

INSTRUCTIONS: This is a **two hour**, closed book, closed notes exam. Our goal is to test you on the major concepts covered so far in this course. Unless otherwise stated, you should assume we are referring to NH law (recognizing that NH law is typical of MOST states). Your grade on this exam is worth 40% of your final grade. There are 30 short answer questions, and 2 short essays. Pace yourself!

1. What legal approach is available to the owner of a non-conforming use who wishes to significantly enlarge the building, or increase the intensity of the use?

2. In brief, what is the "juror standard", and what is its applicability to land use law?

3. List any three of the general purposes of land use regulations:

4. List any three typical zoning districts: _____

5. What must a town adopt before it can legally adopt a Zoning Ordinance?

6. What must a trial court do once it determines, on appeal, that the zoning board has applied an incorrect legal standard?

7. List any three sections (such as "Transportation"), that must be addressed in a Master Plan: _____

8. What is the term describing the financial assessment that may be required of a developer to defray his or her proportional share of the costs for improvements to the Town's infrastructure, necessitated by the development?

9. Wetlands protection and prevention of construction on especially steep slopes are often regulated through what common zoning ordinance mechanism?

10. Give one example from the assigned cases of an expanded non-conforming use deemed impermissible by the NH Supreme Court? _____
11. What are the criteria necessary for earning the statutory (NH) 4 year exemption from subsequent zoning changes? _____

12. A downtown Concord art gallery owner fears competition from a new art gallery proposed for a location 1 mile away on the heights (Loudon Rd). Does he or she have standing to appeal the site plan approval to Superior Court? _____
13. Under what Constitutional power do courts justify the practice of land use regulation by state and local governments? _____
14. What is the common law term reflecting the right to continue a previously approved development, after adoption of land use regulations that would otherwise prohibit it? _____
15. List the three kinds of hearings ZBA's are authorized to hold: _____

16. What is the trial court's standard of review of a zoning board's decision? _____
17. What is the general purpose of a Master Plan? _____

18. What is the term for a use that predates, but is not permitted at its current location by the permitted use section of a later adopted zoning district? _____
19. What is the legal status of the use identified immediately above? _____
20. What is the long term goal of zoning ordinances with respect to the uses identified immediately above? _____
21. What actions on the part of the landowner would generally result in the loss of

the right to continue the use described in the proceeding questions?
_____.

22. Under what conditions may the government "take" private property?
_____.

23. What are the two types of variances recognized by NH courts? _____,
_____.

24. Who., precisely, may appeal a ZBA decision to Superior Court in NH?
_____.

25. When should an abutter raise the issue of the suspected disqualification of a
land use board member sitting on a development application? _____.

26. What is the general purpose of most "innovative land use controls"? (Identify the
type of issue most address): _____.

27. To what extent can a non-conforming use be expanded without ZBA approval?
_____.

28. Under what conditions must a land use board inform an adjoining town of a
hearing on a development proposed to the board? _____.

29. What tool, if any, is available to a town without a zoning ordinance faced with the
prospect of a large, intrusive, and unpopular proposed land use development,
such as a private firearms and explosives training facility?
_____.

30. In most jurisdictions, what are you required to do as a prerequisite to appealing a
zoning board decision? _____ What is the policy/purpose for
the action that you described in the preceding question?
_____.

EXTRA CREDIT SHORT ANSWER:

- Where is the proposed location, or what is the name, of an Inn proponents wish
to establish on the current site of the home of a current US Supreme Court
Justice? _____.

SHORT ESSAYS: Write no more than 300 words in response to each of these two questions.

- A. Shrub owns a 50 acre parcel of land in a Residential/Agricultural zoning district. He wishes to build and open a facility that will allow customers to ride horses, shoot blank pistols, and "rob" fake stagecoaches and banks. Is this use permitted, and if not, for what must Shrub apply and to whom? What must he demonstrate in order to be granted approval for this use? (Extra credit: To whom else and for what other approval must he apply assuming he gets the above approval?)

- B. The town building inspector grants a neighbor A, who is on the board of selectmen, a building permit to extend a cottage deck closer to the shoreline of a very large marsh. The building inspector concluded that no variance was necessary. Your client, neighbor C, is a member of the local conservation commission and summers along the same shore several doors down. She consults with you and is looking for an outline of what legal steps and action can be taken to challenge the granting of the building permit, including what the court process entails and what to expect from the court. Be sure to discuss timing in your outline. Do not discuss variance criteria in your answer but assume a variance is probably required though the zoning board may disagree.