

## 2005 LEGISLATIVE CHANGES AND WHAT'S AHEAD

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### LEGISLATIVE CHANGES

1. **Dredge & Fill Permit Exemption:** For the cleaning of "man-made water conveyance systems used for the commercial or industrial purposes of collecting, conveying, storing and recycling water" Chapter 29, (HB 457) amending RSA 482-A:3, IV(b); Effective Date: 5/10/05
2. **Mandatory Preliminary Review of Site Plans:** Amends RSA 676:4, II to allow a municipality to authorize its Planning Board to adopt regulations requiring mandatory preliminary review of site plans. Chapter 33, (HB 570); Effective Date: 7/9/05
3. **Planning Board Can't Limit Building Permits (without going through growth management process or using innovative zoning provision mandating phasing of development):** This new section to RSA 674:35 states explicitly the current law developed through court decision. Its proponents felt it was necessary to address a "perception that some planning boards were limiting building permits without authority". Chapter 51, (HB 111); Effective Date: 7/22/05
4. **Village Plan Alternative:** RSA 674:21, VI which established the innovative land use control allowing these New Urbanism developments with mixed uses, no longer allows for expedited approval and the Planning Board can now require that "setbacks to new construction within such a subdivision can be up to twice the distance required by current zoning or subdivision regulations". Chapter 51, (HB 141); Effective Date: 7/22/05
5. **Calculation of 30 Day Period for Filing ZBA Motion for Rehearing and Planning Board Appeals:** RSA 677:2 and 677:15, I are corrected so that the method of calculating the 30 days in which to file your ZBA Motion for Rehearing or your Planning Board appeal to the Superior Court is calculated consistent with RSA 21:35 and common sense so as not to count the day the Board made its decision. Chapter 105, (HB 236); Effective Date: 8/14/05

6. **Street Frontage Requirements:** The legislature has authorized a municipality, through the local zoning amendment process, to exempt any lot from frontage requirements stated in RSA 574:41, I and II which sets forth a process to seek to build on lots without frontage on public streets. Chapter 226, (SB 188); Effective Date: 9/3/05

7. **Correction to Verified Statement for Condominium Floor Plans:** RSA 479-A:12 is amended to insert the correct statutory reference RSA 478:1-a setting the standard for the preparation of condominium floor plans required to be filed with the Declaration; Chapter 31, (HB 504); Effective Date: 7/9/05

### WHAT'S AHEAD

#### 1. **Study Committees Established by Legislature**

A. **SHORELAND PROTECTION ACT:** including specifically a review of buffer and set back standards and revisions and/or clarification of non-conforming use, lot and structure standards.

B. **DISPOSAL OF CONSTRUCTION DEBRIS AND DEMOLITION:** Two committees with one looking at electricity generation and the second effects a moratorium until July 1, 2006 on the incineration of C&D waste except for certain municipal plants, and studies methods of disposal.

2. **Tax Assessment of Non-Residential Property:** NHMA continues to push for legislation that will allow local municipal assessors to get access to income and expense information to enable commercial and industrial properties to be assessed on the income method and not merely comparable sales.

3. **Legislative Response to U.S. Supreme Court's decision in Kelo v. New London re: The Eminent Domain Power of Municipalities:** Both Senate and House leadership have made it a priority for next session to enact legislation addressing the perceived "extreme power", granted to municipalities under the takings clause of the 5<sup>th</sup> Amendment to the U.S. Constitution, although NH case law and statutory law don't appear to allow the taking of non-blighted property as in the Connecticut case.

4. **Variance Standards:** Last session a bill sponsored by municipal interests designed to clarify the hardship standard and role back the lesser area variance standard set forth by the NH Supreme Court for dimensional variances was defeated in the Senate and it appears dead for at least the next Legislative Session.

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