



## NHMA Guidance on 2021 Annual Meeting\*

December 4, 2020

**\*This guidance is subject to further update, clarification, and supplemental material. Please visit NHMA's COVID-19 webpage to ensure you are reading the most recent version of our guidance and any supplemental information that may available.**

### **HB 1129: “Drive-Thru Voting”**

In order to afford local governments the option of holding a virtual annual meeting in 2021, the Legislature adopted [HB 1129](#) (2020 N.H. Laws Chapter 8). The Temporary Optional Town Meeting Procedures of HB 1129, Paragraph 8:3, are set forth at length below, and may be used for either SB2 or “traditional” annual meetings.

The governing body of a town, school district or village district may elect to convene the annual meeting to approve the posted warrant through a two (2) step process. Where that decision is going to be made after the warrant has been posted, and thus the town meeting has been scheduled, the moderator should make a determination under 40:4 that an “emergency” (Covid-19) has “render[ed] use of the meeting location unsafe,” and the select board would then exercise the option to conduct a virtual meeting as permitted by HB 1129. All procedures that would normally precede posting of the annual meeting warrant would still be followed as prescribed in RSA chapter 39, RSA chapter 40, RSA chapter 52, RSA chapter 194. When the governing body undertakes to employ HB 1129 to conduct the annual meeting virtually, the regular municipal legal counsel should be consulted.

**Step 1:** First, the governing body must hold two (2) live virtual meetings to inform the voters about the proposed optional meeting procedures, discuss the warrant articles and finalize the warrant content.

Before the first virtual information session is held the governing body shall mail notice to all registered voters at least seven (7) days prior to that first session providing the date and time of the meeting and the virtual meeting access information. This means that each voter shall receive an individually addressed piece of mail, regardless of the number of voters at each address location. The notice must also describe the procedures to be followed for conducting the annual meeting under provisions of HB 1129. The notice will also inform voters that a second virtual meeting will be held by the governing body seven days later. This first information session would be a review of the warrant, article by article. During the first information session, the proposed optional town or school district meeting procedures must also be outlined. The first information session will be conducted by the governing body chairperson or by the moderator. It would be optional whether the first information session would be interactive with members of the public offering comment via online means.

After the first virtual meeting is adjourned, questions and comments from the public shall be solicited and received via electronic mail, voice mail, text message, or by other electronic means. Comments are not restricted to registered voters, but of course the governing body can decide how much weight to give to comments from non-voters.

Within seven (7) days of the first information session, the governing body shall hold another live virtual meeting to consider and address comments received from the public after the first session. At that meeting the governing body shall discuss, debate, and be permitted to amend the posted warrant. This delegates to the governing body the sole authority to put the warrant in final form. Like the first information session, this second virtual meeting could either be conducted by the chair of the governing body or by the moderator. It would also be optional whether the second information session would be interactive with the public participating via online means.

**Step 2:** Second, after the last information session the governing body would make the final warrant available electronically for printing by voters to be brought to the voting session. The final warrant that is provided electronically would be in the nature of a sample ballot. The actual ballot to be used for voting purposes would only be provided to each voter at the drive-up voting session. Although HB 1129 permits the governing body to schedule the date and time of the voting session, ideally the date of the voting session should comply with the date prescribed as the Official Ballot Voting Day as defined in RSA 652:16-g. Therefore, it is recommended that the drive-up voting session for a traditional town or school district meeting would be March 9, 2021 or May 11, 2021. For an SB 2 town or district the drive-up voting session would be on March 9, 2021, April 13, 2021, or May 11, 2021. However, in a town where town elections and school district elections are coordinated, it will be necessary for the town and school district to cooperate, and this may require the drive-up voting session to be held on a different day, especially if the school district is using HB 1129 and the town is not, or vice versa.

Voting on final warrant articles shall be by secret ballot cast by voters through drive-up procedures to ensure appropriate social distancing. For SB 2 municipalities and districts, voting by official ballot for the election of officers and for voting on all warrant articles will proceed as provided in RSA 40:13. In a traditional town or district meeting municipality, an official ballot will be printed for the election of officers and other items that are required to be placed on the official ballot. All other warrant articles will be printed on a separate ballot ("the alternative ballot").

The first article on the SB 2 Official ballot or the alternative ballot shall ask whether voters approve the optional meeting procedures. If the optional procedures are not approved by a simple majority, all other warrant articles shall be deemed disapproved. However, the election of officers and action on other items on the initial ballot will be effective. (Because of an ambiguity in the bill, if an SB 2 town or district does not approve the optional procedures, there is some uncertainty about whether the election of officers would be deemed effective.) If the optional voting procedures are approved, then all other votes on warrant articles shall be deemed the final action of the meeting, provided that if the operating budget warrant article is not approved, the governing body may vote to:

- (a) Convene a meeting before September 1 to adopt an operating budget; or
- (b) Elect to deem that the meeting has adopted the previous year's operating budget article, not including separate warrant articles.

Municipalities or school districts that will be voting on bond articles under the provisions of RSA 33:8 and RSA 33:8-a should plan to consult your bond counsel or the Municipal Bond Bank for any additional procedures that should be followed.

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### **In-Person Annual Meetings & Masks**

For those towns that do hold in person deliberative or business sessions, NHMA interprets EO #74 to apply to those meetings, and persons attending those meetings who cannot consistently maintain a physical distance of at least six feet from persons outside their household must wear a mask or cloth face covering over their noses and mouths. Local officials should review [NHMA's guidance on EO#74](#).

### **Other Voting-Related Issues**

NHMA is pursuing clarification on several other town meeting and election issues. We will keep you updated, and we will also update this guidance if additional clarification or orders/guidance from the state becomes available.

***HB 1129- 8:3 Temporary Optional Town Meeting Procedures; State of Emergency.*** Towns, village districts, and school districts that are unable to hold in-person annual meetings in 2020 or 2021 due to novel coronavirus disease (Covid-19) may conduct virtual meetings in accordance with this section. At the option of the governing body, the town or school district meeting may be convened and proceed to approve the posted 2020 or 2021 warrant in the following fashion:

*I. The governing body shall host a live virtual meeting and information session, during which the proposed optional town or school district meeting procedures shall be outlined and warrant articles discussed. At least 7 days prior to this informational session, notice shall be mailed to all registered voters describing the procedures to be followed for conducting an annual meeting pursuant to this section. After the live, virtual meeting is adjourned, questions and comments from the public shall be solicited and received via electronic mail, voice mail, text message, or by other electronic means.*

*II. Within 7 days of the information session, the governing body shall hold another live virtual meeting to consider and address comments received from the public. The governing body shall then discuss, debate, and be permitted to amend the posted warrant. The final warrant, as amended, shall then be made available electronically for printing by voters to be brought to the voting session, which shall be scheduled for a date and time to be determined by the governing body.*

*III. Voting on final warrant articles shall be by secret ballot cast by voters through drive-up procedures to ensure appropriate social distancing. In a town or district that uses the official ballot for the election of officers and has not yet held its town or district election, an official ballot will be printed for the election of officers and other items that are required to be placed on the official ballot. All other warrant articles will be printed on a separate ballot ("the alternative ballot").*

*IV. The first article on the alternative ballot shall ask whether voters approve these optional meeting procedures. If the optional procedures are not approved by a simple majority, all other warrant articles shall be deemed disapproved. However, the election of officers and action on other items on the initial ballot will be effective. If the optional voting procedures are approved, then all other votes on warrant articles shall be deemed the final action of the meeting, provided that if the operating budget warrant article is not approved, the governing body may vote to:*

*(a) Convene a meeting before September 1 to adopt an operating budget; or*

*(b) Elect to deem that the meeting has adopted the previous year's operating budget article, not including separate warrant articles.*

*V. In a town or district using the official ballot referendum (SB 2) form of annual meeting that has held its deliberative session but has not yet held its official ballot voting sessions, the governing body may choose to use the drive up procedures in paragraph III for the official ballot voting session, and paragraphs I and II shall not apply.*

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