

VII. RESIDENTIAL SPRINKLERS

A. Moratorium on Residential Sprinkler Requirements – 2010 Chapter 282 (HB 1486)

The Legislature prohibited the State Building Code Review Board and State Fire Marshal from requiring installation of fire suppression sprinkler systems in detached one- or two-family dwellings. In an uncodified section of the session law (not part of the RSAs), the Legislature established a moratorium through June 30, 2011 on municipal requirements for fire suppression sprinkler systems in new one- and two-family structures used exclusively for residential purposes. This was the Legislature's response to a discussion by the State Building Code Review Board about a broader inclusion of the 2009 International Building Code (IBC) in the statewide building code (RSA 155-A). The 2009 IBC does include a provision requiring installation of such systems. [Effective July 8, 2010]

- No new sprinkler requirements by municipalities or local land use boards by ordinance, regulation, code, or *administrative practice*
- OK to require that sprinklers be *offered*
- This “shall not prevent a planning board from finding that particular subdivision applications are *scattered or premature*, in accordance with RSA 674:36, II(a), for lack of adequate fire protection. In such cases, applicants may propose, and a planning board may accept, the installation of fire sprinkler systems as a means of addressing the planning board's findings.”
- For land use boards, “administrative practice” probably means *conditions of approval*

B. Prohibition on Residential Sprinkler Requirements – (SB 91)

The Legislature followed up on last year's temporary moratorium on one- and two-family dwelling sprinkler requirements (above) by permanently engraving the prohibition in stone. But language was removed in the process that had implied that municipalities couldn't enforce

previously adopted regulations requiring sprinklers or those that allowed sprinklers to be required by the planning board, and that development approvals with conditions requiring sprinklers made pursuant to such regulations also could not be enforced.

The language that was ultimately adopted by the Legislature does not clearly address all questions of enforceability, but the bill's amendment and statements made on the House floor addressing the amendment support the following:

1. that local board approvals and building permits made or issued before July 1, 2011 with sprinkler requirements can be enforced (see also HB 109 below), and
2. that zoning ordinances and local building codes containing sprinkler requirements can also be enforced, provided they were adopted prior to July 8, 2010 (the beginning of last year's sprinkler moratorium).

Note also that sprinklers cannot be required to be installed in manufactured housing under any circumstances. This final exception was made out of a concern over the disproportionate cost burden to install a system in manufactured housing relative to the overall value of the unit, and because such units are constructed in compliance with Federal standards, not state or local standards. *[As of this writing, the bill been vetoed by Governor. It is anticipated that the House and Senate will override the veto, as they did with HB 109. If that happens, the bill's effective date will be July 1, 2011.]*

- RSA 674:51, V. "No municipality or local land use board as defined in RSA 672:7 shall adopt any ordinance, regulation, code, or administrative practice requiring the installation of automatic fire suppression sprinklers in any new or existing detached one- or 2-family dwelling unit in a structure used only for residential purposes. Notwithstanding any provision of law to the contrary, no municipality or local land use board shall enforce any existing ordinance, regulation, code, or administrative practice requiring the installation or use of automatic fire suppression sprinklers in any manufactured housing unit as defined in RSA 674:31 situated in a manufactured housing park as defined in RSA 205-A:1, II."

C. Planning Boards Prohibited from Requiring Residential Sprinklers – 2011 Chapter 203 (HB 109)

Further solidifying its position on the matter, the Legislature limited the planning board's authority over subdivisions, specifically prohibiting planning boards from requiring sprinklers in one- and two-family structures through any device at their disposal (regulation or condition of approval). The Governor vetoed this bill out of a concern for public safety, but the House and Senate voted to override the veto. [Effective July 1, 2011]

- RSA 674:36, IV. "The planning board shall not require, or adopt [*or enforce*]* any regulation requiring, the installation of a fire suppression sprinkler system in proposed one- or 2-family residences as a condition of approval for a local permit. Nothing in this paragraph shall prohibit a duly adopted regulation mandating a cistern, dry hydrant, fire pond, or other credible water source other than a fire suppression sprinkler system."

As with SB 91 (above), the Legislature removed language from the original bill (bracketed above and marked with *) that would have prevented the enforcement of planning board regulations requiring sprinklers in one- and two-family structures, but the legislative history

behind this amendment to HB 109 is not as clear. Its removal *suggests* that existing planning board regulations adopted prior to July 8, 2010 could continue to be enforced. Planning boards with such regulations in place should consult with legal counsel for advice on how to proceed. What is clearer is that planning boards should be able to enforce subdivision approvals made prior to July 8, 2010 with conditions requiring installation of sprinklers in one- and two-family structures.