

# Planning Lunches at Noon (PLAN) Monthly Webinar Series

Welcome to the September 2024 PLAN Webinar!

“Changes to Planning and Zoning Laws in 2024”

Check out OPD’s [Planning and Zoning Training webpage](#) for:

- Slides and recording of past PLAN Webinars and conferences
- Planning Board and Zoning Board 101 slides and recordings
- Planning Board and Zoning Board Handbooks
- Optional Tests and Certificates

# Changes to Planning and Zoning Laws in 2024

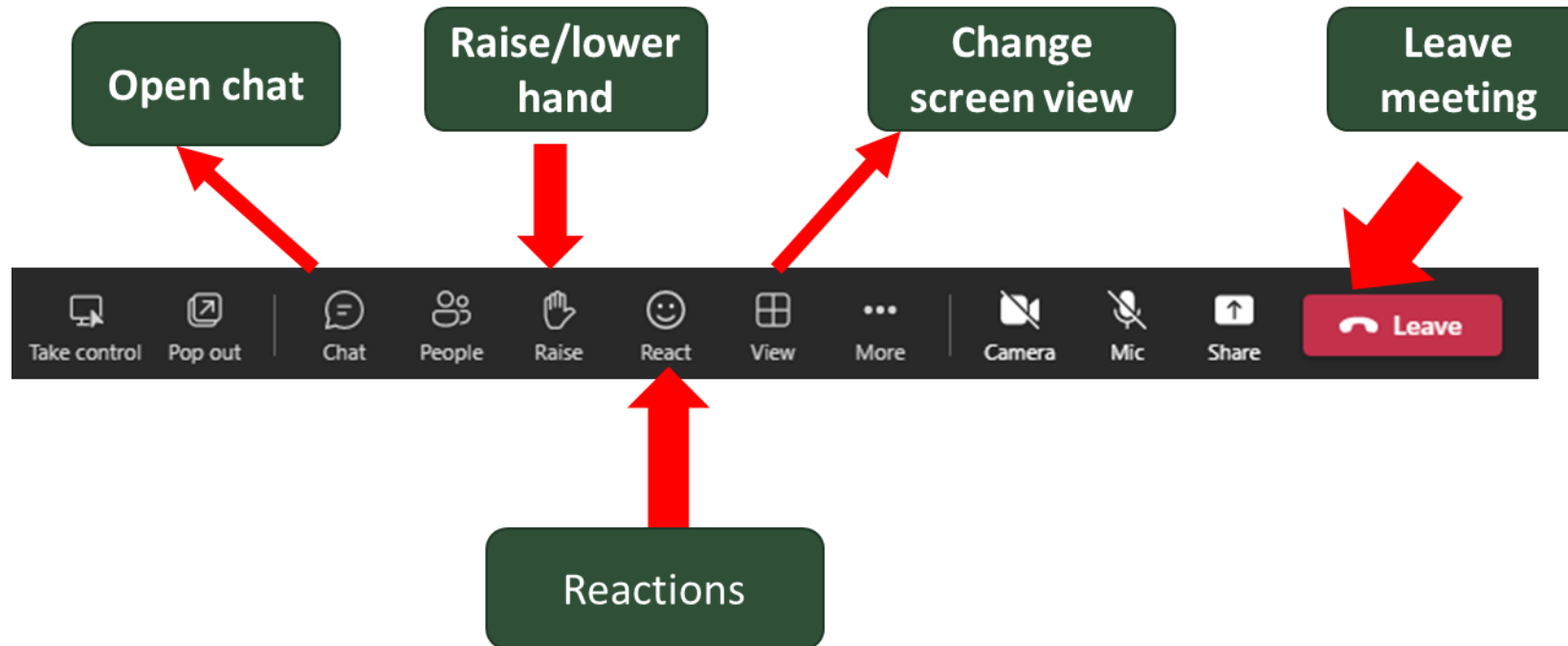
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**Natch Greyes, Attorney  
New Hampshire Municipal Association**

**September 19, 2024**

# How To Participate

- ▶ For questions, type them into the chat box
- ▶ We will do our best to answer all questions by the end of the webinar



# **HOUSING CHAMPION**

## **Designation and Grant Program**

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## **Agenda**

- **SB 437: Local Amendments to the State Building Code**
- **HB 1202: Driveways**
- **HB 1221: Landfills Are Developments of Regional Impact**
- **HB 1359: Abutters/Right to Appeal**
- **HB 1361: Manufactured Housing Statute Rewrite**
- **HB 1371: Master Plan Waste Reduction Section**
- **HB 1400: RSA 79-E; Zoning Amendment Adoption Process in Non-Charter Towns; Parking Regulations**
- **HB 1567: Home-Based Childcare**

# SB 437: Local Amendments to the State Building Code

- Substantially alters municipal adoption of regulations/codes in addition to the state building code.
- Prior law allowed municipalities to adopt any regulations/codes if they were no less stringent than the requirements of the state building and fire codes.
  - Controversy under prior law about what constituted less stringent:
    - Newer Code versus Degree of Protectivity
- Now, municipalities may only adopt amendments that relate to one article or section of the code and may not be inconsistent with or less stringent than or intended to replace the state building code.



# SB 437 Continued

- Prior law required municipalities to submit locally adopted regulations to the state building code review board for review and confirmation prior to adoption.
  - No later than 90 days before final adoption in cities
  - No later than 10 days after the conclusion of the final public hearing in towns
- With the update to the state building code definitions under HB 1059 on July 1, 2024, all existing locally adopted amendments to the state building code would need to be readopted locally and resubmitted to the building code review board prior to enforcement under prior law.
  - Local amendments to the state building code can be e-mailed to the BCRB: [Bldgcodebrd@dos.nh.gov](mailto:Bldgcodebrd@dos.nh.gov)
- SB 437 reiterates this requirement.

# HB 1202: Driveways



- Two Provisions:
  - DOT required to issue driveway permits within 60 days of receiving an application for residential use if not classified as a major driveway
  - Local planning board required to act on driveway permits issued by DOT within 60 days of notification that DOT has issued the permit.
- The second provision is unlikely to affect existing local processes as planning boards typically do not take any additional action on driveway permits issued by DOT.



# HB 1221: Landfills Are Developments of Regional Impact

- Includes landfills in the definition of regional impact for the purpose of applications coming before the local land use board.
- Therefore, municipalities which regulates landfills in its zoning ordinance, site plan review regulations, or subdivision regulations, must declare any application for a landfill as a development of regional impact.
- Consequently, notice must be provided to all municipalities in New Hampshire that are:
  - Located within the same watershed as the landfill;
  - Located within 10 miles of the boundaries of the proposed landfill.

# HB 1359: Abutters/Right to Appeal

- Overrides decisions in *Seabrook Onestop Inc. v. Town of Seabrook (2021)* and *Weeks Restaurant Corp. v. City of Dover (1979)*
- Contains two provisions:
  - Expands definition of abutter to include ‘Diagonal’ properties (and others within 50 feet)
  - The applicant, an abutter as defined by RSA 672:3, or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer may appeal to the board of adjustment concerning any matter within the board’s powers pursuant to RSA 676:5.
  - The selectmen, any party to the action or proceedings, or an abutter as defined by RSA 672:3 may apply for a rehearing of a zoning board of adjustment, or any decision of the local legislative body or a board of appeals in regard to its zoning, pursuant to RSA 677:2.
- Prior law allowed “any person aggrieved” to appeal.



# HB 1361: Manufactured Housing

- Rewrites the existing manufactured housing statute, RSA 674:32 to clarify the archaic language previously used throughout.
- Requires municipalities regardless of whether they permit construction of new manufactured housing parks, allow reasonable and realistic opportunities for the expansion of manufactured housing parks that existed within their geographic boundaries as of July 1, 2024.





# HB 1371: Master Plan Solid Waste Section



- Allows municipalities to include a waste reduction section in their master plan
- This inclusion is in the “may” not “must” include section of the master plan statute.



# HB 1400: Omnibus Land Use Bill

Makes changes to three different areas of local land use regulation:

1. RSA 79-E: Community Revitalization Tax Relief Incentive
2. Local Option to Authorize Governing Body to Make Zoning Changes Expanded
3. Local Regulation of Parking Requirements

# RSA 79-E Can Be Used For Office to Residential Conversions

- Temporarily expands RSA 79-E, expiring January 1, 2035.
- Allows the local legislative body of a city or town to establish tax relief for the owners of a building or structure currently being used for office use, in whole or in part, if such use is converted to residential use, in whole or in part.
- Governing body can designate office conversion zone anywhere in municipality



# Local Option for Governing Body to Make Zoning Changes

- A new provision, RSA 674:18-a, provides a local option for local governments with zoning authority vested in their legislative body (*i.e.* non-charter towns, village districts with zoning authority, and counties with unincorporated places) to vote to allow their governing bodies to adopt amendments to the local zoning ordinances and the local zoning map.
- Under prior law, only cities and charter towns had the authority to decide whether to grant this authority to the governing body.
- If adopted, a majority vote of the governing body during anytime of year, after at least one full public hearing pursuant to RSA 675:7, would be sufficient to amend the local zoning ordinances and map at any time of year.

# Local Regulation of Parking

- There are two, separate parking provisions contained within HB 1400:
- The first provision authorizes the local legislative body of a city, town, or county in which there are located unincorporated towns or unorganized places to regulate “accessory parking for vehicles, ” subject to certain limitations:
  1. The local regulations cannot require more than 1.5 residential parking spaces per unit for studio and one-bedroom units under 1,000 square feet that meet the requirements for workforce housing under RSA 674:58 IV.
  2. The local regulations cannot require more than 1.5 residential parking spaces per unit for multi-family developments of 10 units or more.





# Parking Cont.



- The second provision requires that, if a proposed residential use proposes to meet the on-site parking requirements prescribed by a local ordinance or regulation with an “alternative parking solution” due to economic considerations, the planning board shall be required to consider the “alternative parking solution.”
- “Alternative parking solution” is defined to mean a proposal by an applicant to meet the parking demand created by a proposed residential use as a substitute for meeting the on-site parking requirements.
- This second provision is not limited to specific type of residential use, such as multi-family developments, nor does it require anything more than that the applicant meet the anticipated demand for the specific residential project.
- “If the applicant can demonstrate that the alternative parking solution will meet the **parking demand** created by the proposed residential use, a planning board shall be required to approve the alternative parking solution proposed by the applicant.”
- However, “the planning board shall not be required to approve the alternative parking solution if the results of the third-party review under RSA676:4-b, I, conclude that the proposed alternative parking solution will not meet the parking demand created by the proposed residential use.”

# HB 1567: Home-Based Childcare

- New requirement in RSA 674:16, VI that home-based childcare shall be allowed as an accessory use to any primary residential use by right or by conditional use permit if all requirements for such programs adopted in rules of the department of health and human services (He-C 4002) are met.
- The new section in RSA 674:16, VI also states, “Family or group family childcare...shall not be subject to local site plan review in any zone where a primary residential use is permitted.”
- Under prior RSA 672:1, V-a, the phrase “should not be discouraged or eliminated” in the statute meant that in effect the care of up to six full-time preschool children and three part-time school age children in the home of a childcare provider, should not be prohibited in any zoning district. However, this language was located in the zoning ordinance purpose statute, and was therefore not actively enforced.



# Changes to Planning & Zoning Laws in 2024: *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*

*September 2024*



During the 2024 session, the legislature enacted a number of pieces of legislation that affect local planning and zoning processes and regulations. This guide serves as a summary of the effect of those changes.

## Summary of Changes Pursuant to SB 437

SB 437 substantially alters municipal adoption of additional regulations to the state building code. Under prior law, municipalities could adopt additional regulations to the state building code, provided that such regulations were no less stringent than the requirements of the state building code and the state fire code. These locally adopted regulations were required to be sent to the state building code review board for review and confirmation prior to adoption.

SB 437 amends this authority by continuing to allow municipal adoption of additional amendments to the state building code, which now must not be inconsistent with or less stringent than, nor intended to replace, the requirements of the most recent edition of the state building code adopted under RSA 155-A, or the state fire code adopted under RSA 153, and must relate to one article or section of the code. In other words, it is not permissible under new law to adopt, at the local level, an entirely new code.<sup>1</sup> It is, however, permissible to adopt amendments that are targeted to one article or section of the new code.

# Guidance Document



New Hampshire Department of  
BUSINESS AND  
ECONOMIC AFFAIRS

# Contact Information

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**Q&A**

**THANK YOU**