallpaper or other combustible material shall not be laid over any thimble, or thimble hole, in any chimney.

5. Septic tank disposal areas, cesspools and privies, shall be placed at a minimum of seventy-five (75) feet from any existing water supply or public body of water.

6. All electrical wiring shall conform to approved methods and practices for safety to life and property, in compliance with the National Electric Code. For example, for new construction electrical wires must be run through joists and not stapled to the bottom. Hard wired smoke detectors shall be provided on all levels for new construction.

7. Foundations: All structures to be inhabited by humans shall be set on permanent foundations such as brick, stone, concrete, and steel. Such foundations must extend below frost level. Regardless of type, all must be appropriately enclosed. Slab will be acceptable, depending on ground conditions, but must be approved by the Code Enforcement Officer prior to construction.

8. Payment of a fee determined by the Newbury Building Permit Fee Schedule as promulgated by the SelectBoard.

C. No new heating system may be installed without a permit to construct issued by the Code Enforcement Officer, nor may any new heating system be used until inspected and approved by the Newbury Fire Department and/or the State Fire Marshal. "New" shall mean new to the structure.

D. Collocation Applications and Modification Applications

1. Application Review: Notwithstanding any ordinance, bylaw, or regulation to the contrary, in order to ensure uniformity across the Town and state with respect to the process for reviewing a collocation application and a modification application, the Code Enforcement Officer shall follow the following process:

a. Collocation applications and modification applications shall be reviewed for conformance with applicable building permit requirements but shall not otherwise be subject to zoning or land use requirements, including design or placement requirements, or public hearing review.

b. The Code Enforcement Officer, within 45 calendar days of receiving a collocation application or modification application, shall:

(1) Review the collocation application or modification application in light of its conformity with applicable building permit requirements. A collocation application or modification application is deemed to be complete unless the Code Enforcement Officer notifies the applicant in writing, within 15 calendar days of submission of the specific deficiencies in the collocation application or modification application which, if cured, would make the collocation application or modification application complete. Upon receipt of a timely written notice that a collocation application or modification application is deficient, an applicant shall have 15 calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within 15 calendar days, the collocation application or modification application shall be reviewed and processed within 45 calendar days from the initial date received by the authority. If the applicant requires more than 15 calendar days to cure the specific deficiencies, the 45 calendar days deadline for review shall be extended by the same period of time;

- (2) Make final decision to approve or disapprove the collocation application or modification application; and
- (3) Advise the applicant in writing of his/her final decision.

c. If the Code Enforcement Officer fails to act on a collocation application or modification application within the 45 calendar days review period, the collocation application or modification application shall be deemed approved.

d. Notwithstanding anything to the contrary in this chapter, an authority may not mandate, require or regulate the installation, location, or use of Personal Wireless Service Facilities on utility poles.

e. A party aggrieved by the final action of a Code Enforcement Officer, either by an affirmative denial of a collocation application or modification application under, or by its inaction, may bring an action for review in superior court for the county in which the Personal Wireless Service Facility is situated Section D. 2 herein.

2. Time to Act on Building Permits for Collocation and Modification Applications: The time for the Code Enforcement Officer to act upon building permits for collocation applications and modification applications for Personal Wireless Service Facilities shall be governed by RSA 12-K:10. In the event that the form or set of standards for a building permit application conflicts with any of the limitations under RSA 12-K:11 for a collocation application or a modification application for a personal wireless service facility, the limitations in RSA 12-K:11 shall control.

3. Limitations on Applications: In order to ensure uniformity across the Town and state with respect to the consideration of every collocation application and modification application, the Code Enforcement Officer shall **not**:

- a. Require an applicant to submit information about, or evaluate an applicant's business decisions with respect to, its designed service, customer demand for service, or quality of its service to or from a particular area or site.
- b. Evaluate a collocation application or modification application based on the availability of other potential locations for the placement of towers, mounts, or Personal Wireless Service Facilities.
- c. Decide which type of personal wireless services, infrastructure, or technology shall be used by the applicant.
- d. Require the removal of existing mounts, towers, or Personal Wireless Service Facilities, wherever located, as a condition to approval of a collocation application or modification application.
- e. Impose environmental testing, sampling, or monitoring requirements or other compliance measures for radio frequency emissions on Personal Wireless Service Facilities that are categorically excluded under the FCC's rules for radio frequency emissions pursuant to 47 C.F.R. section 1.1307(b)(1).
- f. Establish or enforce regulations or procedures for radio frequency signal strength or the adequacy of service quality.
- g. In conformance with 47 U.S.C. section 332(c)(7)(B)(iv), reject a collocation application or modification application, in whole or in part, based on perceived or alleged environmental effects of radio frequency emissions.
- h. Impose any restrictions with respect to objects in navigable airspace that are greater than or in conflict with the restrictions imposed by the Federal Aviation Administration.
- i. Prohibit the placement of emergency power systems that comply with federal

and New Hampshire environmental requirements.

- j. Charge an application fee, consulting fee or other fee associated with the submission, review, processing, and approval of a collocation application or modification application that is not required for similar types of commercial development within the town's jurisdiction. Fees imposed by a Code Enforcement Officer or by a third-party entity providing review or technical consultation to the Code Enforcement Officer must be based on actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of a collocation application or modification application. Notwithstanding the foregoing, in no event shall the Code Enforcement Officer or any third-party entity include within its charges any travel expenses incurred in a third-party's review of a collocation application or modification application, and in no event shall an applicant be required to pay or reimburse the Code Enforcement Officer or consultant or other third-party fees based on a contingency or result-based arrangement.
- k. Impose surety requirements, including bonds, escrow deposits, letters of credit, or any other type of financial surety, to ensure that abandoned or unused facilities can be removed unless the Code Enforcement Officer imposes similar requirements on other permits for other types of commercial development or land uses. If surety requirements are imposed, they shall be competitively neutral, non-discriminatory, reasonable in amount, and commensurate with the historical record for local facilities and structures that are abandoned.
- l. Condition the approval of a collocation application or modification application on the applicant's agreement to provide space on or near any tower or mount for the Code Enforcement Officer or local governmental services at less than the market rate for space or to provide other services via the structure or facilities at less than the market rate for such services.
- m. Limit the duration of the approval of a collocation application or modification application.
- n. Discriminate on the basis of the ownership, including by the Town, of any property, structure, or tower when evaluating collocation applications or modification applications.

4. Town Land Use and Building Regulations: Notwithstanding the limitations in Section D.1, nothing in this chapter shall be construed to:

- a. Limit or preempt the scope of the Code Enforcement Officer's review of zoning, land use, or permit applications for the siting of new towers or for substantial modifications to existing towers, mounts, or Personal Wireless Service Facilities.
- b. Prevent a municipality from exercising its general zoning and building code enforcement power pursuant to RSA 672 through RSA 677 and as set forth in this chapter.

ARTICLE IV

When required, the Zoning Board of Adjustment shall act as the building code board of appeals in accordance with RSA 673:1, V, as amended. It shall have authority to allow variances from the specific terms of this regulation, where it can be shown that unnecessary hardship would result.

ARTICLE V

This regulation may be amended by a majority vote of any legal town meeting, when such amendment is published in the warrant calling for the meeting.

ARTICLE VI

Every person, persons, firm or corporation violating any of the provisions of this regulation, may have permit revoked until violation has been corrected.

ARTICLE VII

The invalidity of any provision of this regulation shall not affect the validity of any other provision.

ARTICLE VIII

This regulation shall become effective 60 days from the day of its passage

ARTICLE IX [Enforcement]

- A. It shall be the duty of the SelectBoard to enforce the provisions of this regulation.
- B. Upon any well-founded information that this regulation is being violated, the SelectBoard shall take immediate enforcement action as provided by RSA 676:15, 676:17, 676:17-a, and 676:17-b.

POST BUILDING PERMIT THAT IT BE VISIBLE TO PASSERS-BY.

Effective May 11, 1970

(Revised March 9, 1972)
(Revised March 6, 1973)
(Revised March 5, 1974)
(Revised March 14, 1978)
(Revised March 10, 1981)
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(Revised March 11, 2020)
(Revised March 13, 2024)