



*Helping Communities face the challenges and impacts of growth while maintaining their character and sense of place.*

## 2010 Legislative Session: Selected Statutes

iTRaC is the Nashua Regional Planning Commission's new approach to community planning that focuses on integrating transportation, land use and environmental planning. The program was developed to assist communities in dealing with the challenges of growth in a coordinated way that sustains community character and a sense of place.

### **What is an RSA?**

Laws in New Hampshire are called Revised Statutes Annotated, or RSAs. "Annotated" means including notes. RSAs include history, case law, and other relevant explanations at the end of each section. RSAs are organized into 64 Titles from Title 1, "The State and its Government" to Title 64, "Planning and Zoning." Each Title is divided into, and typically cited by, Chapters, Sections, and Paragraphs. Example—RSA 674:4, II refers to Chapter 674, section 4 paragraph II.



The following is a partial list of RSAs adopted or amended in the 2010 Legislative Session. The data sources are: NH General Court "Quick Bill Status Search;" NH Municipal Association "2010 Final Legislative Bulletin," August 5, 2010; and NH Office of Energy and Planning "Selected 2010 Legislation Relative to Planning and Energy Issues." To search bills or access the complete documents, click on the following links:

[http://gencourt.state.nh.us/bill\\_status/quick\\_search.html](http://gencourt.state.nh.us/bill_status/quick_search.html)

[http://www.nhlgc.org/attachments/nhma/FinalLegBulletin\\_10.pdf](http://www.nhlgc.org/attachments/nhma/FinalLegBulletin_10.pdf)

[http://www.nh.gov/oep/legislation/2010/selected\\_legislation.htm](http://www.nh.gov/oep/legislation/2010/selected_legislation.htm)



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## Legal Matters

**HB191 - Limited liability for landowners giving permission for bicycling ~ Chapter 131:1, 2**  
Amend RSA 212:34 under Liability of Land Owners: Duty of Care; to add bicycles to the list of uses in which a landowner is granted limited liability for permitting access to their property.  
(Effective date 1/1/2011)

## Planning and Zoning Changes

### **SB 328 - Planning board applications not delayed pending other approvals ~ Chapter 39:1-3**

Amend RSA 676:4 under Boards Procedures on Plats; Completed Application, and Conditional Approval; to establish that a planning board may not deem an application incomplete solely because it is dependent on the issuance of permits or approvals from other government bodies, or refuse to take action on such application for that reason. A planning board may require receipt of state and federal permits as conditions of approval. Consult your municipal counsel for local questions on interpretation and compliance. (effective date 7/17/2010)

### **HB1211 - Special meeting for zoning changes in SB 2 towns ~ Chapter 69:1, 2**

Amend RSA 40:13 under Use of Official Ballot by inserting paragraph XVII that permits towns using the official ballot method (SB 2) to hold only one session, the official ballot, at a special town meeting if the sole purpose is to adopt, amend, or repeal a zoning ordinance, historic district ordinance, or building code. A deliberative session is not required. This does not include consideration of adoption of an emergency temporary zoning and planning ordinance pursuant to RSA 675:4-a. (effective date 7/18/2010)

### **HB 1395 - Workforce housing restrictive covenants authorized ~ Chapter 150:1, 2**

(RSA 674:58-61, Workforce Housing statute) - Amend RSA 674:60 under Procedures by inserting paragraph IV that clarifies a municipality's authority to require an applicant to record restrictive covenants that limit the rent or sale to households with incomes that exceed limits specified in the statute. Boards may adopt regulations specifying terms and a means to ensure compliance. (effective date 6/14/2010)

### **HB1174 - Terms of appointed land use board members; Definition of local land use board ~ Chapter 226:1-6**

Add RSA 41:57-a, Term of Office, to allow an appointed official to continue until a successor is appointed. This applies to the city clerk, health officer, and other officers appointed to administer departments established by the elected body under RSA 49-C:20, Appointive Officers, and Terms of Local Land Use Board Members, under RSA 673:5. Under RSA 672:7, Local Land Use Board; heritage, agricultural, and housing commissions were added to the list of boards or commissions in the definition of local land use boards, established under RSA 673. (effective date 8/27/2010)



### **SB448 - Alternates may participate as non-voting members ~ Chapter 270:1-3**

Add paragraph V to RSA 673:6 under Appointment, Number and Terms of Alternate Members, allowing alternate members to participate in meetings. Amend RSA 676:1, Method of Adopting Rules of Procedure to require rules of procedure to include how and when alternate members may participate in meetings of land use boards. (effective date 7/6/2010)

### **HB1486 - Moratorium on municipal fire sprinkler requirements ~ Chapter 282:1-6**

Amend RSA 153:5 that municipalities shall not require fire sprinkler systems for one and two-family dwellings used for residential purposes prior to July 1, 2011. The moratorium does not affect requirements already in place prior to the effective date. Amend RSA 153:10-a, III; restricting the State Fire Marshall from adopting rules that require the installation of fire sprinkler systems in one and two-family dwelling units used for residential purposes. Amend RSA 155-A:10 by adding new paragraph VII; to impose the same restriction on the state building code review board. This section shall not

prohibit a duly adopted requirement mandating that fire sprinkler systems be offered to the owners of dwellings for a reasonable fee. A planning board may find a particular application “scattered and premature” due to lack of adequate fire protection. Applicants may propose to install a fire sprinkler system to meet adequacy requirements. Finally, under chapter 282:5, a committee is established to study existing fire sprinkler system requirements and whether the safety benefit justify authorizing municipalities from adopting sprinkler requirements for residential structures in the future. (effective date 7/8/2010)

**HB1380 - Zoning boards may charge for consultant fees ~ Chapter 303:1-4**

Amend RSA 676:5 by adding paragraphs IV and V to allow the zoning board of adjustment, similar to the planning board’s authority, to impose reasonable fees for administrative expenses and costs for special investigations, review of documents, and reimbursement for third-party review and consultation related to an application review or appeal. Consultants are required to provide a detailed invoice of costs and the zoning board shall keep a reasonably detailed accounting of expenses or escrow deductions with supporting documentation that shall be provided to an applicant upon request. Amend RSA 673:16, II to include fees collected under paragraph IV above to be used to pay allowed expenses without approval from the legislative body. Finally, Amend RSA 676:4-b to allow the planning board to be reimbursed for the cost of review and consultation provided such review and consultation does not substantially replicate information already obtained by the zoning board of adjustments. (effective date 9/11/2010)



**SB59 - Renovation and replacement of school buildings ~ Chapter 327:1-4**

Amend RSA 199:1, Location and Construction by District to now apply to substantial renovation as well as new construction and to require the school district to investigate feasible options when deciding to replace or renovate an existing school building. During the process, the district is required to hold at least one public hearing to seek input from municipal boards and departments and must review the local master plan and zoning regulations to maximize best planning practices. Amend RSA 198:15-b, by adding paragraph VII that restricts the requirement of additional land in renovation projects seeking state building aid grants unless it can be shown that the additional land is necessary to ensure safe traffic flow on school grounds or safe boarding or discharge of children using busses or other vehicles. Amend RSA 198:15-c requiring plans for school construction or renovation to comply with effective statewide planning (RSA 9-A) and the state’s smart growth principals (RSA 9-B). (effective date 9/18/2010)

**SB406 - Involuntary merger of lots prohibited Chapter 345:1, 2**

Amend RSA 675:39-a to prohibit any town, county, or village district from merging preexisting subdivided lots or parcels without the owners consent. The intent is to prevent the common practice of requiring the automatic merger of abutting substandard lots under the same ownership. This change does not appear to affect lots merged involuntarily prior to the effective date of this law, and does not appear to prevent municipalities from requiring property owners to merge contiguous substandard lots as a condition to develop the lots. (effective date 9/18/2010)



**Take Note!**

**NH municipalities do not have “home rule!”**

Municipalities have only the authority that is specifically granted to them by the legislature; they cannot exercise authority on their own.



## Environmental Zoning Changes

### **SB 166 - Mineral extraction, mining and Reclamation ~ Chapter 331:1-12**

This is a substantial change and it is recommended that if this bill is relevant to your municipality, you review the text of SB 166. See the following link to the bill text. [http://gencourt.state.nh.us/bill\\_status/quick\\_search.html](http://gencourt.state.nh.us/bill_status/quick_search.html)

The following is a very brief summary:

- The bill adds definitions to the chapter on mining and reclamation;
- Expands the duties of the commissioner of the department of resources and economic development;
- Modifies mining permit application requirements.

*(effective date 9/18/2010)*

### **SB 411 - Municipal regulations not completely preempted by groundwater withdrawal permit ~ Chapter 348:1-6**

This bill clarifies that DES issuance of a large groundwater withdrawal in accordance with RSA 485-C does not release or change an applicant's obligation to comply with or obtain all required local ordinances, codes, regulations, and approvals. The chapter also codifies exemptions from large groundwater withdrawal permit requirements for certain short-term uses and emergency withdrawals that were previously in DES regulations. There is an exemption for geothermal systems from permit requirements if the net water loss (water extracted minus the water returned to the same aquifer) does not exceed 57,600 gallons in a 24 hour period. *(effective date 9/18/2010)*

### **SB 369 - Effect of building permit's expiration on groundwater withdrawal permits ~ Chapter 158:1, 2**

Amend RSA 485-C:21, VIII to authorize municipalities to require a written finding from the DES regarding the status of a permit for a large groundwater withdrawal when a local building permit related to the groundwater withdrawal expires or becomes void. The DES is required to determine if the change in status of the local permit affects the DES decision on the application for withdrawal. *(effective date 7/17/2010)*

### **HB 370 - DES approval not required if development does not increase sewage load ~ Chapter 342:1-6**

Amend portions of RSA 485-A:38 so that subsurface septic systems approval is not required for expansion, relocation, or replacement of any structure provided there will be no increase to the loading on the sewage disposal system. Conditions for the exemption are:

- Operational approval for the existing site sewage system must have occurred within the last 20 years;
- For non-residential structures, no waivers were granted for construction and operational approval; and
- The project complies with the Comprehensive Shoreland Protection Act, if applicable. *(effective date 9/18/2010)*



For more details on this topic or an overview of the entire iTRaC program, visit [www.nashuarpc.org/landuse](http://www.nashuarpc.org/landuse) or contact Camille Pattison, iTRaC Program Manager, at [camillep@nashuarpc.org](mailto:camillep@nashuarpc.org) or 603-424-2240 x14.



Developed by the Nashua Regional Planning Commission in partnership with the NH Department of Transportation & the NH Office of Energy and Planning.