## Planning Lunches at Noon (PLAN) Monthly Webinar Series

Welcome to the September 2025 PLAN Webinar!

"Changes to Planning, Zoning, and Building Code Laws in 2025"

## **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, Zoning, and Building Code Laws in 2025

Office of Planning and Development

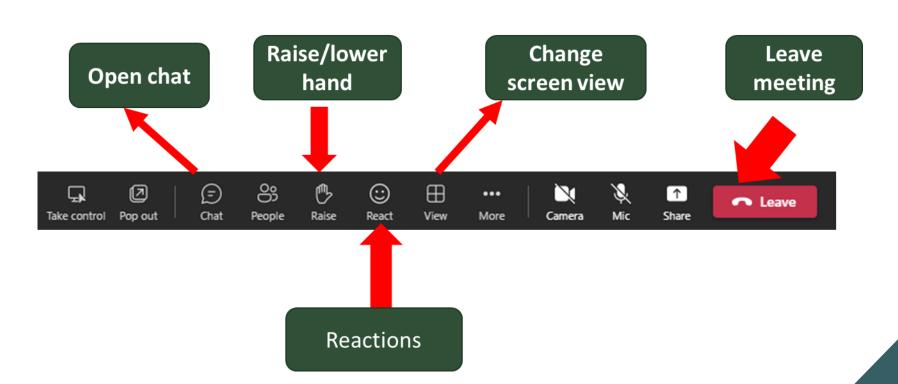
NH Department of Business and Economic Affairs

**September 18, 2025** 



## **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



## **Speakers**

#### **Noah Hodgetts**

NH Department of Business & Economic Affairs
Office of Planning and Development, Principal Planner

#### **Tim Corwin, AICP**

City of Lebanon
Deputy Planning and Development Director

### Michael Hagan, MCP, CBO, CFM

City of Keene

Plans Examiner, Floodplain Administrator, Assistant Emergency Management Director

#### Philip Trowbridge, PE

NH Department of Environmental Services Land Resources Management Program Manager



#### Planning and Zoning Changes

- -HB 2 (Partners in Housing)
- -HB 92 (recusal of PB and ZBA members)
- -HB 168 (impact fees for public works facilities)
- -HB 265 (form of public body meeting minutes)
- -HB 272 (exempting agricultural practices from noise regulation)
- -HB 296 (building permits on private roads)
- -HB 399 (zoning enabling act study commission)
- -HB 413 (vesting periods)
- -HB 457 (occupancy requirements)
- -HB 577 (ADU Law 2.0)
- -HB 631 (multi-family residential in commercial zones)
- -SB 281 (waivers for building on Class VI roads)
- -SB 283 (floor area ratios)
- -SB 284 (minimum parking requirements)

#### Fire and Building Code Changes

- -HB 134 (annual building code update)
- -HB 413 (building code appeals)
- -HB 428 (local amendments to the state building code)
- -SB 95 (permitting of youth recreation camp cabins)
- -SB 188 (third-party building code inspectors)
- -SB 282 (residential stairway requirements)

Changes to DES Land Resources Management Permitting

-HB 2 (Permitting Timelines, Fees, Environmental Review)

Q&A

# PLANNING & ZONING STATUTE CHANGES

**Noah Hodgetts and Tim Corwin** 

## **HB 2** - relative to state fees, funds, revenues, and expenditures (Sections 209 – 214: Partners in Housing)

- New process for municipality to designate and expedite permitting of municipal-owned land for residential purposes
- RSA 41:11-a, IV: Governing body may send list of municipality owned real property to the PB that is "in their judgement appropriate for development for residential use" (not including tax deeded properties)
- RSA 674:1, VII: PB may vote to designate any property recommended to it as appropriate for development as a residential use by the select board, as appropriate for development for residential use and forward a description of the property to OPD pursuant to RSA 12-0:55, VIII.
- RSA 674:43, VI: If the PB has submitted a property description to OPD, the local governing body may vote to authorize that these properties qualify for expedited review and approval pursuant to RSA 676:4, III (minor subdivision expedited review process)

or

- RSA 674:43,VIII: If the local legislative body has authorized minor site plan review (technical review committee), pursuant to RSA 674:43, III then all solely residential development projects proposing to construct workforce housing as defined in RSA 674:58, IV on municipal or county-owned land, on the list sent to OPD may also qualify for expedited review and approval pursuant to RSA 676:4, III.
- Effective Date: June 30, 2025

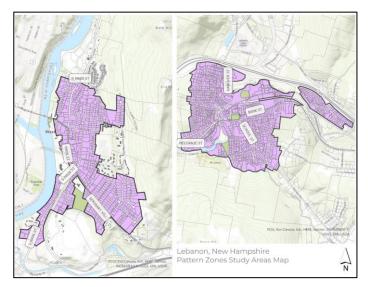


Rendering of Barrow Street Cottage in Lebanon



## **HB 2** - relative to state fees, funds, revenues, and expenditures (Sections 209 – 2014: Partners in Housing)

- RSA 12-O:55, VIII: OPD shall compile descriptions of municipal and county-owned property determined to be appropriate for residential development by the select board as a residential use into a publicly available list of properties
- RSA 674:43, VIII: Authorizes local legislative body to adopt pattern zoning regulations to accelerate the construction of infill housing in neighborhoods.
  - To meet the definition of infill housing, projects must be new residential development constructed on vacant lots interspersed among lots with existing, non-vacant development.
  - Pattern zoning provides permit-ready designs with appropriate zoning and regulations to speed the process of building high quality infill housing that is compatible with existing homes in the neighborhood.





## HB 92 – requiring recusal of ZBA members also serving as Planning Board members

- As originally introduced, HB 92 would have prohibited ZBA members from serving on the Planning Board and vice versa
- As adopted, HB 92 adds new paragraph V to RSA 673:3 (ZBA membership):
  - "When a member also serves on a planning board, the individual shall recuse herself or himself from voting on matters previously decided by or pending before the planning board in a quasijudicial capacity in which the member participated\* as a voting member."
  - Presumably, this should be read as "participated or is participating"
- Note: Duty to recuse is, apparently, not reciprocal. House amended version included the following language that was not included in the final adopted version:
  - "When a [Planning Board] member also serves on a zoning board of adjustment, the individual shall recuse herself or himself from voting on matters previously decided by the zoning board of adjustment in a quasi-judicial capacity in which the member participated as a voting member."
- Effective Date: August 22, 2025

## HB 168 - relative to including municipal public works facilities as eligible capital facilities for the assessment of impact fees

- Impact fees are an optional tool for municipalities to impose on new development to reflect the effect of development upon municipal facilities at the time of the issuance of the building permit (RSA 674:21,V)
- Impacts fees may be only assessed and used for the "construction or improvement of capital facilities owned or operated by, including and limited" to those listed in RSA 674:21, V (i.e. municipal road systems)
- Municipality must have adopted a Capital Improvement Program (CIP) authorized under <u>RSA</u> 674:5-7
- Amends RSA 674:21, V to include "public works facilities" in the list of eligible capital facilities that a municipality may impose impact fees for to offset the cost of construction or improvement of
- Effective Date: August 1, 2025



## HB 265 – requiring a public body's meeting minutes to include start and end times and name of the recording secretary

- Amends RSA 91-A:2, II, to require that:
  - Minutes of all [meetings of a public body], including nonpublic sessions, shall include the names of members, persons appearing before the public bodies, [and] a brief description of the subject matter discussed and final decisions, the start time and end time of the meeting, and name of the person who produced the minutes. The names of the members who made or seconded each motion shall be recorded in the minutes.
- Note: as introduced, HB265 would have also required the signature of the minutetaker

• Effective Date: August 22, 2025

## HB 272 - exempting certain agricultural practices from municipal noise regulation

- Under <u>2023 HB 252</u>, any noise or quiet hour ordinance or bylaw is prohibited from regulating noises from farms, agriculture, and farming defined in <u>RSA 21:34-a</u>
- Since passage of the 2023 law, some communities tried to regulate noise from farms, agriculture, and farming through "disturbance of the peace" laws
- Amends <u>RSA 31:39,I(n)</u> and <u>RSA 47:17, XX</u> to prohibit any ordinance or bylaw from regulating noises related to farms, agriculture, and farming defined in <u>RSA 21:34-a</u>
- Noise from agritourism activities defined in RSA 21:34a,II(b)(5) can continue to be regulated
- Effective Date: August 1, 2025



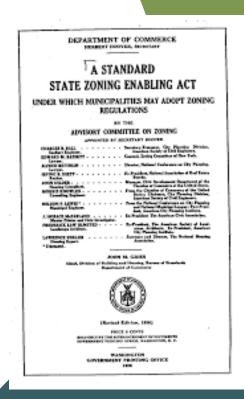
## **HB 296** – relative to issuing building permits along private roads

- Amends RSA 674:41,I(d)(1) to allow a local governing body to issue building permits for buildings on private roads after "review and comment by the planning board or after establishing that the private road identifies and complies with policy adopted by the governing body of the municipality"
  - ► Effectively allows municipalities to remove the Planning Board from the decision-making process
- Amends RSA 676:5,I, to require appeals of administrative decisions to the ZBA be filed within **30 days** 
  - ▶ (previously, appeals were to be made within "a "reasonable time", as provided by the ZBA's Rules of Procedure)
- Effective Date: September 13, 2025



## HB 399 – establishing a commission to study the New Hampshire zoning enabling act and relative to the effective date of the C-PACER program.

- Creates an 11-member study commission consisting of legislators, a member of the judicial branch, two national housing policy experts, one member representing municipal government, and a member of the public, <u>but no planners</u>
- Broad mandate to study whether grant of zoning power in 674:16 and purpose of zoning in 674:17-23 is still needed to address health, safety, and general welfare of the community today; and recommend potential revisions or removal of certain powers
- Also includes investigation of the relationship between the zoning provisions of RSA 674:16 et seq. and the subdivision provisions of RSA 674:35 et seq. and exploration of opportunities for aligning or combining these provisions.
- Interim report due November 1, 2025; final report due November 1, 2026
- Initial organizational meeting was held on August 20<sup>th</sup>





## **HB 413** - relative to subdivision regulations on the completion of improvements and the regulation of building permits.

- <u>674:39</u> exemption period for approved subdivision plats and site plans:
  - ▶ Previously, an approved development was exempt from changes to local land use regulations for a period of 2 years
  - ▶ If "active and substantial development" was achieved within 2 years, the project was exempt for an additional 3 years
  - ▶ If "substantial completion" was achieved within 5 years of approval, the project was vested forevermore, except for impact fees
- HB 413 amends 674:39,I IV:
  - ▶ Extends time to achieve "active and substantial development" from 2 yrs to 3 yrs
  - ▶ Extends time to achieve "substantial completion" from 5 to 7 years
- New <u>paragraph V</u>: "The 7-year period and 3-year exemption in this section shall apply to any approval granted on or after July 1, 2023."
- With the changes to 674:39, the statutory exemption periods appear to have been eliminated for any project approved prior to July 1, 2023
  - ▶ Such projects are only statutorily exempt upon achieving substantial completion
- Effective Date: July 1, 2025 (signed July 15, 2025)



## **HB 457** - relative to zoning restrictions on dwelling units

- Amends RSA 674:16, adds new paragraph VIII
  - Prohibits adoption or enforcement of ordinances that restrict the number of occupants of any dwelling unit to less than 2 occupants per bedroom
  - Prohibits adoption and enforcement of ordinances based on the familial or non-familial relationships or marital status, occupation, employment status, or the educational status, including, but not limited to scholastic enrollment or academic achievement at any level among the occupants of the dwelling unit, including but not limited to college students

#### What It Doesn't Do:

- Doesn't affect municipality authority to impose a cap on the total number of dwelling units in a building or the total number of occupants in a building (as long as cap allows for at least 2 persons/bedroom)
- Doesn't mandate land uses or change local authority to regulate congregate living, rooming/lodging houses, sober homes, dormitories or other group living where occupants have a private or semi-private room, but share a kitchen and bathroom facilities
- Doesn't affect building or fire code occupancy requirements
- Effective Date: September 13, 2025



## **HB 577** – relative to modifying the definition of ADUs

- RSA 674:71: Amended to revise definition of ADU to include attached and detached ADUs
  - ADUs completely contained within a preexisting detached structure are defined as "attached units"

#### RSA 674:72,I:

- Removes option for a municipality to subject an ADU to a conditional use permit or special exception
- Amended to require that <u>one attached or detached ADU be allowed as a matter of right</u> in all zoning districts that permit single-family dwellings.
- Adds new language that ADU may not be subject to setbacks, aesthetic requirements (i.e. location of primary entrance/exit, paint color), design review requirements as well as lot size, frontage, space limitations beyond what is required for a single-family dwelling.
- Prohibits municipalities from imposing septic system requirements for a single-family home with an accessory dwelling unit that are greater than required by NH DES.
- Replaces option for municipalities to prohibit ADUs with manufactured housing with option for municipalities to prohibit ADUs associated with rented or leased land (i.e. manufactured home park).
- RSA 674:72,III: Replaces interior door requirement for attached ADUs with a requirement that an attached ADUs shall have independent entrance/exit or through a common space (i.e. shared hallways) shared with the principal dwelling unit. However, the municipality shall not limit the choice of entrance/exit.
- Effective Date: July 1, 2025 (signed July 15, 2025)



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## **HB 577** – relative to modifying the definition of ADUs (continued)

- RSA 674:72, IV
  - Adds language that municipal regulations applicable to both a single-family dwelling and ADU shall not be more restrictive for the ADU than for the single-family dwelling.
  - New requirement that a municipality shall require no more than one additional parking space for each ADU, if it has established regulations requiring parking for the principal dwelling unit
- RSA 674:72, VI: Retains local option to require owner occupancy of the principal dwelling unit or ADU
- RSA 674:72, VII:
  - Replaces language allowing a municipality to impose standards requiring aesthetic continuity between the ADU and single-family dwelling with an allowance for aesthetic standards only if such standards apply to both the ADU and single-family dwelling.
  - Maximum size of ADU can be up to 950 square feet, but a municipality can't limit to less than 750 square feet
- RSA 674:72, XI: New requirement that a municipality allow for conversion of existing detached structures into ADUs even if structure doesn't meet setback or lot coverage dimensional standards
- Applicant is still required to (1) pull a building permit, (2) make adequate provisions for water supply and sewage disposal in accordance with RSA 485-A:38, and (3) have an approved septic design from DES
- Be prepared for receipt of building permit applications to construct an ADU that complies with HB577, even if your municipality hasn't had the opportunity to amend your zoning ordinance to comply with HB577.
  - Speak to your municipal attorney about how to address conflicts between your current ADU zoning ordinance and building permit applications that comply with HB577



## **HB 631** - permitting residential building in commercial zoning

- RSA 674:80, I: requires multi-family residential development as a use to be allowed on commercially zoned land (land zoned for such commercial activities as retail and office space), provided that <u>adequate infrastructure</u>, including roads, water, and sewage systems, shall be available or provided to support the development.
  - Municipality will need to define what constitutes adequate infrastructure
  - Planning board will need to determine whether adequate infrastructure is present
  - May subject multi-family and mixed-use developments to site plan review
- RSA 674:80, II: Can prohibit residential development in zones where industrial and manufacturing uses are permitted which may result in impacts that are incompatible with residential use, such as air, noise, odor, or transportation impacts.
- RSA 674:80, III: May require all available ground floor space or a percentage thereof to be dedicated to retail or similar uses.
- RSA 674:80, IV: Building being converted to multi-family or mixed-use through adaptive reuse are exempt from complying with setback, height, or frontage requirements provided that the building's floor area, height, and setbacks do not change.
- Exemption from dimensional requirements doesn't apply to new construction of multi-family or mixed-used developments <u>setback</u>, <u>height</u>, <u>frontage</u>, <u>lot coverage</u>, <u>minimum lot size</u>, and <u>units/building caps still apply to new construction</u>
- Effective Date: July 1, 2026



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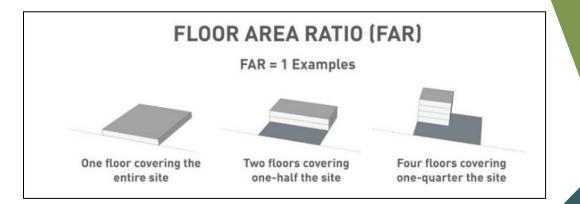
## SB 281 - prohibiting municipalities from denying building or occupancy permits for property adjacent to class VI roads under certain circumstances

- Amends RSA 674:41, I(c) to **REQUIRE** issuance of building permits on Class VI roads, provided that the applicant:
  - (1) Signs a liability waiver acknowledging that the:
    - (A) Municipality shall not maintain the highway nor provide any services to any lot accessible by the highway;
    - (B) Municipality shall not accept any responsibility for losses or damages caused by a lack of services; and
    - (C) Responsibility for such services falls solely on the applicant; and
  - (2) Prior to the issuance of a building permit, produces evidence that this waiver has been recorded in the county register of deeds; and
  - (3) Prior to the issuance of a building permit, proves the lot and any buildings thereon are insurable.
- Effective Date: July 1, 2026



## **SB 283** - relative to the calculation of floor-area-ratios under local building ordinances

- RSA 674:77,I: Floor-area-ratio (FAR) is the ratio of a building's total floor area to the size of the parcel of land upon which it is built
- FAR affects the volume of buildings on a lot, but it does not by itself determine a particular shape, spacing, or height of a bldg.
- RSA 674:78,I: municipalities with FAR ratios shall exclude below-grade areas (including basements, cellars, and sublevels) from the calculation of FAR for new construction projects.
- RSA 674:78,II: Developers may utilize belowgrade areas for purposes such as parking, storage, mechanical spaces, and additional facilities, without impacting the calculation of FAR for the building.
- Effective Date: September 30, 2025



## **SB 284** - relative to authority for municipalities to regulate mandatory on-site parking requirements

- <u>674:16, VII</u> added in 2024; effective as of 1/1/25
  - Prohibited requiring more than 1.5 parking spaces per residential unit for:
  - Workforce housing studio and one bedrooms under 1,000 sf
  - 2. Multi-family developments of 10 units or more
- SB 284; amends <u>674:16, VII</u>;
  - Replaces 2024 language and instead imposes a blanket prohibition on requiring more than one parking space per residential unit, without exception
- **Effective Date:** September 13, 2025





# Building and Fire Code Legislative Updates

Michael Hagan MCP, CBO, CFM

City of Keene - Plans Examiner, Floodplain Administrator, Assistant Emergency Management Director

Creator: Ultima\_Gaina | Credit: Getty Images



The New Hampshire Senate during a recent meeting at the State House. Credit: Charlotte Matherly / Monitor file. Concord Monitor

# 2025 Legislative Session Relating to State Codes and Enforcement

- HB 134
- HB 413
- HB 428 and on-going HB 244
- SB 95
- SB 188
- SB 282



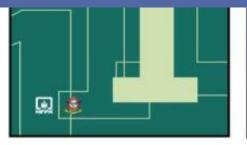
## HB 134 is an annual bill provided by the BCRB for amendments and code year updates

- Amended RSA 155-A:1, IV to adopt the 2023 NEC and amendments approved by the BCRB through 4/11/25. Effective 7/1/25, with six-month concurrency period
- Including all amendments reviewed and approved by the building code review board as of April 11, 2025



### **Appeals to the Local and State Building Codes and Amendments**

- If the ZBA acts as the local board of appeals, its jurisdiction is limited to local amendments to the building and fire codes, other building and fire code appeals go directly to the Building Code Review Board. Effective 7/1/25
- Provides that decisions of the building code review board regarding decisions of the fire marshal and local building code board of appeals may be appealed to the Housing Appeals Board in addition to Superior Court





















#### **Prohibits Municipal Amendments to the State Building and Fire Code**

It is the intent of the legislature to avoid conflicts in the adoption and application of the state building code and the state fire code. Local municipal ordinances or regulations to allow for administrative amendments to the state fire code shall be permitted. Amendments to the state fire code implementing the issuance of permits and the collection of fees or other administrative functions shall be reserved for the municipalities, provided they are not less stringent than the state fire code and reviewed pursuant to RSA153:4-a, II. No amendments to the technical requirements of the state fire code are permitted.

#### Continued



#### **Enforcement Authority**

Moves current provisions in 47:22 and 674:51 to 155-A (Paragraph I effective until July 1, 2026)

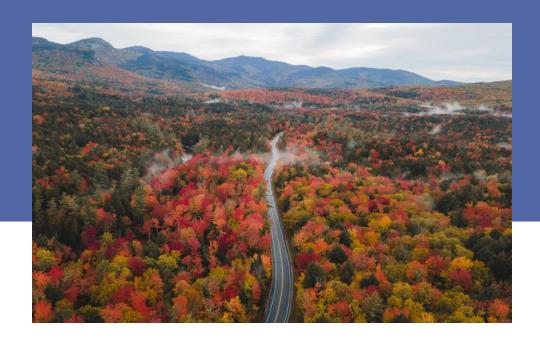
#### 155-A:7 Enforcement Authority

I. The local enforcement agency appointed pursuant to <u>RSA 674:51</u> or <u>RSA 47:22</u> shall have the authority to enforce the provisions of the state building code and the local fire chief shall have the authority to enforce the provisions of the state fire code, provided that where there is no local enforcement agency or contract with a qualified third party pursuant to <u>RSA 155-A:2, VI</u>, the state fire marshal or the state fire marshal's designee may enforce the provisions of the state building code and the state fire code, subject to the review provisions in <u>RSA 155-A:10</u>, upon written request of the municipality.



#### **Youth Recreation Camp Cabins**

- I. Residential cabins in youth recreation camps as defined in RSA 170-E:55 shall meet the applicable existing chapter in the state building code, provided however, that no new or renovated structures used as youth recreation camp cabins shall require automatic sprinkler systems. For purposes of this section only, all new residential facilities for youth summer recreation camps shall be limited to 2 stories above grade.
- II. Residential cabins shall not be required to have electrical, mechanical, or plumbing. However, if a residential cabin does have such system the applicable state building code shall be followed.





### **Speeding Development Act of 2025**

SB 188 titled the *Speeding Development Act*, was introduced to accelerate the development process in New Hampshire by allowing licensed or certified third-party professionals—referred to as "approved agencies"—to conduct building inspections and construction document reviews in place of local building officials.

Building Code Review Board has approved amendment BD-21-26-25

Link to BCRB Amendment SB 188

Link to NHMA Guide for Municipalities



## USE OF APROVED AGENCIES FOR BUILDING INSPECTIONS/CONSTRUCTION DOCUMENT REVIEW Layout of Guidance Document

- APPLICATION AND APPROVAL OF "APPROVED AGENCIES"
- OBLIGATIONS OF OWNER/OWNER'S AGENT
- APPROVED AGENCY SERVICES & SCOPE
- MUNICIPAL RESPONSIBILITIES
- ISSUANCE OF BUILDING PERMIT



Allowing a Single Exit Stairway In a 4 Story Residential Building

Conditions set forth by the Building Code Review Board State Amendment Exhibit BD 21-25-25 approved 5/9/2025

**Link to BCRB SB 282 Amendment** 

- 1. Use group: R-2 only
- 2. Maximum of 4 dwelling units per floor
- 3. Maximum travel distance to an exit enclosure: 125 feet
- 4. An automatic sprinkler system is required

#### TABLE 1006.3.4(1)

## OR ACCESS TO ONE EXIT FOR R-2 OCCUPANCIES

STORY	OCCUPANCY	MAXIMUM NUMBER OF DWELLING UNITS	MAXIMUM EXIT ACCESS TRAVEL DISTANCE
Basement, first, second-or, third or fourth story above grade plane	R-2 <sup>a, b,=</sup>	4 dwelling units	125 feet
Fourth Fifth story above grade plane and higher	NP	NA	NA

For SI: 1 foot = 304.8 mm.

NP = Not Permitted.

NA = Not Applicable.

- Buildings classified as Group R-2 equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 and provided with emergency escape and rescue openings in accordance with Section 1031.
- This table is used for R-2 occupancies consisting of dwelling units. For R-2 occupancies consisting of sleeping units, use Table 1006.3.4(2).

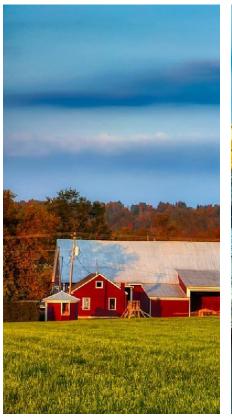






# Changes to Land Resources Management Permitting from HB2

Presenter: Phil Trowbridge, Land Resources Management Program Manager





## What We Do:

## **Guiding Landowners To Minimize Impacts To New Hampshire's Water Resources**



Process Permit Applications: ~10,000/year



Provide Customer
Service:
~18,000
contacts/year

Award
Restoration Funds:
~\$2 million/year

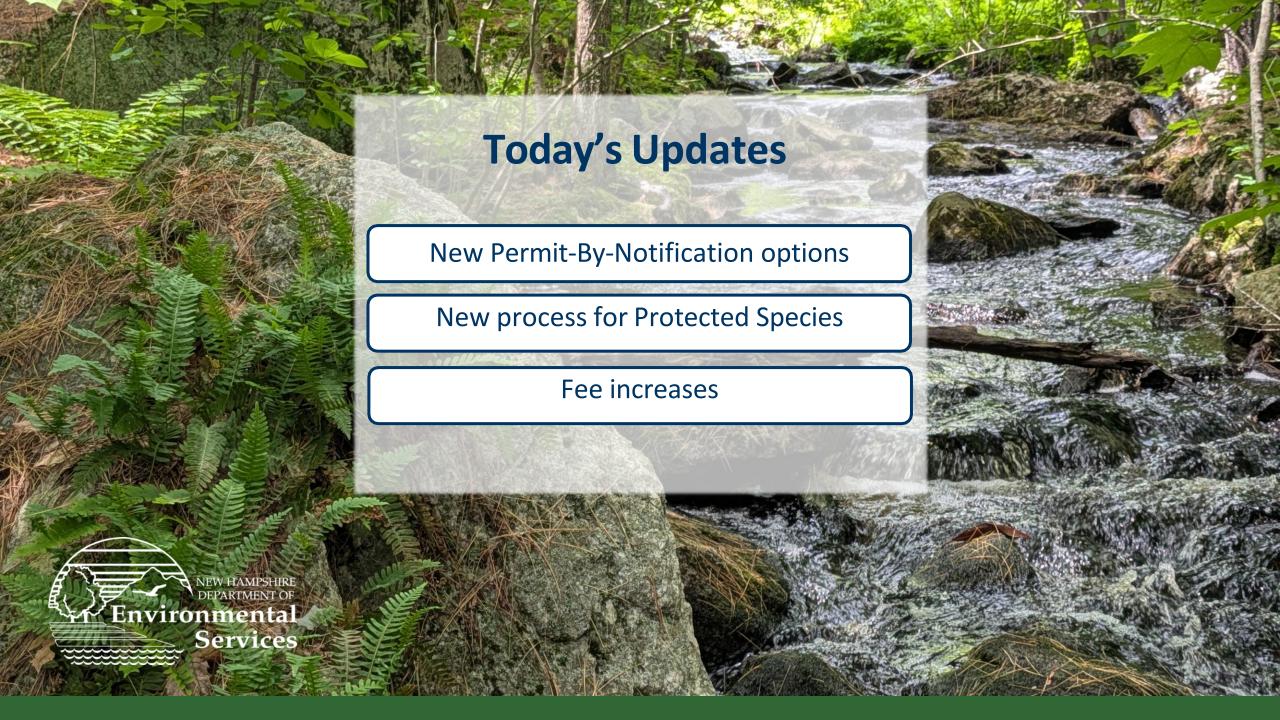
Investigate
Complaints:
~250/year





# HB2 Objectives – The Governor's Goals

- "One stop shop" for applicants.
- Faster permitting decisions.
- Better coordination between permitting programs.
- Other related bills: <u>SB 65</u>, <u>SB 110</u>, <u>SB 109</u>.





New Permit-By-Notification: 100-150K SF Not In Shoreland

- Quick review for eligibility.
- Non-eligible projects.
- Flat fee.



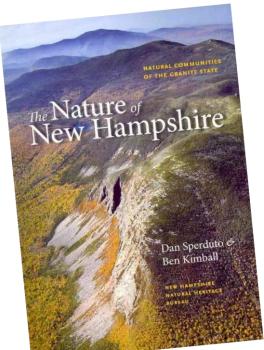






# New Mandates for Ecological Reviews for Protected Species

- NHDES responsible for DataCheck Tool and most reviews.
- New Ecological Review Section at NHDES.
- NHDES to do all plant reviews, and wildlife reviews for NHDES permits.
- NHFG to do "non-permit" wildlife reviews.
- NHFG/NHB to review to state lands management actions.







# New Mandates for Ecological Reviews for Protected Species: What To Expect

- Karner Blue Butterfly (NHNHB))
- As seamless as possible.
- Staff transfers to NHDES.
- Better internal coordination.
- Continued coordination between agencies.



Use the QR code to navigate to the NHDES Ecological Reviews website.





# New Mandates for Ecological Reviews for Protected Species:

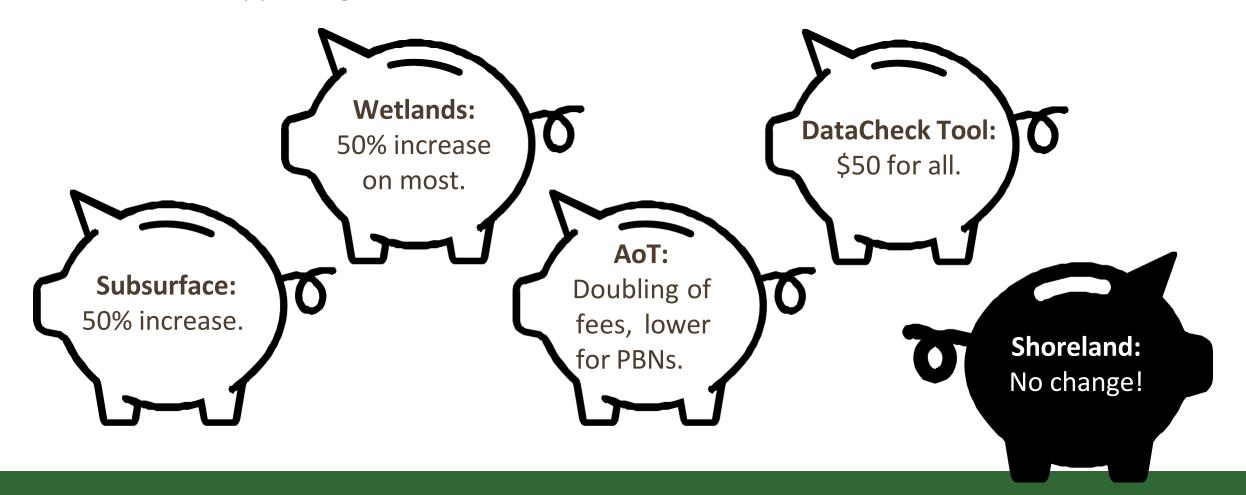
### **In-Lieu Fee Mitigation**

- Developing rules for a mitigation fund for protected species.
  - NHDES: mitigation payments into fund.
  - NHFG: disbursements from fund.
- Coming in 2026.
- Listening sessions to start in the fall.



#### Fee Increases

 Most application fees increased to make programs self-supporting:





### Rule Update Summary

Rule Package	Status	Next Step
Boathouses	At JLCAR	Hearing on 9/18/25
AoT	Initial Proposal Filed	Hearing on 10/15/25
SSB	Initial Proposal Filed	Hearing on 10/24/25
<b>Ecological Reviews</b>	Initial Proposal Filed	Hearing on 10/16/25
Wetlands	Pre-rulemaking comments	
Shoreland	Coming in 2026	







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Or visit us on social media:

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YouTube: <u>@NHDES</u>

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LinkedIn: NHDES

### Give us a call!





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### **NEXT PLAN Webinar: October 16th**

2025 New Hampshire Stormwater Manual Informational Session



# A&P

# THANK YOU