

New Hampshire Division of HISTORICAL RESOURCES













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[Search This Site](#)

skip navigation

-  [HOME](#)
-  [About Us](#)
-  [Programs](#)
-  [Project Review & Compliance \(Section 106\)](#)
-  [SCRAP](#)
-  [Publications](#)
-  [Grants](#)
-  [Consultant Lists](#)
-  [News & Events](#)
-  [Links](#)
-  [Contact Us](#)
-  [Site Map](#)

Historic Buildings and Code Compliance

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Access, building, and safety codes generally include special provisions for historic properties, to take their particular circumstances and/or construction methods and materials into account; but not all building officials are aware of these specific considerations for historic properties.

- The Americans with Disabilities Act (ADA) is not only a civil rights law; it is also a historic preservation law. It explicitly includes particular and more flexible allowances for historic properties, so that accessibility modifications do not "threaten or destroy" architecturally and historically significant building elements. Visit the New England ADA Center site and ADA portal, http://adaptiveenvironments.org/neada/site/ada_overview_resources, for more information.
- The International Building Code 2006 has been adopted as the state building code. The code allows flexibility for historic buildings. Specifically, Section 3407, "Historic Buildings," of the IBC (2006) states: "3407.1 Historic buildings: The provisions of this code relating to the construction, repair, alteration, addition, restoration, and movement of structures, and change of occupancy shall not be mandatory for historic buildings where such buildings are judged by the building official to not constitute a distinct life safety hazard."
- The New Hampshire state lead poisoning prevention rules include options for treatments of historic properties, to avoid or ameliorate damage or destruction to historic buildings and building fabric. HUD provides a general exception for historic properties allowing lead-safe interim controls instead of abatement; see 24 CFR Part 35 and www.hud.gov/offices/lead/lbp/hudguidelines/, then click on "Chapter 11, Interim Controls" or go directly to www.hud.gov/utilities/intercept.cfm?offices/lead/lbp/hudguidelines/Ch11.pdf. Preservation Brief 37 at www.nps.gov/history/hps/tps/briefs/brief37.htm describes these interim controls in more detail.
- HUD's lead guidelines also explain how to treat historic properties; from www.hud.gov/offices/lead/lbp/hudguidelines/ click on "Chapter 18, Lead Hazard Control and Historic Preservation" or go directly to www.hud.gov/offices/lead/lbp/hudguidelines/Ch18.pdf.
- The State Fire Marshal has adopted NFPA 909, Standard for the Protection of Cultural Resources Including Museums, Libraries, Places of Worship, and Historic Properties, 2001 edition, as a rule within the State Fire Code; "All persons constructing, reconstructing, modifying, maintaining or operating any cultural property and all owners or occupants of cultural properties shall comply with the requirements of NFPA 909." Saf-C 6008.07, www.gencourt.state.nh.us/rules/state_agencies/saf-c6000.html.
- The State Fire Marshal has also adopted NFPA 914, Code for Fire Protection of Historic Structures, 2001 edition, as a rule within the State Fire Code; "All persons renovating, modifying, maintaining or operating any historic structure and all owners or occupants of historic structures shall comply with the requirements of NFPA 914." Saf-C 6008.08, www.gencourt.state.nh.us/rules/state_agencies/saf-c6000.html. See www.nfpa.org/catalog/product.asp?pid=91401&src=nfpa for NFPA 914 ordering information.
- The State Building Code in RSA 155-A:2, III., provides that "to the extent that there is any conflict between the state building code and the state fire code, the state fire code shall take precedence unless otherwise determined by the [State Building Code Review] board..." As a result, for historic structures the provisions of NFPA 909 and



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NH Division of
Historical Resources



914 in the State Fire Code supersede those of the State Building Code. See www.gencourt.state.nh.us/rsa/html/XII/155-A/155-A-2.htm.

- Local historic district regulations also take precedence over the State Building Code, according to RSA 155-A:2, IX: "Nothing in this chapter shall be construed as amending, repealing, or superseding any local law, ordinance, code, or regulation, except local building code requirements that are less stringent than the state building code, and all buildings, building components, and structures shall comply with all applicable state or local building and fire code requirements, land use restrictions including but not limited to subdivision regulations, use and location restrictions, density and dimensional limitations, or historic district laws or ordinances."
- FEMA criteria for flood-prone areas, and the NH model floodplain development ordinances at www.nh.gov/oep/planning/programs/fmp/regulations.htm exempt work on historic properties from floodproofing requirements, so long as the alteration will not preclude the building's continued designation as a "historic structure."

In addition, income-producing historic properties may qualify for federal rehab tax credits. See www.nps.gov/history/hps/tps/tax/ and contact the National Register and Tax Incentives Coordinator at the NH Division of Historical Resources (telephone 271 6437; FAX 271 3433; e mail preservation@dncr.nh.gov for more details).

Businesses can take IRS tax credits for qualifying ADA-related work (see www.ada.gov/taxincent.pdf and § 44 and § 190 of the IRS code).

NH Division of Historical Resources

March 1999 ? Revised April 2002, June 2003, April 2004, March 2006, June 2006, July 2007, and May 2008


THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

Rehabilitation may be considered as a treatment when repair and replacement of deteriorated features are necessary; when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate. Prior to undertaking work, a documentation plan for rehabilitation should be developed.

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other buildings, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archaeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing, to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a

manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

These standards were initially developed in 1975 and were revised in 1983 and 1992. This revision of the Standards was codified as 36 CFR Part 68 in the Federal Register, Vol. 60, N. 133, July 12, 1995; it replaces the Federal Register notice, Vol. 48, N. 190, September, 1983.

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