



TOWN OF RAYMOND

Planning Board Agenda

September 8, 2022

7:00 p.m. - Raymond High School

Media Center - 45 Harriman Hill

Work Session

Public Announcement

*If this meeting is canceled or postponed for any reason the information can be found on our website, posted at Town Hall, Facebook Notification, and RCTV. **

1. Pledge of Allegiance

2. Work Session-

- Approval of Minutes: 8/4/2022, 8/11/2022, 8/18/2022
- Administration and Housekeeping discussion: Record keeping process, minutes preparation, communication flow, conditions of approval.
- Rules of Procedure: Review revisions made by legal counsel, move to public hearing
- Stormwater Management Standards: Review regulations, move to public hearing (included in 9/1 packet)
- HB 1661 changes and key dates
- Zoning Amendments: Groundwater Conservation Overlay District

3. Public Comment

4. Other Business

- Staff Updates-
- Board Member Updates
- Any other business brought before the board- Master Plan, NHDES Source Water Protection Grant

* Note: If you require personal assistance for audio, visual or other special aid, please contact the Selectmen's Office at least 72 hours prior to the meeting. If this meeting is postponed for any reason, it will be held at a time TBD.



TOWN OF RAYMOND

Planning Board Agenda

September 8, 2022

7:00 p.m. - Raymond High School

Media Center - 45 Harriman Hill

Work Session

5. Adjournment (NO LATER THAN 10:00 P.M.)

PLANNING BOARD MEETING DATES 2022	
Planning Board Meeting Dates	Projects Scheduled
September 01, 2022	Mountain Road, 603 Storage, Batchelder
September 8, 2022	Work Session
September 15, 2022	IC Reed, Mountain Road, Chadwick
October 06, 2022	
October 13, 2022	Work Session- Zoning Ordinances
October 20, 2022	
November 03, 2022	
November 10, 2022**	Work Session-Zoning Ordinances
November 17, 2022	
December 1, 2022	
December 8, 2022	Work Session-Zoning Ordinances
December 15, 2022	

**Quorum-Day before a holiday-long weekend.

* Note: If you require personal assistance for audio, visual or other special aid, please contact the Selectmen's Office at least 72 hours prior to the meeting. If this meeting is postponed for any reason, it will be held at a time TBD.

Raymond Planning Board



Rules of Procedure

(Revisions by Mitchell Municipal Group)

ADOPTED
04/21/2005

LAST AMENDED
06/24/2022

ARTICLE I – AUTHORITY AND MEETING BASICS

1.100 AUTHORITY

These Rules of Procedure have been adopted under the authority of RSA 676:1.

1.200 MEETING DATE, TIME, AND PLACE

Planning Board meetings are held every Thursday unless otherwise designated by the Chairman. All Planning Board meetings shall start no earlier than 7:00 p.m. unless otherwise specified. All Planning Board meetings shall be held in the Media Center at Raymond High School, located at 45 Harriman Hill Road, unless otherwise specified.

Public hearings shall be scheduled for the first and third Thursday of each month unless otherwise designated by the Chairman. Work sessions shall be scheduled for the second Thursday of each month unless otherwise designated by the Chairman.

ARTICLE II – BOARD MEMBERSHIP

2.100 MAKEUP OF BOARD

Planning Board Members shall be elected per RSA 673:2(II). The Board shall consist of seven (7) Members, one (1) of which is to be a Selectman serving as an ex officio Member. The Board may appoint up to five (5) Alternate Members, as authorized by RSA 673:6(II).

2.200 TERM LENGTH

Planning Board Members shall be elected to terms of three (3) years pursuant to RSA 673:5(II). The ex officio Member will be appointed by the Board of Selectmen at the first Selectmen’s meeting following the annual Town Election. Alternate Members shall be appointed to terms of three (3) years, which shall be staggered, in accordance with RSA 673:6(II). The Town Clerk shall record the appointment and expiration dates of the terms of each Member and Alternate Member.

2.300 OATH OF OFFICE

Each newly elected Member, and newly appointed Alternate Member must be sworn-in and take an Oath of Office in accordance with RSA 669:9 prior to being eligible to serve on the Board. Newly elected members will take their oath of office and receive their planning board materials at the Raymond Town Hall.

2.400 PROCESS FOR APPOINTMENT OF ALTERNATE MEMBERS

An announcement that the Planning Board is seeking Alternate Members will be made via print media; posted on the Town’s web site (<http://www.raymondnh.gov>); and/or announced verbally by the Chairman at Board meetings. The announcement will also be broadcast on Raymond Community TV (channel 13 and/or 22) if requested. Such announcement(s) will be made until all five (5) Alternate Member positions have been filled.

Interested residents shall declare their interest in serving as an Alternate Member to the Chairman at a posted meeting of the Board. The prospective Alternate Member must attend three (3) Planning Board meetings prior to consideration for appointment as an Alternate Member. Once three (3) meetings have been attended, the prospective Alternate Member will be interviewed by the Board and considered for appointment.

2.500 PROCESS FOR FILLING VACANT MEMBER SEATS

In the event that a Member’s seat becomes vacant due to resignation or any other reason, the Board shall appoint a new Member to sit in the vacant seat until the next Town Election, at which time the remainder of the vacated Member’s term shall be up for election, per RSA 673:12.

Alternate Members will be given first consideration when filling a vacant Member seat, and, whenever possible, a vacant seat will be filled by an Alternate Member before anyone else. Alternate Members will be considered for appointment to the Member’s vacant seat based upon the Alternate Member’s attendance at posted meetings and site walks. In the case of multiple Alternate Members having been appointed on the same date, the Alternate Member with the better attendance record will be considered for appointment to the vacant Member’s

seat. If another tiebreaker is needed, a coin flip shall determine which Alternate Member will be considered for appointment to the vacant Member's seat.

2.600 BOARD TRAINING WITH LEGAL COUNSEL

A training session with the Board's Legal Counsel will be scheduled within two (2) months of the conclusion of the annual Town Meeting. It is strongly recommended that all Board members attend the training with legal counsel.

2.700 INDIVIDUAL BOARD MEMBER TRAINING AND REFERENCE MATERIALS

Pursuant to RSA 673:3-a, it is recommended that any new Member of the Planning Board undertake six (6) hours of training within six (6) months of assuming their position on the Board for the first time.

The Community Development Department shall provide new Members with the following documents and reference materials and recommends that new Members review them.

The materials provided shall include but not be limited to:

- New Hampshire Planning & Land Use Regulation (RSA book)
- Town of Raymond Zoning Ordinance
- Town of Raymond Subdivision Regulations
- Town of Raymond Site Plan Review Regulations
- Town of Raymond Excavation Regulations
- Town of Raymond Floodplain Development Ordinance
- The Planning Board in New Hampshire – A Handbook for Local Officials (by the NH Office of Energy and Planning)

ARTICLE III – BOARD OFFICERS

3.100 PROCESS FOR ELECTING OFFICERS

During the first meeting following the annual Town Election, said meeting will be convened by the Town Planner or designee, who will then request nominations for the position of Chairman. The Town Planner or designee will then call for a vote on each person nominated in the order the nomination was received. This procedure will continue until a member receives a majority vote. Once a Member has been elected as Chairman, said Member shall then conduct elections for the positions of Vice Chairman and Secretary, in the manner described above.

3.200 CHAIRMAN

A Chairman shall be elected by a majority vote of the Board in the manner described in Article III, Section 3.100 of these Rules of Procedure. The Chairman shall preside over all meetings; shall prepare, with the assistance of the Board's staff, an annual report; and shall perform other duties customary to the office. The Chairman shall be responsible for conduct and decorum of the meeting. The Chairman shall also have the responsibility to ensure all parties receive a full and fair hearing before the Board, and to ensure that the Rules of Procedure and applicable State Laws are adhered to.

3.300 VICE CHAIRMAN

A Vice Chairman shall be elected by a majority vote of the Board in the manner described in Article III, Section 3.100 of these Rules of Procedure. The Vice Chairman shall preside in the absence of the Chairman and shall have the full powers of the Chairman on matters that come before the Board in the absence of the Chairman.

3.400 SECRETARY

A Secretary shall be elected by a majority vote of the Board in the manner described in Article III, Section 3.100 of these Rules of Procedure. The Secretary shall preside in the absence of both the Vice Chairman and the Chairman and shall have the full powers of the Chairman on matters that come before the Board in the absence of both the Vice Chairman and Chairman. The Secretary shall also be responsible for keeping minutes during posted meetings for which the Planning Technician and Town Planner or designee are not present. Additionally, the Secretary, or a Member designated by the Chairman or Vice Chairman in the absence of the Secretary, shall take minutes and photographs during all site walks.

3.500 INELIGIBILITY OF HOLDING OFFICE

Neither the Ex Officio Member, nor any Alternate Members shall be eligible to hold office.

ARTICLE IV – AGENTS OF THE BOARD

4.100 BOARD STAFF

The Board may appoint other agents, as necessary, to perform duties for the Board. The following are designated agents of the Board:

- a. **Town Planner or designee**– Shall serve as the Chairman of the Technical Review Committee for the review of land use applications and fulfill other duties as may be determined by the Planning Board. In the event that the Community Development Director (CDD) is absent or the CDD position is vacant, the Planning Technician shall serve in the CDD’s place.
- b. **Planning Technician** – Shall provide technical support, as needed, to the Technical Review Committee and Planning Board. The Planning Technician shall also take meeting minutes, issue notice for all meetings, and fulfill other duties as may be determined by the Planning Board and shall serve as chair of the TRC in the event of absence or vacancy of the Town Planner.
- c. **Code Enforcement Officer; Public Works Director; Fire Chief; Assistant Fire Chief; Police Chief, Town Engineer, or their Designees** – Shall be members of the Technical Review Committee for the review of land use applications.

ARTICLE V – MEMBER RESPONSIBILITIES

5.100 ATTENDANCE

Board Members and Alternate Members should attend every scheduled meeting and site walk. If a Member or Alternate Member will be unable to attend or will be tardy to a meeting or site walk, said Member or Alternate Member shall notify the Chairman, Town Planner (or designee) or Planning Technician as soon as possible. If notification is made, the Member can be granted an excused absence. Multiple unexcused absences shall be grounds for a request by the Board for resignation, though it is the sole discretion of that Member whether or not to resign.

5.200 DISQUALIFICATION OF MEMBER

If a Member becomes ineligible to serve on a specific case, per RSA 673:14, said Member shall notify the Chairman as soon as possible. The Chairman shall then designate an Alternate Member to serve in that Member's place. The ineligibility of a Member shall be announced prior to the start of the hearing. Any Board Member may request a non-binding vote of the Board on the ineligibility of another Member. This vote can only be requested by a Board Member; Alternate Members cannot require such a vote.

5.300 REMOVAL OF MEMBERS

Board Members and Alternate Members may be removed for inefficiency, neglect of duty or malfeasance in office per RSA 673:13.

5.400 CODE OF ETHICS

Board Members and Alternate Members are subject to the Town of Raymond Code of Ethics.

ARTICLE VI – NOTICE FOR PLANNING BOARD MEETINGS

6.100 AGENDAS

Agendas for Planning Board meetings shall be posted in the Town Office Lobby and in the display case located outside the Recreation/Public Works Office Building as well as on the town's website. Agendas shall be posted no later than 24 hours prior to the scheduled meeting. Agendas shall also be distributed to Members and Alternate Members no later than the Monday prior to the next meeting, unless otherwise specified.

6.200 LEGAL NOTICES

Public hearings held by the Planning Board on applications for subdivision and site plan review shall be noticed in accordance with RSA 675:7 and RSA 676:4(I)(d).

Public hearings held by the Planning Board on applications for an excavation permit shall be noticed in accordance RSA 155-E:7. The three (3) locations for posting notice, as specified within RSA 155-E:7 shall be as follows: (1) the Town Office Lobby; (2) the Display Case located outside the Recreation/Public Works Office Building; and (3) the Safety Complex.

6.300 LEGAL NOTICE OF ABUTTERS

All legal notices sent to abutters for public hearings before the Planning Board shall be sent via certified mail, return receipt requested.

6.400 ABUTTER RE-NOTIFICATION POLICY

An applicant shall be required to pay for the cost of abutter re-notification if:

- a. A public hearing is continued to a date more than 60 days from the current date.
- b. A public hearing is continued more than three (3) consecutive times.

ARTICLE VII – PLANNING BOARD MEETINGS

7.100 GENERAL PROVISIONS

- a. **QUORUM** – A quorum shall be the majority of the membership of the Planning Board, which may partially consist of any Alternate Members sitting in the place of regular Members.
- b. **MOTIONS** – A motion made, and duly seconded, shall only be carried by an affirmative vote of the majority of voting Members present. Voting Members may include any Alternate Members sitting in the place of regular Members.

7.200 SEATING OF ALTERNATE MEMBERS

The Chairman shall select an Alternate Member to sit in place of an absent, recused, or otherwise ineligible Member, on a rotating basis, as needed. Said Alternate Member shall remain seated as a Member of the Board until the regular Member can return to their seat. Only the Alternate Ex Officio Member may sit in place of the Ex Officio Member in his/her absence per RSA 673:11.

In the event an Alternate Member is chosen to sit in place of any absent Member during a public hearing, said Alternate Member may remain seated in the place of any absent Member until the Board renders a final decision on the topic at hand.

7.300 ROLE OF ALTERNATE MEMBERS

Alternate Members may ask questions and otherwise participate in all discussions, except those from which they recuse. When not sitting as a Member, Alternate Members shall not make, second or vote on any motions.

At planning board meetings, alternates who are not activated to fill the seat of an absent or recused member or who have not been appointed by the chair to temporarily fill the unexpired term of a vacancy, may participate with the board in a limited capacity. During a public hearing, alternates may sit at the table with the regular members and may view documents, listen to testimony, and actively participate and interact with other board members, the applicant, abutters, and the public. However, they shall not be allowed to make or second motions and shall not participate in any way during the deliberations by the board. Upon the close of the public hearing, alternates must remove themselves from the table and sit with other members of the public unless they are sitting in place of another member. During work sessions or portions of meetings that do not include a public hearing, alternates may fully participate, exclusive of any motions or votes that may be made. At all times, the chair shall fully inform the public of the status of any alternate present and identify the members who shall be voting on the application.

7.400 DECORUM OF THE MEETING

The Planning Board has only those powers granted to it; it cannot usurp powers belonging to another Town body, or the Town as a whole (RSA 674:1). The Chairman is responsible for conduct and decorum of the meeting. All persons speaking should address only the Board, through the Chairman. The Chairman will not allow cross-witness arguments or cross-examination. Questions may be raised (e.g. abutter question to an applicant), but the questioner should address the Chairman; the Chairman will repeat the question in a

manner which is impartial and seeks the type of information the Board needs to make its decision.

Board Members and Alternate Members will conduct themselves in a polite manner. Disagreements on positions are to be expected, but all Members and Alternate Members should interact with each other, applicants, expert witnesses and the public with respect. The Chairman may ask a Member or Alternate Member to refrain from negative behavior. Upon any negative or unruly behavior by the public, The Chairman may request that a member of the public stop talking at once and may request that the person leave the room. An applicant may be warned that the hearing in progress will cease and be continued to a later date.

7.500 CONDUCT OF PUBLIC HEARINGS

Public hearings shall be conducted in the following manner:

- a. The public hearing is called to order, and the legal notice is read aloud by the Chairman. The Chairman will announce which Members are absent and declare whether their absence is excused or unexcused. The Chairman will then announce which Alternate Member(s) will be seated as Members.
- b. Any Board Member or Alternate Member needing to make a disclosure or needing to recuse from the hearing shall do so at this time.
- c. The List of Abutters is read by the Planning Technician. Any abutters present claiming not to have received notification, and whose claim is substantiated, may sign a form agreeing to waive the requirement that they be notified prior to the public hearing taking place. If the abutter is not present, declines to sign the waiver, or if an error is found after the meeting, then the required notice must be provided, and the review process begun again. Any failure to notice should be corrected as soon as it is discovered, before the Board proceeds.
- d. The Town Planner or designee gives their report to the Board.
- e. The Board motions to accept the application as complete for review purposes.
- f. Presentation by the Applicant and/or Applicant's Agent(s).
- g. Determination of Regional Impact per RSA 36:55.
- h. Planning Board Member questions (no deliberation currently).
- i. Planning Board Alternate Member questions (no deliberation at this time).
- j. Abutter questions and/or comments.
- k. Public questions and/or comments.
- l. All those who wish to speak shall come before the Board and state their name and address for public record.

- m. Closing remarks by the Applicant and/or the Applicant's Agent(s).
- n. Any further questions from the Board.
- o. Public hearing closed by the Chairman.
- p. Deliberative session begins.
- q. Planning Board action. The hearing may be continued to a date and time certain, the Board may approve, with or without conditions, or the Board may deny with written reasons for the disapproval in accordance with RSA 676:3.

7.600 CONDUCT OF SITE WALKS

A site walk shall be considered a public meeting. Therefore, notice shall be required, as well as minutes taken, and the public shall be allowed to attend and observe. If the Applicant refuses site access to the Board, or to the non-Board public, then such action may be a basis for denial of an application without prejudice. Individual Board Members may visit a site with permission from an Applicant, so long as they are accompanied by a Town staff member, and as long as there is no quorum of the Board, the provisions of RSA 91-A do not apply.

The purpose of a site walk is to review the plan and/or specific aspects that can be better understood through observation. Questions should be limited to the plan and no deliberation shall take place. Planning Board Members, Staff, the Applicant and the public should stay in close proximity so that all questions can be documented in the minutes.

ARTICLE VIII – JOINT MEETINGS AND HEARINGS

8.100 PROCEDURE FOR HOLDING A JOINT MEETING OR HEARING

Pursuant to RSA 676:2, a joint meeting or hearing may be requested with other boards including but not limited to the Planning Board, Zoning Board of Adjustment, Historic District Commission, and Conservation Commission when the subject matter of the meeting or the requested permit is within the responsibilities of the boards convened.

It is recommended that the Planning Board, Zoning Board of Adjustment, Conservation Commission, Raymond Business and Economic Development Council and/or any other Board or Committee, at the discretion of the Planning Board, meet at least once a year to discuss necessary and/or possible amendments to the Zoning Ordinance, and to assess how the application review and hearing process works in the Community. In addition, joint meetings can provide the participating boards with an opportunity to hear the same presentation and, perhaps, get a more complete picture of what is being proposed. This procedure can also simplify and streamline the process for the applicant.

Joint meetings or hearings are subject to the following:

- a. An applicant seeking a local permit may petition two (2) or more land use boards to hold a joint meeting or hearing.
- b. Each board shall have the authority on its own initiative to request a joint meeting or hearing.
- c. Each board shall have the discretion as to whether or not to hold a joint meeting or hearing.
- d. Each board must adopt rules of procedure relative to joint meetings and hearings.

8.200 RULES OF PROCEDURE FOR JOINT MEETINGS OR HEARINGS

- a. The Planning Board Chairman shall chair such joint meetings or hearings unless it is not involved in the particular application. Where not involved, the Zoning Board of Adjustment (ZBA) Chairman shall chair the joint meeting. If the ZBA is also not involved, the appropriate agencies which are involved shall determine which Board shall be in charge.
- b. Procedures for joint meetings or hearings relating to testimony, notice of hearings, and filing of decisions shall be consistent with the procedures established for individual boards.
- c. Every local land use board shall be responsible for rendering a decision on the subject matter which is within its jurisdiction based on the criteria for that board.

8.300 PLANNING BOARD ORDER FOR JOINT MEETINGS AND HEARINGS

- a. Call to order by the Planning Board Chairman.

- b. Introduction of all participating boards and their members.
- c. Explanation of type and purpose of joint meeting or hearing, and review of procedural order to be followed (continue any procedures in Article VII, Section 7.500, if applicable).
- d. Presentation of proposal by the Applicant and/or Applicant's Agent(s).
- e. Questions to the Applicant from each board. (Encourage boards to address separately the issues unique to each board).
- f. Questions to the applicant from the public directed through the Planning Board Chairman
- g. Closing remarks by the Applicant and/or the Applicant's Agent(s).
- h. Further questions from the Board(s).
- i. Public hearing closed by the Planning Board Chairman.
- j. Land use boards' discussion
- k. Decisions (if applicable)
- l. Adjournment

ARTICLE IX – PLANNING BOARD DECISIONS

9.100 PROCEDURE FOR ISSUING DECISIONS

The Board shall act on an application in accordance with RSA 676:4.

A written Notice of Decision shall be issued in accordance with RSA 676:3.

ARTICLE X – PLANNING BOARD RECORDS

10.100 RECORD KEEPING

The records of the Planning Board shall be kept by the Planning Technician and made available for public inspection at the Community Development Department Office.

10.200 MEETING MINUTES

Planning Board minutes shall include:

- a. The names of members and alternate members present,
- b. The names of persons appearing before the public body,
- c. A brief description of the subject matter discussed,
- d. The names of each members' vote, and
- e. A clear description of all final decisions.

The minutes shall not be word for word transcript.

Planning Board meeting minutes shall be open to public inspection as required by RSA 91-A:2(II). Any means utilized to prepare the minutes shall be retained for five years and made available for public inspection per RSA 91-A. After five years supporting media may be destroyed.

ARTICLE XI – AMENDMENTS



11.100 PROCEDURE TO AMEND THE RULES OF PROCEDURE

These Rules of Procedure may be amended by a majority vote of the Members of the Planning Board in accordance with RSA 676:1, provided that any amendments are read at a regular meeting of the Board. Amended Rules of Procedure shall be placed on file with the Town Clerk.

5.2 Groundwater Conservation Overlay District (**Proposed Amendments 2023**)

Language added

~~Existing language to be removed~~

5.2.1. AUTHORITY: The Town of Raymond hereby adopts this Ordinance pursuant to the authority granted, under [RSA 674:16, II](#) relative to innovative land use controls. ~~The provisions of the Groundwater Conservation Overlay District shall be administered by the Planning Board.~~

5.2.2. PURPOSE: The purpose of this Ordinance is, in the interest of public health, safety, and general welfare, to preserve, maintain, and protect from contamination existing and potential groundwater supply areas and to protect surface waters that are fed by groundwater. The purpose is to be accomplished by regulating land uses which could contribute pollutants to designated wells, ~~including private wells,~~ and/or aquifers identified as being needed for present and/or future public water supply.

5.2.3. DISTRICT BOUNDARIES: The Groundwater Conservation District is an Overlay District which is superimposed over the existing underlying zoning and includes:

- ~~• the Wellhead Protection Areas identified in the Town's Wellhead Protection Program dated May, 1992 and the Town's Source Water Protection Plan dated November, 2009 and as may be designated by NH Department of Environmental Services (NH DES), including those areas currently identified as GAA, GA1 and GA2 and the Stratified-Drift Aquifer(s) shown on the map entitled "Combined Aquifer, Surficial Geology and Wellhead Protection Areas" dated February 2009 (Map 4) included in the Town of Raymond's Source Water Protection Plan dated November, 2009 and as may be amended from time to time by the Raymond Planning Board². Copies of these reports and maps shall be kept on file with the Raymond Community Development Department.~~
- All Wellhead Protection Areas (WHPA) for Public Water Systems as defined by this ordinance as defined by the New Hampshire Department of Environmental Services.
- All groundwater areas designated by NH Department of Environmental Services (NH DES), including those areas currently identified as GAA, GA1 and GA2 under RSA 485-C
- Stratified-Drift Aquifers in the Exeter, Lamprey, and Oyster River Basins - US Geological Survey Open-File Report 92-95, "Geohydrologic and Ground-Water-Quality Data for Stratified-Drift Aquifers in the Exeter, Lamprey, and Oyster River Basins, Southeastern New Hampshire."
- Stratified-Drift Aquifers in the Lower Merrimack and Coastal River Basins - US Geological Survey Water-Resources Investigations Report 91-4025, "Geohydrology and Water Quality of Stratified-Drift Aquifers in the Lower Merrimack and Coastal River Basins, Southeastern New Hampshire."

5.2.4. Appeals: Where the bounds of the identified aquifer or recharge area, as delineated, are in doubt or in dispute, any landowner aggrieved by such delineation may appeal the boundary location to the Planning Board. Upon receipt of such appeal, the Planning Board shall suspend further action on development plans related to the area under appeal and shall engage, at the landowner's expense, a qualified hydrogeologist to prepare a report determining the proper location and extent of the aquifer and recharge area relative to the property in question. The aquifer delineation shall be modified by such determination

subject to review and approval by the Planning Board.

5.2.5. DEFINITIONS

5.2.5.1. AQUIFER: A geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

5.2.5.2. "GAA": Means "GAA" as defined in [RSA 485-C:5,I](#), namely "groundwater in this class is within the wellhead protection area for wells which presently are used or well sites which have been identified for future use as drinking water supply for public water systems."

5.2.5.3. "GA1": Means "GA1" as defined in [RSA 485-C:5,I](#), namely "groundwater in a defined zone of high value for present or future drinking water supply."

5.2.5.4. "GA2": Means "GA2" as defined in [RSA 485-C:5,I](#), namely "groundwater within aquifers identified as highly productive for potential use as a public water supply by the U.S. Geological Survey regional groundwater studies, or other regional studies."

5.2.5.5. GASOLINE STATION: Means that portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale of gasoline.

5.2.5.6. GROUNDWATER: Subsurface water that occurs beneath the water table in soils and geologic formations.

5.2.5.7. IMPERVIOUS: Not readily permitting the infiltration of water.

5.2.5.8. IMPERVIOUS SURFACE: A surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Asphalt; earthen, wooden, or gravel surfaces; or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious.

5.2.5.9. JUNKYARD: An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary landfills. The word does not include any motor vehicle dealers registered with the director of motor vehicles under [RSA 261:104](#) and controlled under [RSA 236:126](#).

5.2.5.10. OUTDOOR STORAGE: Storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.

5.2.5.11. PETROLEUM BULK PLANT or TERMINAL: Means that portion of the property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline tank car, tank vehicle, portable tank, or container.

5.2.5.12. PUBLIC WATER SYSTEM: A system for the provision to the public of piped water

- 104 for human consumption, if such system has at least fifteen (15) service
105 connections or regularly serves an average of at least twenty-five (25)
106 individuals daily at least sixty (60) days out of the year.
107
- 108 5.2.5.13. REGULATED SUBSTANCE: Petroleum, petroleum products, and substances
109 listed under 40 CFR 302, 7-1-05 edition, excluding the following substances: (1)
110 ammonia, (2) sodium hypochlorite, (3) sodium hydroxide, (4) acetic acid, (5)
111 sulfuric acid, (6) potassium hydroxide, (7) potassium permanganate, and (8)
112 propane and other liquefied fuels which exist as gases at normal atmospheric
113 temperature and pressure.
114
- 115 5.2.5.14. SANITARY PROTECTIVE RADIUS: The area around a well which must be
116 maintained in its natural state as required by [Env-Dw 301](#) or [Env-Dw 302](#) (for
117 community water systems) and [Env-Ws 373.12](#) and [Env-Ws 372.14](#) (for other
118 public water systems).
119
- 120 5.2.5.15. SECONDARY CONTAINMENT: A structure such as a berm or dike with an
121 impervious surface which is adequate to hold at least one-hundred ten percent
122 (110%) of the volume of the largest regulated-substances container that will be
123 stored there.
124
- 125 5.2.5.16. SNOW DUMP: For the purposes of this Ordinance, a location where snow which
126 is cleared from roadways and/or motor vehicle parking areas is placed for
127 disposal.
128
- 129 5.2.5.17. SOURCEWATER: Ground water or surface water, in its natural state, prior to any
130 treatment for drinking.
131
- 132 5.2.5.18. STRATIFIED DRIFT AQUIFER: A geologic formation of predominantly well-sorted
133 sediment deposited by or in bodies of glacial melt water, including gravel, sand,
134 silt, or clay, which contains sufficient saturated permeable material to yield
135 significant quantities of water to wells.
136
- 137 5.2.5.19. SURFACE WATER: Streams, lakes, ponds and tidal waters, including marshes,
138 water courses and other bodies of water, natural or artificial.
139
- 140 5.2.5.20. WELLHEAD PROTECTION AREA: The surface and subsurface area surrounding a
141 water- well or well field supplying a community public water system, through
142 which contaminants are reasonably likely to move toward and reach such
143 water-well or well field.
144
- 145 5.2.6. APPLICABILITY: This Ordinance applies to all uses in the Groundwater Conservation District,
146 except for those uses exempt under [Section 5.2.19](#) of this Ordinance.
147
- 148 5.2.7. PERFORMANCE STANDARDS: The following Performance Standards apply to all uses in the
149 Groundwater Conservation District unless exempt under [Section 5.2.19](#):
150
- 151 5.2.7.1. For any use that will render impervious more than fifteen percent (15%) or
152 more than 2,500 square feet of any lot, whichever is less, a stormwater
153 management plan shall be prepared which the Planning Board determines is
154 consistent with the [New Hampshire Stormwater Manual: Volume I -
155 Stormwater and Antidegradation; Volume II - Post- Construction Best](#)

156 [Management Practices Selection and Design](#) and; [Volume III - Erosion and](#)
157 [Sediment Controls During Construction](#), NH Department of Environmental
158 Services, December 2008.

159
160 5.2.7.2. Conditional Uses, as defined under [Section 5.2.11](#) of this Ordinance shall
161 develop stormwater management and pollution prevention plans and include
162 information consistent with the handbook entitled [Stormwater Management](#)
163 [for Industrial Activities: Developing Pollution Prevention Plans and Best](#)
164 [Management Practices](#) (US EPA, 1992). The plan shall demonstrate that the use
165 will:

166
167 5.2.7.2.1. Minimize through a source control plan that identifies pollution
168 prevention measures, the release of regulated substances into
169 stormwater;

170
171 5.2.7.2.2. Demonstrate that recharge to groundwater will not result in
172 violation of Ambient Groundwater Quality Standards ([Env-Ws](#)
173 [410.05](#)) at the property boundary;

174
175 5.2.7.2.3. Stipulate that expansion or redevelopment activities shall
176 require an amended stormwater plan and shall not infiltrate
177 stormwater through areas containing contaminated soils
178 without completing a Phase I Assessment in conformance with
179 ASTM E 1527-05, also referred to as All Appropriate Inquiry
180 (AAI).

181
182 5.2.7.2.4. Maintain a minimum of four feet vertical separation between
183 the bottom of a stormwater practice that infiltrates or filters
184 stormwater and the average seasonal high water table as
185 determined by a licensed hydrogeologist, soil scientist, engineer
186 or other qualified professional as determined by the Planning
187 Board.

188
189 5.2.7.2.5. Animal manures, fertilizers, and compost must be stored in
190 accordance with the [Manual of Best Management Practices for](#)
191 [Agriculture in New Hampshire](#), NH Department of Agriculture,
192 Markets, and Food (June 2011), and subsequent revisions.

193
194 5.2.7.2.6. All regulated substances stored in containers with a capacity of
195 more than 5 gallons must be stored in product-tight containers
196 on an impervious surface designed and maintained to prevent
197 flow to exposed soils, floor drains, and outside drains.

198
199 5.2.7.2.7. Facilities where regulated substances are stored must be
200 secured against unauthorized entry by means of a door(s)
201 and/or gate(s) which are locked when authorized personnel are
202 not present and must be inspected weekly by the facility owner.

203
204 5.2.7.2.8. Outdoor storage areas for regulated substances, associated
205 material or waste must be protected from exposure to
206 precipitation and must be located at least 75 feet from surface
207 water or storm drains, wetlands, private wells and outside the

208 sanitary protective radius of wells used by public water systems.

209
210 5.2.7.2.9. Secondary containment must be provided for outdoor storage
211 of regulated substances if an aggregate of more than 275
212 gallons of regulated substances are stored outdoors on any
213 particular property.

214
215 5.2.7.2.10. Containers in which regulated substances are stored must be
216 clearly and visibly labeled and must be kept closed and sealed
217 when material is not being transferred from one container to
218 another.

219
220 5.2.7.2.11. Prior to any land disturbing activities, all inactive wells on the
221 property, not in use or properly maintained at the time the plan
222 is submitted, shall be considered abandoned and must be
223 sealed in accordance with We 604 of the New Hampshire Water
224 Well Board Rules.

225
226 5.2.7.2.12. **Blasting activities shall be planned and conducted to minimize
227 groundwater contamination. Excavation activities should be
228 planned and conducted to minimize adverse impacts to
229 hydrology and the dewatering of nearby drinking water supply
230 wells.**

231
232 5.2.7.2.13. **All transfers of petroleum from delivery trucks and storage
233 containers over five gallons in capacity shall be conducted over
234 an impervious surface having a positive limiting barrier at its
235 perimeter.**

236
237 5.2.8. SPILL PREVENTION, CONTROL AND COUNTERMEASURE (SPCC) PLAN: Conditional Uses, as
238 described under [Section 5.2.14](#) of this Ordinance shall submit a spill control and
239 countermeasure (SPCC) plan to the Technical Review Committee (TRC) who shall
240 determine whether the plan will prevent, contain, and minimize releases from ordinary or
241 catastrophic events such as spills, floods or fires that may cause large releases of regulated
242 substances. It shall include:

243
244 5.2.8.1. A description of the physical layout and a facility diagram, including
245 all surrounding surface waters and wellhead protection areas;

246
247 5.2.8.2. Contact list and phone numbers for the facility response coordinator,
248 cleanup contractors, and all appropriate federal, state, and local
249 agencies who must be contacted in case of a release to the
250 environment;

251
252 5.2.8.3. A list of all regulated substances in use and locations of use and
253 storage;

254
255 5.2.8.4. A prediction of the direction, rate of flow, and total quantity of
256 regulated substance that could be released where industry
257 experience indicates a potential for equipment failure;

258
259 5.2.8.5. A description of containment and/or diversionary structures or
260 equipment to prevent regulated substances from infiltrating into the

- 261 ground; and
262
263 5.2.8.6. Emergency response plan describing and assigning responsibilities
264 and actions to be taken
265
266 5.2.9. REPORT OF RESOLUTION: Upon resolution of the response to a spill, the organization
267 responsible for the premises shall provide a complete Report of Resolution to the Raymond
268 TRC outlining actions taken and clearances provided by pertinent local, state and federal
269 agencies.
270
271 5.2.10. USE OF DEICING MATERIALS: There shall be minimal use of deicing chemicals on all public and private
272 roads, and parking lots within this District, and those compounds used shall be free of sodium and
273 chloride to the extent possible.
274
275 5.2.11. HYDROGEOLOGIC STUDY: The Planning Board shall determine, on a case-by-case basis, the
276 need for a hydrogeologic study for any development within the Groundwater Conservation
277 Overlay District. This determination shall consider the sensitivity of the site including, but
278 not limited to, areas that have septic systems in close proximity to wells -- including public
279 supply wells, irrigation wells, residential wells, and monitoring wells -- or that may contain
280 excessively drained soils or steep slopes. Costs for the above mentioned services shall be
281 charged to the applicant. Requirements for a hydrogeologic study shall include the
282 following:
283
284 5.2.11.1. The hydrogeologic study shall be performed by a NH licensed geologist
285 specializing in hydrogeology.
286
287 5.2.11.2. The hydrogeologic study shall evaluate the development's impact on
288 groundwater within both the parcel to be developed and surrounding land.
289 Beyond the property lines of said site groundwater quality shall not be
290 degraded by polluting substances such as, but not limited to, nitrates,
291 phosphates, bacteria, etc. Larger lots may be required based on the findings of
292 this study.
293
294 5.2.12. PERMITTED USES: All uses permitted by right or allowed by special exception in the
295 underlying district are permitted in the Groundwater Conservation District unless they are
296 Prohibited Uses or Conditional Uses. All uses must comply with the Performance Standards
297 unless specifically exempt under [Section 5.2.19](#).
298
299 5.2.13. PROHIBITED USES: The following uses are prohibited in the Groundwater Conservation District:
300
301 5.2.13.1. The siting or operation of a hazardous waste disposal facility as defined under [RSA 147-A](#);
302
303 5.2.13.2. The siting or operation of a solid waste landfill;
304
305 5.2.13.3. The siting or operation of a junkyard;
306
307 5.2.13.4. The siting of a snow dump;
308
309 5.2.13.5. The siting or operation of a wastewater or septage lagoon; and
310
311 5.2.13.6. The siting or operation of a sludge monofill or sludge composting facility.
312

- 313 5.2.13.7. The outdoor storage of road salt or other deicing chemicals in bulk;
314
315 5.2.13.8. The development or operation of gasoline stations. Development or expansion of other
316 uses or activities on the site that do not involve the dispensing of petroleum products for
317 retail purposes are permitted provided they comply with the Town of Raymond's Zoning
318 Ordinance
319
- 320 5.2.14. CONDITIONAL USES: The issuance of a Conditional Use Permit is subject to Site Plan
321 Approval by the Planning Board. The Planning Board may grant a Conditional Use Permit
322 for a use that is otherwise permitted within the underlying district, if the permitted use is
323 or is involved in one or more of the following:
324
- 325 5.2.14.1. Storage, handling, and use of regulated substances in quantities exceeding 100
326 gallons or 800 pounds dry weight at any one time, provided that an adequate
327 spill prevention, control and countermeasure (SPCC) plan prepared in
328 accordance with [Section 5.2.8](#) by a qualified professional, submitted to the
329 Technical Review Committee for review and approval, with the final plan also
330 submitted to the Raymond Fire Department and the Raymond Community
331 Development Department for its records. The Technical Review Committee
332 may employ the services of a qualified peer review professional to review the
333 plan at the applicant's expense.
334
- 335 5.2.14.2. Any use that will render impervious more than 15% or 2,500 square feet of any
336 lot, whichever is greater.
337
- 338 ~~5.2.14.3. In granting such approval the Planning Board must first determine that the~~
339 ~~proposed use is not a prohibited use and will be in compliance with the~~
340 ~~Performance Standards as well as all applicable local, state and federal~~
341 ~~requirements. The Planning Board may, at its discretion, require a performance~~
342 ~~guaranty or bond, in an amount and with surety conditions satisfactory to the~~
343 ~~Board, to be posted to ensure completion of construction of any facilities~~
344 ~~required for compliance with the Performance Standards. The amount of this~~
345 ~~bond shall be in addition to any other bond required by the Board under either~~
346 ~~the Subdivision or Site Plan Review Regulations.~~
347
- 348 5.2.15. The Planning Board may grant a Conditional Use Permit for those uses listed above only
349 after written findings of fact are made that all the following are true:
350
- 351 5.2.15.1. The proposed use will not detrimentally affect the quality of the groundwater
352 contained in the aquifer by directly contributing to pollution or by increasing
353 the long-term susceptibility of the aquifer to potential pollutants.
354
- 355 5.2.15.2. The proposed use will not cause a significant reduction in the long-term volume
356 of water contained in the aquifer or in the storage capacity of the aquifer;
357
- 358 5.2.15.3. The proposed use will discharge no wastewater on site other than that typically
359 discharged by domestic waste water disposal systems and will not involve
360 onsite storage or disposal of toxic or hazardous wastes as herein defined;
361
- 362 5.2.15.4. The proposed use complies with all other applicable sections of this Section
363 5.2.6
364
- 365 5.2.16. In granting such approval the Planning Board must first determine that the proposed use is

- 366 not a prohibited use and will be in compliance with the Performance Standards as well as
367 all applicable local, state and federal requirements. The Planning Board may, at its
368 discretion, require a performance guaranty or bond, in an amount and with surety
369 conditions satisfactory to the Board, to be posted to ensure completion of construction of
370 any facilities required for compliance with the Performance Standards. The amount of this
371 bond shall be in addition to any other bond required by the Board under either the
372 Subdivision or Site Plan Review Regulations.
373
- 374 5.2.17. EXISTING NON-CONFORMING USES: Existing nonconforming uses may continue without
375 expanding or changing to another nonconforming use, but must be in compliance with all
376 applicable state and federal requirements, including [Env-Ws 421](#), Best Management
377 Practices Rules. However, under no circumstances will a nonconforming use be permitted
378 when a continuance of that use presents a risk to public health and/or safety.
379
- 380 5.2.18. EXEMPTIONS: The following uses are exempt from the specified provisions of this ordinance
381 as long as they are in compliance with all applicable local, state, and federal requirements:
382
- 383 5.2.18.1. Any private residence is exempt from all Performance Standards.
384
- 385 5.2.18.2. Any business or facility where regulated substances are stored in containers
386 with a capacity of five (5) gallons or less is exempt from Performance Standards
387 [Sections 5.2.7.2.7](#) through [5.2.7.2.10](#).
388
- 389 5.2.18.3. Storage of heating fuels for on-site use or fuels for emergency electric
390 generation, provided that storage tanks are indoors on a concrete floor or have
391 corrosion control, leak detection, and secondary containment in place, is
392 exempt from Performance Standards [Section 5.2.7.2.7](#).
393
- 394 5.2.18.4. Storage of motor fuel in tanks attached to vehicles and fitted with permanent
395 fuel lines to enable the fuel to be used by that vehicle is exempt from
396 Performance Standards [Section 5.2.7.2.7](#) through [5.2.7.2.10](#).
397
- 398 5.2.18.5. Storage and use of office supplies is exempt from Performance Standards [Section](#)
399 [5.2.7.2.7](#) through [5.2.7.2.10](#).
400
- 401 5.2.18.6. Temporary storage of construction materials on a site where they are to be
402 used is exempt from Performance Standards [Section 5.2.7.2.7](#) through
403 [5.2.7.2.10](#)
404
- 405 5.2.18.7. The sale, transportation, and use of pesticides as defined in [RSA 430:29 XXVI](#)
406 are exempt from all provisions of this Ordinance.
407
- 408 5.2.18.8. Household hazardous waste collection projects regulated under NH Code of
409 Administrative Rules [Env-Wm 401.03\(b\)\(1\)](#) and [501.01\(b\)](#) are exempt from
410 Performance Standards [Section 5.2.6.2.6](#) through [5.2.6.2.9](#).
411
- 412 5.2.18.9. Underground storage tank systems and above ground storage tank systems
413 that are in compliance with applicable state rules are exempt from inspections
414 under [Section 5.2.22](#) of this ordinance.
415
- 416 ~~5.2.18.10. AMENDMENTS TO MAP: The Planning Board, after a public hearing held in~~

417 ~~accordance with RSA 675:6, may revise the "Combined Aquifer, Surficial~~
418 ~~Geology and Wellhead Protection Areas" map, as may be recommended from~~
419 ~~time to time by the New Hampshire Department of Environmental Services.~~
420

421
422 5.2.19. RELATIONSHIP BETWEEN STATE AND LOCAL REQUIREMENTS: Where both the State and
423 the municipality have existing requirements the more stringent shall govern.
424

425 5.2.20. MAINTENANCE AND INSPECTION

426
427 5.2.20.1. For uses requiring planning board approval for any reason, a narrative
428 description of maintenance requirements for structures required to comply
429 with Performance Standards shall be recorded so as to run with the land on
430 which such structures are located, at the Registry of Deeds for Rockingham
431 County. The description so prepared shall comply with the requirements of [RSA](#)
432 [478:4-a](#).
433

434 5.2.20.2. Inspections may be required to verify compliance with Performance Standards.
435 Such inspections shall be performed by the Director of Public Works or designee
436 at reasonable times with prior notice to the landowner.
437

438 5.2.20.3. All properties within the Groundwater Conservation District known to be using
439 or storing regulated substances in containers with a capacity of greater than 5
440 gallons, except for facilities where all regulated substance storage is exempt
441 from this Ordinance under [Section 5.2.18](#), shall be subject to inspections under
442 this Section.
443

444 5.2.20.4. The Board of Selectmen may require a fee for compliance inspections. The fee
445 shall be paid by the property owner. A fee schedule shall be established by the
446 Board of Selectmen as provided for in [RSA 41:9-a](#).
447

448 5.2.21. ENFORCEMENT PROCEDURES AND PENALTIES: Any violation of the requirements of this
449 ordinance shall be subject to the enforcement procedures and penalties detailed in [NH](#)
450 [RSA 676](#).
451

452 5.2.22. SAVING CLAUSE: If any provision of this ordinance is found to be unenforceable, such
453 provision shall be considered separable and shall not be construed to invalidate the
454 remainder of the Ordinance.
455

456 5.2.23. EFFECTIVE DATE: This ordinance shall be effective upon adoption by the municipal governing body.
457
458

459 *All page and section numbers will be updated

Changes to Planning & Zoning Laws in 2022: *A Guide for Municipalities*



New Hampshire Department of
**BUSINESS AND
ECONOMIC AFFAIRS**

*A Joint Advisory of the New Hampshire Municipal Association and the New Hampshire Office of Planning and Development at the
Department of Business and Economic Affairs*

July 2022



In the fall of 2019, the Governor’s Housing Task Force published a set of recommended legislative changes to address the housing shortage including additional training and tools for communities. These recommendations were incorporated into HB 1629 and HB 1632 in 2020, HB 586 in 2021, and SB 400 in 2022. After much negotiating, some provisions of SB 400, were attached to **HB 1661** and became law.

The new law will have significant effects on how municipal land use boards conduct business. In addition, a new law was passed relative to local regulation of properties used primarily for religious purposes. That bill, **HB 1021**, is also summarized below.

Summary of Changes Pursuant to HB 1661

- **Section 70: *Training*** – Replaces existing language on permissible training offered by the Office of Planning and Development (OPD) with new language which clarifies that any planning board or zoning board of adjustment (ZBA) member (including alternate members) may receive training from OPD or another organization, such as NHMA, which offers such training. Also requires OPD to develop specific, optional training materials and corresponding tests for planning board and ZBA members. **This change goes into effect on August 23, 2022.**
- **Section 71: *Publication of Fees*** – Requires that any fee which a city or town imposes on an applicant shall be published in a location accessible to the public during normal business hours or the fee shall be waived. A city or town may comply with the publication requirement by publicly posting a list of fees at the city or town hall or by publishing a list of fees on the city or town’s internet website. A separate document labeled as “Notice of Land Use Board Fees under RSA 673:16, III” should be created that provides a complete listing of fees charged for land use board applicants before the planning board, zoning board of adjustment, historic district commission, building inspector, and building code board of appeals. **This change goes into effect on August 23, 2022.**

- **Section 72: *Incentives*** – Gives municipalities that offer increased density, reduced lot size, expedited approval, or other dimensional or procedural incentives to housing for older persons a one-year period (until July 1, 2023) to make any adjustments to those incentives before they automatically apply to developments of workforce housing.
- **Section 73: *Written Findings*** – Expands language requiring local land use boards (planning boards, zoning boards of adjustment, historic district commissions, building inspectors, and building code boards of appeal, agricultural commissions, and housing commissions) to provide specific written findings of fact that support an approval or disapproval. The degree in which a local land use board should make detailed findings of fact in support of an approval may vary based on the level of controversy associated with the application. If there is a level of controversy, the board should consult with their town counsel to prepare complete and legally sound findings of fact. In general, the board should be clear with identifying how the application meets their regulation and checklist requirements for the findings of fact portion of the approval. Findings of fact should not replace conditions of approval. For denials, a local land use board should consider what are the things about the application that is preventing it from saying yes. These things should be anchored in the standards of the regulations and describe how the application does not meet the standards of the regulations; but may also include the exercise of independent judgment, experience, and knowledge of the area by the board. The findings of fact should be complete, so that (1) a reviewing court knows all of your reasons, and (2) the applicant has instructions if they want to try a second time. The board should always enlist their town counsel to aid in the issuance of the findings of fact. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, unless other grounds exist for disapproval. **This change goes into effect on August 23, 2022.**
- **Section 74: *ZBA Timeline*** – Provides that a ZBA has 90 days to begin consideration and approve or disapprove of an application, unless the applicant agrees to an extension. If the ZBA determines that it lacks sufficient information to make a final decision on an application and the applicant does not consent to an extension, the board may deny the application without prejudice, allowing the applicant to reapply for the same relief. **This change goes into effect on August 23, 2022.**
- **Section 75: *Planning Board Timeline*** – Continues to allow a planning board to have 30 days to determine whether an application is complete but clarifies that the statutory timeframe for acting on a completed application is 65 days.* If the planning board determines that it lacks sufficient information to make a final decision on an application and the applicant does not consent to an extension, the board may deny the application without prejudice, allowing the applicant to reapply. If the planning board does not act on the application within the 65-day period, then the governing body is required to approve the application. Failure of the governing body to approve the application allows the applicant to appeal to the superior court, which must act within 30 days and may order the municipality to pay the applicant’s reasonable costs, including attorney’s fees, if it finds that the governing body’s failure to act was unjustified.

*2021's **HB 332**, which was signed into law, extended the planning board's deadline to act by 30 days where the board determined that the development was one of regional impact. HB 1661 introduced a grammatical error into the statute. There was no intent on the part of the drafters to remove the additional 30 days for developments of regional impact, and the statute should continue to be read to *include* the additional 30 days in the case of developments of regional impact. As such, the planning board has a total of 95 days (65 + 30) in the case of developments of regional impact to act upon the application. **This change goes into effect on January 1, 2023.**

- **Section 76: *90-Day Extension Eliminated*** – Eliminates the ability of the planning board to request an extension from the governing body to take final action on an application. Prior law allowed the planning board to petition the governing body to extend the time to act on an application by 90 days. Now, the law reads that for the planning board to have more than 65 days (or 95 days in the case of developments of regional impact) to act upon an application, the applicant must waive the statutorily specified time period, and the board and applicant must agree upon the time of the extension. **This change goes into effect August 23, 2022.**
- **Section 77: *Fee Shifting & Bond*** – Allows the superior court to require a bond from the appealing party whenever an appeal is filed and allows the court to award attorney's fees and costs to the prevailing party. However, attorney's fees and costs are not allowed against the party appealing the land use board's decision or the local land use board unless that person or body acted with gross negligence, in bad faith, or with malice in either filing the appeal or making the decision. **This change goes into effect August 23, 2022.**
- **Section 78: *Acquiring Property for Workforce Housing*** – Expands the definition of "public use" under the Tax Increment Finance (TIF) statute, RSA chapter 162-K, to allow any party including a municipality to acquire real property – except by eminent domain – for the purpose of constructing housing units which meet the statutory definition of workforce housing. Said construction may occur either through private development or private commercial enterprise. **This change goes into effect August 23, 2022.**

Section 79: *TIF Districts for Housing* – Allows municipalities to designate municipal economic development and revitalization districts (TIF districts) for the purpose of acquiring, constructing, reconstructing, improving, altering, extending, operating, maintaining, or promoting residential developments aimed at increasing the available housing stock within the municipality. **This change goes into effect August 23, 2022.**

Summary of Changes Pursuant to HB 1021

HB 1021 was modeled after [Massachusetts's Dover Amendment](#) which was enacted in 1950 in response to local zoning bylaws that prohibited religious schools within a town's residential neighborhoods. However, the exact wording of the two statutes differs. New Hampshire's reads, in relevant part:

"No zoning ordinance or site plan review regulation shall prohibit, regulate, or restrict the use of land or structures primarily used for religious purposes..."

The new statute, **which went into effect on July 1, 2022**, would override any municipal limitations – but is silent on state and federal regulations, meaning those would still apply – for land or structures used primarily for religious purposes. However, the new law would likely permit site plan review that is limited to controlling the heights of structures, yard sizes, lot area, setbacks and building coverage requirements provided such requirements apply equally to non-religious and religious uses and do not substantially burden religious exercise. Planning boards should be aware that other site plan review requirements, such as lighting, signs, noise, on-site and off-site drainage, erosion and sediment control, layout of streets and sidewalks, utility design and installation, open space, pervious/impervious area, landscaping, and parking/access management requirements, *etc.*, would not be applicable to qualifying religious properties. However, legally authorized enforcement of state and federal laws, such as compliance with the state building and fire codes, local driveway regulations, septic and sewer regulations, shoreland protection requirements, wetlands, *etc.*, would continue to apply to qualifying properties.

Although the new statute provides no definition for what constitutes “primarily used for religious purposes,” it is likely that “primarily” will be interpreted by the courts pursuant to its dictionary definition, *i.e.* “mostly.” In the case of a structure, presumably, more than half of the building would be used for religious purposes for more than half of the time that the building is in use.

In addition, communities should be aware that a separate statute, [RSA 72:23, III](#), exists that may be helpful in interpreting the requirements of this new statute, at least in the context of property exempted from property taxation due to religious use. **RSA 72:23, III**. That statute lists the following as exempt from property taxation:

“Houses of public worship, parish houses, church parsonages occupied by their pastors, convents, monasteries, buildings and the lands appertaining to them owned, used and occupied directly for religious training or for other religious purposes by any regularly recognized and constituted denomination, creed or sect, organized, incorporated or legally doing business in this state and the personal property used by them for the purposes for which they are established.”

Presumably, the exemption from zoning and site plan review regulations would apply to a religious use previously approved for a religious real estate tax exemption under **RSA 72:23** as both concern the particular use of the land and categorize it as a religious purpose. But it is likely that the exemption from zoning and site plan review could apply to other religious uses that have not yet qualified or might not be eligible for the real estate tax exemption.

It is recommended that any existing or proposed use of land for religious purposes claiming the protection of RSA 674:76 be required to provide an affidavit like the one attached. Complicating matters, the statute does not define “substantially burden,” either. Municipalities looking to impose the allowable local site plan regulations on qualifying religious land or structures should carefully consider whether the local regulations would impermissibly “substantially burden” the exercise of the religion. When a governmental land use regulation substantially interferes with a religious practice, that land use regulation must be necessary to achieve a compelling governmental interest. *State v. Mack*, 249 A. 3d 423 (N.H. 2020). A careful analysis of each use seeking the zoning and site

plan review exemption is warranted, and we encourage you to consult with legal counsel on these matters.

Where to Begin?

To deal with these new laws, a municipality should begin by asking a few questions. Most of this will require updates to local land use board procedures, but some may require input from other local officials.

Does your municipality already have a listing of land use fees and post those either on your website or some other publicly available location?

August 23 is the deadline for having those fees posted in accordance with the law. As such, all municipalities should review what, if any, land use fees are posted on their websites or in any other publicly available location. Municipalities without such postings are encouraged to create one, centralized list that may be posted either in one dedicated section of its website, municipal bulletin board, or other location available to the public during business hours in order to comply with the law. That listing of fees should include fees for the planning board, zoning board of adjustment, historic district commission, building inspector, and building code board of appeals. (Effective August 23, 2022)

Do the relevant boards and officials know what your municipality's incentives are for housing for older persons and does the town wish those incentives to go into effect for workforce housing?

Town meeting will soon be upon us. Any proposed changes to local zoning ordinances must be posted and hearings held in accordance with RSA 675:3 and RSA 675:7, which, for most municipalities, will be in early January. Town officials will need time to publicize and explain the proposed changes, so the earlier that boards can meet, review, and agree upon proposed changes, the better the odds the changes will be enacted at town meeting next year. Failure to enact changes will cause those incentives to *automatically* apply to proposals for workforce housing beginning July 1 of next year.

Have your municipality's planning and zoning boards met to discuss and incorporate into their procedures the statutory changes to their respective timelines for action?

Planning and zoning boards are statutorily required to have written procedures, and these often incorporate definite timelines for board action that reflect current statutory timelines. With the statutory changes to the ZBA timeline going into effect on August 23, 2022, and the statutory changes to the planning board deadline going into effect on January 1, 2023, boards need to review their local procedures to ensure that they reflect these statutory changes. Boards should also consider what, if any, internal and external processes and timelines need to be adjusted to ensure that they comply with the new statutory timelines. Under RSA 676:1, land use board rules of procedure can be adopted at a regular meeting of the board or body and shall be placed on file with the city, town or village district clerk for public inspection.

Does your municipality want to get involved in acquiring or (further) incentivizing workforce housing or residential development generally?

The new law provides several options for how municipalities *may* either want to acquire or otherwise further incentivize development of workforce housing or other residential development. These include the optional expansion of incentives for older persons housing prior to the July 1, 2023 deadline, which would then *also* be applicable to workforce housing, the acquisition of property – except via eminent domain – for the purpose of building workforce housing, and the designation of municipal economic development and revitalization districts for the purpose of increasing the available housing stock. All of these options require approval by the municipal legislative body – town meeting for most municipalities – and the latter are options that may be adopted by city councils as soon as August 23.

Is your municipality aware of what lots may already qualify for the “primarily religious use” exemption?

When applications come in for properties “primarily used for religious purposes,” local planning and zoning boards need to be aware that such properties may only be subject to objective and definite regulations concerning the height of structures, yard sizes, lot area, setbacks, open space, and building coverage requirements as long as said requirements are applicable regardless of the religious or non-religious nature of the use of the property and do not substantially burden religious exercise. It is likely that some properties in your municipality already qualify for such an exemption based on their existing religious use and may continue to qualify if the use continues to be primarily religious.

Time to Get Started

Most of the provisions of HB 1661 go into effect on August 23 of this year, but the provisions specific to planning board timelines go into effect January 1, 2023, and some incentives for workforce housing become mandatory on July 1, 2023. That gives municipalities a little time to evaluate their existing local regulations, processes, and procedures, and determine what, if any, changes need to or should be made in advance of the law going into effect. HB 1021 is already in effect as of July 1, 2022.

Please understand that this article is only an overview of the changes to these laws. Many of the issues outlined here will require careful review of existing local ordinances and regulations, and municipalities are strongly encouraged to consult with their legal counsel or professional planning staff as they consider how to comply with the new law. NHMA’s legal staff and OPD staff also is available to answer questions about the law, although we do not have the resources to assist with reviewing and drafting ordinances or local regulations. However, we have drafted a sample affidavit to assist municipalities in complying with HB 1021. That sample affidavit follows this guidance.

**AFFIDAVIT OF RELIGIOUS USE OF LAND OR STRUCTURES
RSA 674:76**

The undersigned swears or affirms that the use of land or structures at (insert street address and tax map and lot #) located in the (insert name of town or city) is or will be used at least 51% of time, and that 51% of the area of the lot and/or structures, will be used for religious purposes, including but not limited to the following religious purposes: houses of public worship, parish houses, church parsonages occupied by their pastors, convents, monasteries, buildings and the lands appertaining to them owned, used and occupied directly for religious training or for other religious purposes by any regularly recognized and constituted denomination, creed or sect, organized, incorporated or legally doing business in this state and the personal property used by them for the purposes for which they are established.

Printed Name

Signature

Name of Religious Organization

State of _____
(County) of _____

This instrument was acknowledged before me on (date) by (name(s) of person(s)) as a duly authorized representative of (name of religious organization party on behalf of whom instrument was executed).

(Signature of notarial officer)
(Seal, if any)



2023 Zoning Amendment Calendar SB2 March Town Meeting

Please contact the [NH Office of Planning and Development](#) if you have questions. “Zoning Amendments” include adoption or amendment of the: zoning ordinance, historic district ordinance or building code. For other calendars containing important municipal dates, please see those published by the [New Hampshire Municipal Association](#).

November 2022		
Monday	November 14, 2022	First day to accept petitioned zoning amendments (675:4)
December 2022		
Wednesday	December 14, 2022	Last day to accept petitioned zoning amendments (675:4)
January 2023		
Friday	January 6, 2023	Last day to post and publish notice for first public hearing on zoning amendments, if a second hearing is anticipated (675:3 ; 675:7)
Monday	January 16, 2023	Last day to hold first public hearing on zoning amendments, if a second hearing is anticipated (675:3)
Wednesday	January 18, 2023	Last day to post and publish notice for zoning amendments for last hearing to be held on January 30, 2023 (675:7)
Monday	January 30, 2023*	Last day to hold final public hearing on proposed zoning amendments. Planning Board must determine final zoning amendment form that is to be posted and filed with the town clerk (675:3)
February 2023		
Saturday	February 4, 2023	Earliest date to hold First Session of annual meeting (40:13.III)
Tuesday	February 7, 2023	Last day to place on file with the town clerk the official copy of the proposed amendments (675:3.V)
Saturday	February 11, 2023	Last day to hold First Session of annual meeting (40:13, III)
March 2023		
Tuesday	March 7, 2023	Last day to submit zoning ordinance protest petition to require 2/3 vote at annual meeting (675:5 ; 40:13, VII)
Tuesday	March 14, 2023	Second session of annual meeting to elect officers, vote on all questions on official ballot, and vote on all warrant articles from First Session of annual meeting (40:13, VIII)

**It is strongly recommended the public hearings for zoning amendments are completed before this date.*