

**D. Other Units of Government.** The general rule of state immunity extends to other governmental bodies performing governmental functions.

1. Common Law. Under common law, the state is not the only entity which enjoys immunity from local restrictions. When the New Hampshire Supreme Court adopted the general rule that municipal zoning restrictions do not apply to the state, it did so in a case involving a county siting its courthouse in contravention of a city zoning ordinance, *Opinion of the Justices*, 113 NH 217 (1973). The court clearly stated that any subdivision of the state was immune from municipal zoning regulations in the performance of governmental functions. Since a county is a subdivision of the state and was performing an essential function of government (building a courthouse), municipal controls did not apply.

Likewise, a municipality, as a subdivision of the state, is not bound by its own zoning ordinance in the performance of governmental functions, *McGrath v. Manchester*, 113 NH 355 (1973). The court found that the control of fires, as well as the operation of public parks and recreational areas, were governmental functions which allowed the municipality immunity from its own zoning ordinance. Thus, it could build a municipal truck storage and maintenance garage in a single family dwelling zone. Unless the legislative body passes a law to require compliance with local land use regulations, a municipality is not bound by its own enactment.

2. Current Statutes. RSA 674:54 codifies the common law. The statute provides that governmental bodies such as the university system, counties, towns, cities, school districts, and village districts all fall under this statute when utilizing land for governmental uses. This means that unless the state legislature or the particular legislative body makes itself subject to local regulations, the governmental entity is immune from local restrictions, but must abide by the notification requirements as addressed above.