



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

**iTRaC** is the Nashua Regional Planning Commission's 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.

## 2013 LEGISLATIVE SESSION: Selected Statutes

### 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 2013 Legislative Session. The data sources are: NH General Court "Quick Bill Status Search;" NH Municipal Association "2013 Final Legislative Bulletin," August 12, 2013; NH Office of Energy and Planning "Selected Energy and Planning Legislation;" and NH Planners Association, Legislative Tracker.

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)

<https://www.nhmunicipal.org/LegislativeBulletins/Index>

<http://www.nh.gov/oep/resource-library/legislation/index.htm>

<http://www.nhplanners.org/legislativetracker.htm>



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### 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.



# Planning and Zoning Changes

- HB 278** *Voluntary Installation of Fire Suppression Sprinklers ~ Chapter 207*
  - HB 634** *Water Resource Management and Protection Plans in Municipal Master Plans ~ Chapter 202*
  - SB 12** *Protection and Preservation of Significant Archeological Deposits ~ Chapter 76*
  - SB 43** *Property Taxation of Qualifying Historic Buildings ~ Chapter 203*
  - SB 49** *Appeals of Planning Board Decisions ~ Chapter 179*
  - SB 50** *Expiration of Variances and Special Exceptions ~ Chapter 93*
  - SB 80** *Community Revitalization Tax Relief Program for Historic Structures ~ Chapter 78*
  - SB 101** *Collocation and Modification of Personal Wireless Services Facilities ~ Chapter 267*
  - SB 164** *Authorizing Coastal Management Provisions in Master Plans ~ Chapter 189*
  - SB 185** *Commission to Study Housing Policy and Regulation ~ Chapter 233*
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## **HB 278** – *Voluntary Installation of Fire Suppression Sprinklers ~ Chapter 207*

This clarifies that although the planning board may not require sprinkler installation in one and two-family homes, an applicant can offer to install fire suppression sprinklers. If the planning board accepts the offer, the sprinkler installation becomes an enforceable condition of approval. Additionally, the applicant may substitute another means of fire protection in place of the approved sprinklers, provided that the planning board approves the substitution and does not delay or uphold consideration of the request. *(Effective Date: September 8, 2013)*

## **HB 634** – *Water Resource Management and Protection Plans in Municipal Master Plans ~ Chapter 202*

This bill permits a municipality to include a local water resource management and protection plan as part of the optional natural resources master plan section. It also provides that the law shall not be construed to permit municipalities to regulate surface or groundwater withdrawals that they are explicitly prohibited from regulating. *(Effective Date: September 7, 2013)*

## **SB 12** – *Protection and Preservation of Significant Archeological Deposits ~ Chapter 76*

This bill amends the existing provisions enabling a municipality to adopt a cultural and historic resources section in the local master plan to also consider archeological resources. Additionally, it authorizes the adoption of optional provisions for the protection or preservation of archeological resources in subdivision and site plan review regulations. *(Effective Date: January 1, 2014)*

## **SB 43** – *Property Taxation of Qualifying Historic Buildings ~ Chapter 203*

This bill establishes a new section, RSA 79-G, which enables towns and cities to appraise certain qualifying historic buildings at a percentage of market value in order to encourage the preservation of historic buildings. *(Effective Date: July 9, 2013)*

## **SB 49** – *Appeals of Planning Board Decisions ~ Chapter 179*

This bill provides for appeals of planning board decisions concerning a subdivision or site plan to the board of adjustment prior to appeal to the superior court if they are appealable under NH RSA 676:5, III. If a party appeals to the superior court before the appeal before the ZBA has concluded, the superior court will stay their proceedings pending ZBA resolution. Additionally, a decision by the ZBA may be appealed to the superior court within 30-days of the board's final decision. If a case is first taken to the superior court, the court may determine that the case should first have been heard by the ZBA. In such instances the court will issue an order to do so and stay the proceedings. The appellant will have 30-days to submit to the ZBA. *(Effective Date: August 31, 2013)*

## **SB 50** – *Expiration of Variances and Special Exceptions ~ Chapter 93*

Variances and special exceptions will remain valid if exercised within two years after approval, unless a longer period is authorized by the zoning ordinance or by the zoning board of adjustment for good cause. Further, a variance or special exception will not expire until six months after the resolution of a planning application filed in reliance upon it, even if the two-year period has expired. *(Effective Date: August 19, 2013)*

## **SB 80** – *Community Revitalization Tax Relief Program for Historic Structures ~ Chapter 78*

The existing RSA 79-E Community Revitalization Tax Relief Program is amended to include incentives for rehabilitating historic structures. This will enable cities and towns to add historic structures in the municipality, whose preservation and reuse would conserve the embodied energy in existing building stock, to the existing NH RSA 79-E incentives. *(Effective Date: April 1, 2013)*

### **SB 101 – Collocation and Modification of Personal Wireless Services Facilities ~ Chapter 267**

This bill provides that applications for collocation and modification of personal wireless service facilities may be reviewed by local authorities for compliance with building permit requirements, but are not subject to zoning or land use requirements including design or placement requirements, or public hearing review. Additionally, the collocation and modification of such facilities shall not require a variance or special exception. The law establishes a 45-day period for a land use board to review an application for a collocation or modification with the application deemed approved if the board does not act within the 45-day period. The law's limitations do not apply to applications for the installation of new facilities or substantial modifications to existing facilities. *(Effective Date: September 22, 2013)*

### **SB 164 – Authorizing Coastal Management Provisions in Master Plans ~ Chapter 189**

This bill authorizes coastal management provisions in master plans, which may address planning needs and property loss resulting from projected coastal risks due to increased frequency of storm surge, flooding, and inundation. *(Effective Date: August 31, 2013)*

### **SB 185 – Commission to Study Housing Policy and Regulation ~ Chapter 233**

The newly established commission is tasked to identify unnecessary state regulatory policies, practices, and rules that create barriers to the production of affordable housing. Additionally, the commission is to recommend legislation and changes to administrative rules that will encourage the creation of affordable housing, including possible incentives to build such housing, in order to maintain the health, safety, and diversity of local communities and residents of the state. An interim report is due by November 1, 2013 and a final report of its findings on or before November 1, 2014. *(Effective Date: July 15, 2013)*

## Environmental Zoning Changes

**HB 393** *Limits on Nitrogen and Phosphorus Content in Fertilizer ~ Chapter 42*

**HB 513** *Minimum Shoreland Protection Standards ~ Chapter 153*

**HB 516** *Study Committee on Federal, State and Local Environmental Regulations Overlap ~ Chapter 51*

**SB 99** *Study of the Site Evaluation Committee and Energy Facilities Siting Criteria ~ Chapter Law 134*

**SB 108** *Limited Landowner Liability to Persons Constructing Trails ~ Chapter 162*

**SB 124** *Integrated Land Development Permit ~ Chapter Law 270*

**SB 163** *Commission to Prepare for Projected Sea Level Rise and Other Coastal Hazards ~ Chapter 188*

**SB 191** *Establishing a State Energy Strategy ~ Chapter 276*

### **HB 393 – Limits on Nitrogen and Phosphorus Content in Fertilizer ~ Chapter 42**

This bill limits the nitrogen and phosphorus content of fertilizers sold at retail and intended for use on turf. Local regulations are preempted from addressing the regulation, sale, formulation or transportation of fertilizer. Local regulation of the use of fertilizer is not preempted. *(Effective Date: January 1, 2014)*

### **HB 513 – Minimum Shoreland Protection Standards ~ Chapter 153**

Several shoreland protection provisions of the Water Quality Protection Act are amended including the waterfront buffer's tree and ground cover scoring and replacing the definition of ground cover. The bill makes several other smaller changes and clarifies the required stormwater system design standards if exceeding the maximum impervious surface coverage. *(Effective Date: August 27, 2013)*

### **HB 516 – Committee to Study the Overlap of Federal, State and Local Environmental Regulations ~ Chapter 51**

State Representatives and a Senator will review federal, state, and local environmental permitting and regulatory permit processes and programs common to development projects to determine whether these processes and programs contain duplicative regulations. The committee will evaluate the value of additional environmental protection, if any, gained by identified redundancies and the negative implications of such redundancies on state agency resources, town and city planning resources, the development community, and development projects. The report and findings are due November 1, 2013. *(Effective Date: June 4, 2013)*

## Environmental Zoning Changes cont.

### **SB 99 – Study of the Site Evaluation Committee and Criteria for the Siting of Energy Facilities ~ Chapter Law 134**

This bill requires the office of energy and planning to contract with an outside vendor for a study of the site evaluation committee and its processes. Following which, the site evaluation committee is required to adopt rules by January 1, 2015. The bill provides funding sources under the jurisdiction of the public utilities commission to carry out these two actions. (*Effective Date: June 26, 2013*)

### **SB 108 – Limited Landowner Liability to Persons Constructing Trails ~ Chapter 162**

Landowners who permit use of their land for outdoor recreational activity, free of charge or without seeking other form of compensation, owe no duty of care to individuals engaged in the construction, maintenance or expansion of trails or associated facilities on their land. (*Effective Date: January 1, 2014*)

### **SB 124 – Integrated Land Development Permit ~ Chapter Law 270**

This bill establishes a permit process for applicants seeking two or more permits or approvals from the Department of Environmental Services (DES) to instead apply for a single integrated land development permit as an alternative to separate permits and approvals. An applicant choosing the alternative integrated permit process must engage in a pre-application technical review process. Municipalities may engage in the application review process at the invitation of the applicant or DES.

In addition, the bill provides that a zoning board of adjustment may not require submission of an application for or receipt of a permit from other state or federal government authorities prior to accepting a submission for its review or rendering its decision and similarly restricts a conservation commission in reviewing an application to provide input to any other municipal board. The law also clarifies that a planning board cannot find an application incomplete solely because it is dependent upon the *submission of an application to or the issuance of approvals or permits from other state and federal governmental bodies*. The new law also authorizes a municipality to adopt an innovative land use control under RSA 674:21 allowing the planning board to approve a project that "does not fully conform to the local zoning ordinance" if it has been approved by DES under the integrated land development program. (*Effective Dates: September 22, 2013, for ZBA and conservation commission limitations; January 1, 2015, for the remainder*)

### **SB 163 – Commission to Prepare for Projected Sea Level Rise and Other Coastal Watershed Hazards ~ Chapter 188**

This bill establishes a coastal risk and hazards commission to recommend legislation, rules, and other actions to prepare for projected sea level rise and other coastal and coastal watershed hazards such as storms, increased river flooding, and storm water runoff, and the risks those hazards pose to municipalities and state assets in New Hampshire. (*Effective Date: July 2, 2013*)

### **SB 191 – Establishing a State Energy Strategy ~ Chapter 276**

This bill creates a new chapter (4-E) requiring the Office of Energy and Planning to prepare a 10-year energy strategy for the state in consultation with the New Hampshire State Energy Advisory Council. A draft state energy strategy shall be completed no later than May 1, 2014, with a final state energy strategy no later than September 1, 2014. The State Energy Strategy is to look at electric, gas and thermal energy strategies, as well as, identify ways to optimize the available supply and affordability, retention of in-state energy expenditures and jobs, renewable sources, and energy efficiency policies. The state energy strategy shall be reviewed at least every 3 years starting in 2017 with the New Hampshire State Energy Advisory Council provisions repealed after completion of the initial state energy strategy. (*Effective Dates: July 24, 2013*)

