

## Code Enforcement Official Event: Executive Summary

### Introduction

On September 30, 2021, the Center for Ethics in Society held an educational event for northern New England building and fire code officials as part of its Housing We Need initiative. Panelists included **Robert Duval**, Senior Fire Investigator and Northeast Regional Director of the National Fire Protection Association (NFPA), **Karl Fippinger**, CEM, PMP, vice president of fire and disaster mitigation for the International Code Council, **William (Bill) McKinney**, the Building Official for the City of Nashua, NH, and moderator **Sarah Marchant**, director of community development for the city of Nashua.

### Panel Highlights

The discussion focused on the different ways code officials' work intersects with the supply of different types of housing. Some of the conversation focused on group and sober homes, some of which follow best safety practices and some of which do not. Because of the federal definition of "family," group homes generally ought to be considered single-family homes consistent with zoning usage and, according to New Hampshire law, exempt from sprinkler requirements. However, when group homes do not foster genuine mutual responsibility of the family members for each other, the chances rise that not everyone can escape in event of fire. Fortunately, there is a statewide nonprofit in New Hampshire now that certifies group homes, and code officials can rely on this certification to verify that the group home truly constitutes a "family" according to the law.

Much of the discussion also dealt with new technologies, including modular, 3D-printed, and tiny homes. Some of these types of homes do not have specific building codes adopted into New Hampshire law yet. Accordingly, code officials should rely on the International Residential Code to determine whether they satisfy the criteria for being safely habitable.

### Breakout Groups

Code officials also had a chance to discuss in small groups what some of the biggest barriers to new housing supply are in New Hampshire and the rest of New England. It turns out that zoning ordinances contribute far more to the cost of housing than code enforcement. Most life safety issues are not expensive to address. The energy code does add something to building costs and is not essential to life safety, but is useful for combating climate change. Sometimes the building inspector in a small town is also the zoning official, so when the inspector tells a homeowner that an addition meets code but is illegal under the zoning, the homeowner is confused and may end up blaming the building code, not the zoning ordinance.

One of the other problems code officials mentioned is the fact that the people who hear building code appeals in New Hampshire are the zoning boards, but zoning boards typically know nothing about the building code. It might be useful to have a state building official, akin to the state fire marshal, to help provide insight, advice, and even variances from code if warranted.

In general, the legislature's staying up to date with the code appears to be better for housing than keeping an old code around. New technologies need to be addressed within the code; otherwise, code officials end up with too much discretion and/or these new technologies end up being effectively banned altogether.

## Poll Results

Attendees had the opportunity to vote on three poll questions among options that came out of the small-group discussions. Because respondents were allowed to select only one option, these percentages should not be taken as the percentage of participants who agreed with each proposition, but instead the percentage who viewed each proposition as the *most important* factor in the answer to the question.

The first question was on the most important “hurdles to housing” in the area. The responses were as follows, ordered by popularity:

1. “Town leadership, including planning/zoning boards, don’t want to see the character of the community change.” (18%)
2. (tie) “Local zoning codes are too restrictive and don’t support the development of more affordable housing.” (15%)
2. (tie) “NIMBYism: community members do not support building more affordable homes.” (15%)
4. “Volunteer boards are often uneducated about development and infrastructure.” (11%)
5. (tie) “Some building and fire codes as adopted lack flexibility.” (9%)
5. (tie) “Lack of infrastructure to support multi-family development” (9%)
5. (tie) “Lack of good land – all easy to develop land is gone” (9%)
8. “Codes have not kept up with modern technology (e.g., Bluetooth smoke alarms)” (6%)
9. (tie) “Permitting is multi layered, including local and state.” (4%)
9. (tie) “Energy codes are increasing the costs of development.” (4%)

The second question was about the best ways to improve building codes. The responses were as follows, ordered by popularity:

1. “Code officials need training on alternative methods for addressing issues not covered by the current code.” (22%)
2. “Codes need modernization to include new technologies, including Bluetooth (smoke alarms), solar energy storage systems, and electric car charging stations.” (21%)
3. “There is a misperception regarding the cost of sprinklers – they are more affordable than many people think.” (20%)
4. “The abundance of amendments to state building codes are burdensome and complex.” (12%)
5. “The permitting and plan review process needs to be made digital/electronic.” (11%)
6. “Local building height restrictions are more restrictive than the IRC code.” (8%)
7. “Local amendments to the state code are superfluous and unnecessary.” (3%)
8. “Market pressures make it difficult for builders to recover costs of code compliance, including energy and life safety codes.” (1%)

The third and final question was about the best solution or opportunity for the housing crisis. The responses were as follows, ordered by popularity:

1. “Early communication and collaboration among planners, developers, and code officials” (25%)
2. “Communities need to consider ways to incorporate more innovation and flexibility in their zoning, e.g, higher densities, ADUs, infill.” (13%)

3. "Educate all parties (contractors, code officials, etc.) on availability and safe use of new technologies." (10%)
4. "Find creative ways to mitigate infrastructure costs associated with new development." (9%)
5. "Need better education on the importance and need for affordable housing." (8%)
6. (tie) "Incentivize redevelopment of run-down/abandoned properties." (6%)
6. (tie) "State building official similar to current fire marshal to provide technical assistance and interpretation of codes" (6%)
6. (tie) "Separate out the energy code from the building code to enable the building code to be modernized more efficiently." (6%)
9. "Discourage exclusivity of housing projects like senior restricted housing." (5%)
10. "Create new and innovative ways to speed up the approval and review process." (4%)
11. (tie) "Encourage more voter turnout at town elections" (3%)
11. (tie) "Promote alternatives to large, single-family homes" (3%)
13. "Towns need a neutral facilitator for education and modification of local zoning ordinances." (1%)

### **Conclusion and Next Steps**

Code officials came away from the event understanding better the challenges of the housing market in New Hampshire and northern New England right now, and how more housing supply is the only long-term answer. Center for Ethics staff learned a great deal about how the building code works, and came away with important ideas about how to engage with this community, with homeowners, and with policymakers on code-related issues.