



New Hampshire Office of Strategic Initiatives Planning Division 2018 Legislative Session Update

With the conclusion of the 2018 Legislative Session, the Planning Division of the Office of Strategic Initiatives (OSI) provides the following summary of planning-related legislative amendments. These are summaries; please review the source bills for their complete language, linked below and also available [here](#). Additional municipal legislative updates from the 2018 Session may be found in [NHMA's Final Bulletin, 2018 Session](#).

Amendments to ZBA Voting Procedures

[HB 1215](#) – *Voting on Variances.*

In substance, this bill amends RSA 674:33, I and require zoning boards to use a single, consistent voting method for all variance applications. This method can be changed by the board, but not until 60 days have passed from when the board votes to adopt such change. A change in voting method does not apply to any application(s) pending at the time of the change. In form, this bill re-numbers the sections contained within RSA 674:33, I.

Effective Date: August 7, 2018

[SB 339](#) – *Voting by Zoning Boards of Adjustment.*

This bill amends RSA 674:33, III to require the concurring vote of any three members of the board to take any action on any matter on which it is required to pass.

Effective Date: August 7, 2018

Amendments to the Right-to-Know Law

[HB 1347](#) - *Information to be included in the minutes under the right-to-know law.*

This bill amends RSA 91-A:2, II and requires meeting minutes to include the names of the board members who made or seconded each motion.

Effective date: January 1, 2019



Remember to update your Rules of Procedure to incorporate these procedural amendments, as appropriate.

Termination of Expired Permits

[HB 1533](#) – *relative to termination of variances and special exceptions.*

This bill amends RSA 674:33, I-a and RSA 674:33, IV. It allows municipalities to amend their zoning ordinance to provide for the termination of unexercised variances and special exceptions that were granted before August 19, 2013. The Planning Board must post a notice of termination in town hall for one year, stating that variances and special exceptions authorized before August 19, 2013 are scheduled to terminate, but shall be valid if exercised within 2 years of the expiration date of the notice. Variances and special exceptions subject to these automatic termination provisions may still be extended by the ZBA for good cause.

Effective Date: July 24, 2018

Matters of Preemption

[HB 337](#) – *relative to municipal regulations of small wind energy systems.*

This bill amends RSA 674:63, IV. Rather than prohibit any noise level limits lower than 55 decibels, this statute now prevents municipalities from setting a noise level limit lower than what is specified by site evaluation rules.

Effective Date: March 27, 2018

[HB 1233](#) – *preempting local regulation of seeds and fertilizer.*

This bill preempts the local regulation of seeds and fertilizer. RSA 433:7-a was added and prohibits municipalities from regulating the use or sale of seeds. By its express terms, this bill does not, however, limit the authority of cities or towns to require native plantings or combat invasive species. RSA 431:4-d was amended to expand the field of preemption on regulating fertilizer. As a result of this amendment, municipalities may not regulate the type of fertilizer when used for agricultural purposes.

Effective Date: August 07, 2018

[HB 1402](#) – *relative to ordinances regarding forestry activities.*

This bill added RSA 47:17-a and RSA 31:39-a. It requires municipalities to (1) consider possible adverse effects on forestry activities before enacting any ordinance, rule, or regulation; and (2) take reasonably available steps to minimize those adverse effects. This bill also prohibits municipalities from enacting any ordinance, bylaw, rule, or other regulatory provision that applies only to forestry activities which adversely affects such activities. Nothing in this paragraph limits a municipality's authority to regulate forestry activities under duly adopted land use ordinances and regulations.

Effective Date: June 8, 2018

[SB 412](#) – *relative to agritourism.*

This bill amends RSA 674:32-b, II by prohibiting municipalities from adopting an ordinance, bylaw, definition, or policy regarding agritourism activities that conflicts with the definition of agritourism in RSA 21:34-a. This bill also adds RSA 425:4, IX, which authorizes the Department of Agriculture Commissioner to resolve the question of whether a municipal ordinance/bylaw/definition/policy conflicts with RSA 21:34-a. Such declaration may come before or after a land use application is filed. Aggrieved parties may appeal to the New Hampshire Supreme Court after requesting reconsideration.

Effective Date: July 15, 2018

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