

# LEGISLATIVE BULLETIN

Bulletin #3

2015 Session

January 16, 2015

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## The Deluge

Next week is the first full week of legislative hearings, and House and Senate committees are not wasting any time. On Tuesday alone, there will be 54 hearings in the House (ten in Election Law), and 22 in the Senate.

Many of the bills would affect municipalities, some in small ways and some in major ways. Please check the calendar later in this *Bulletin*, which lists all bills of municipal interest that are scheduled for hearings in the next two weeks (but be sure to check again next week, because the second week's schedule is subject to change). Also see the list of new bills at the end of the *Bulletin*.

The next few weeks will be a blur of hearings. If you are interested in specific bills, watch the calendars closely, and, as always, contact our government affairs staff if you have questions.

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## Policy Bills in House, Senate

A couple of the bills scheduled for hearings next week are **NHMA policy bills**. We cannot claim credit for the introduction of either bill, but we applaud the local officials and legislators responsible for them:

On **Tuesday, January 20, at 11:30 a.m., in LOB Room 203**, the House Transportation Committee is scheduled to hear **HB 130**, which would authorize the use of blue lights on municipal emergency response vehicles. Currently, blue lights are permitted only on police vehicles.

Both anecdotal evidence and scientific studies suggest that drivers pay more attention to blue lights than to red lights. Although this is perhaps partly attributable to the fear of being nabbed by "the blues," it is probably more related to the fact that (as we're told) the human eye perceives blue lights more easily, especially at night. The bill would allow only a single rear-mounted blue light on each emergency response vehicle as a safety measure.

### Policy Bills - continued

On **Wednesday, January 21, at 9:45 a.m., in LOB Room 102**, the Senate Public and Municipal Affairs Committee is scheduled to hear **SB 30**, which clarifies that a regional tax increment financing (TIF) district may be established through an inter-municipal agreement under RSA 53-A. We are told that this bill will facilitate the renovation of the Balsams resort. That is not why we support it, although most would agree that it is a good reason. We believe there may be other circumstances in which municipalities could take advantage of it to attract commercial development.

### Expanded Ordinance Authority for Towns

One of the differences between cities and towns is the extent of their authority to adopt ordinances for particular purposes. Town ordinance authority is governed primarily by RSA 31, while city ordinance authority is governed primarily by RSA 47, especially RSA 47:17, and there is little consistency between the two statutes. Cities have broader authority under RSA 47:17, and beyond that, RSA 47:1 provides that a city council (which is deemed to include a board of aldermen) has “[a]ll the powers vested by law in towns, or in the inhabitants thereof.”

Thus, a city may adopt any ordinance that a town may adopt, but there is no reciprocal authority for towns (except for RSA 41:11, which gives town selectmen the same authority to regulate highways, sidewalks, and town commons as is given to city councils under RSA 47:17, VII, VIII, and XVIII). As a result, the legislature is occasionally called upon to amend RSA 31 to give towns authority that cities already have to regulate a particular subject.

Next week, the House Municipal and County Government Committee will hear testimony on a bill that would give towns some reciprocity. **HB 154** would amend RSA 31:39 to add a provision stating that “towns may adopt bylaws or ordinances for any purpose authorized for cities under RSA 47:17.” It does not give towns all of the powers that cities have, but any ordinance that is authorized by RSA 47:17 would now be available to a town. This seems like a good idea; it would save the legislature the trouble of repeatedly amending the town statutes, and we cannot see any adverse consequences. The bill is scheduled for a hearing before the Municipal and County Government Committee on **Tuesday, January 20, at 1:45 p.m., in LOB Room 301**.

### Bill Seeks to Regulate “Non-Meetings”

The House Judiciary Committee will hear testimony next week (**Tuesday, January 20, at 10:00 a.m., in LOB Room 208**) on a bill that would impose limits on “non-meetings” under the Right-to-Know Law. (“Non-meetings” consist primarily of collective bargaining sessions and consultations with a public body’s legal counsel.) **HB 181** would require that before a public body goes into a non-meeting, it must state the reason, limit discussion to the topic stated, take attendance, and keep a record of when the non-meeting begins and ends.

**“Non-Meetings”** - continued

This is troubling. The whole point of a “non-meeting” is that the Right-to-Know Law does not apply to it. Now, it would--sort of.

It is unclear how the bill would work. The public body would have to state the purpose of the non-meeting. To whom? No notice is required, and the public has no right to attend, so it is unclear what the forum would be for stating the purpose of the non-meeting.

Similarly, what is the purpose of requiring the public body to take attendance and keep a record of when the meeting begins and ends? It is unclear whether that information must be made public, and, even if so, how the information would benefit the public. “Selectmen Black, White, and Brown attended a non-meeting with Attorney Green. It began at 6:00 p.m. and ended at 8:00 p.m.” This seems to do nothing more than create one more bureaucratic hoop for public bodies to jump through.

The bill would have one other notable impact: one kind of “non-meeting” to which it would apply is a political party caucus within a public body--namely, the House and Senate Republican and Democratic caucuses. It would be interesting to see those groups trying to comply with these requirements. Nevertheless, we urge the Judiciary Committee to give this bill a quick and painless death.

### **A Change in House Procedure?**

After a House or Senate committee hears a bill, it schedules an “executive session”--almost always at a later date--to take action on the bill. In most cases, a committee will take up several bills in one executive session. House and Senate rules require committees to publish advance notice of their executive sessions, but the rules do not require them to identify the specific bills they are going to “exec” in any given session. For years, committees followed this rule by merely including a statement in the calendar that “Executive session may follow” after scheduled hearings. The only way to know what bills would be acted upon was to attend the executive session (or ask the committee chairman).

Sometime around 2007, the House changed its procedure and required committees to identify each bill that was going to be taken up in a given executive session. (The Senate never followed suit.) In 2011, there was a brief hint that the House might go back to its old practice of merely advertising generic executive sessions, but that idea was quickly scuttled.

This week’s House calendar suggests, again, that the House may return to its pre-2007 tradition. Several committee schedules indicate that an “[e]xecutive session on pending legislation may follow,” without identifying any specific bills. This will make it a bit more challenging to follow legislation through the process. We will see whether this change sticks.

**HOUSE CALENDAR**  
**Joint House/Senate Meetings Are Listed Under This Section**

**TUESDAY, JANUARY 20**

**ELECTION LAW, Room 308, LOB**

- 10:00 a.m.      **HB 173**, relative to instruction on ballots.  
 10:15 a.m.      **HB 183**, relative to voter registration forms.  
 10:30 a.m.      **HB 185**, authorizing straight ticket voting.  
 10:45 a.m.      **HB 127**, relative to identification of voters.  
 11:00 a.m.      **HB 133**, relative to recounts on questions.  
 1:00 p.m.        **HB 140**, relative to appointment of inspectors of election.  
 1:30 p.m.        **HB 110**, relative to placement of political advertising.  
 1:45 p.m.        **HB 179**, relative to placement of political advertising.  
 2:00 p.m.        **HB 204**, relative to incompatibility of town offices.

**ENVIRONMENT AND AGRICULTURE, Room 303, LOB**

- 1:00 p.m.        **HB 200**, defining “farm stand.”

**JUDICIARY, Room 208, LOB**

- 10:00 a.m.      **HB 181**, relative to the definition of “meeting” under the right-to-know law.

**MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB**

- 10:00 a.m.      **HB 102**, relative to consideration of warrant articles.  
 10:20 a.m.      **HB 107**, relative to the retention of municipal trust fund bank statements.  
 11:00 a.m.      **HB 166-L**, relative to records storage by municipalities.  
 11:20 a.m.      **HB 191**, relative to projects which are privately financed in energy efficiency and clean energy districts.  
 1:00 p.m.        **HB 145**, allowing municipalities to dedicate a percentage of timber yield taxes to the conservation fund.  
 1:45 p.m.        **HB 154**, relative to the power of towns to adopt bylaws and ordinances.

**PUBLIC WORKS AND HIGHWAYS, Room 201, LOB**

- 10:15 a.m.      **HB 115**, repealing the allocation of gross appropriations from the highway fund in the state budget.

**TRANSPORTATION, Room 203, LOB**

- 11:30 a.m.      **HB 130**, relative to the use of blue lights on emergency vehicles. **NHMA Policy.**  
 2:00 p.m.        **HB 178**, relative to exclusions from seasonal highway weight limit regulations.

**THURSDAY, JANUARY 22**

**EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB**

- 10:30 a.m.      **HB 109-FN-L**, relative to the testing of backflow devices.

**SCIENCE, TECHNOLOGY AND ENERGY, Representatives Hall**

- 10:00 a.m.      **HB 208-FN**, repealing the New Hampshire regional greenhouse gas initiative program.

**House Calendar** - continued**FRIDAY, JANUARY 23****SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSION PLANS,  
Room 104, LOB**

- 10:00 a.m. Organization meeting.  
 10:30 a.m. Presentation on the NHRS.  
 11:30 a.m. Presentation of Attorney General's Office on Professional Fire Fighters of New Hampshire v. State of New Hampshire.

**TUESDAY, JANUARY 27****CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB**

- 10:00 a.m. **HB 214-FN**, relative to circumstances under which a police officer's certification may be revoked.

**SENATE CALENDAR****TUESDAY, JANUARY 20****COMMERCE, Room 100, SH**

- 2:00 p.m. **SB 42**, relative to employee notification of contraceptive coverage.

**JUDICIARY, Room 100, SH**

- 9:40 a.m. **SB 41**, establishing a commission to study government immunity from suit and accountability by its citizens.

**TRANSPORTATION, Room 103, LOB**

- 1:15 p.m. **SB 63**, relative to membership of the board of directors for the New Hampshire rail transit authority.

**WEDNESDAY, JANUARY 21****ENERGY AND NATURAL RESOURCES, Room 100, SH**

- 9:00 a.m. **SB 38**, establishing a commission to develop a land conservation plan.

**PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB**

- 9:15 a.m. **SB 17**, relative to training of certain board officers of nonprofit corporations.  
 9:30 a.m. **SB 20 FN-L**, relative to historic burial grounds.  
 9:45 a.m. **SB 30-FN-L**, relative to municipal economic development and revitalization districts. **NHMA Policy**.  
 10:00 a.m. **SB 97**, authorizing municipalities to adopt ordinances to regulate stormwater to comply with federal permit requirements.  
 10:15 a.m. **SB 39**, relative to recounts on questions.

**Senate Calendar** - continued**THURSDAY, JANUARY 22****EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, SH**

1:00 p.m. **SB 85**, establishing a statutory commission to study post-retirement employment of New Hampshire retirement system retirees.

**JUDICIARY, Room 100, SH**

9:00 a.m. **CACR 5**, relating to legal actions. Providing that taxpayers have standing to bring actions against the government.

**TUESDAY, JANUARY 27****FINANCE, Room 103, SH**

2:00 p.m. **SB 13**, relative to the disposition of dedicated funds.

**NEW BILLS****House Bills**

**HB 130** authorizes the use of blue lights on firefighting apparatus operated by local firefighters and emergency response employees and volunteers. Rep. Danielson of Bedford; **TRANS-H. NHMA Policy**.

**HB 140** modifies the procedure for appointing inspectors of election. Rep. Gray of Rochester; **EL**.

**HB 145** enables municipalities to place normal yield tax revenue in a yield tax fund and deposit a portion of such yield taxes in the conservation fund. Rep. Manley of Bennington; **M&CG**.

**HB 154** gives towns the same power to adopt bylaws or ordinances that cities have. Rep. Irwin of Newport; **M&CG**.

**HB 155** allows selectmen to appoint a police chief for a fixed term by contract. Rep. Bickford of New Durham; **M&CG**.

**HB 163** establishes a state minimum wage of \$16 per hour. Rep. Robertson of Keene; **LABOR**.

**HB 166-LOCAL** permits municipalities to offer storage space for various storage media formats to an agency of the United States, political subdivisions of the state, and certain nonprofit organizations. Rep. K. Roberts of Keene; **M&CG**.

**HB 173** modifies instructions on ballots regarding how many persons are to be voted for. Rep. Williams of Wilton; **EL**.

**HB 176-FN-A-LOCAL** makes an appropriation to the department of revenue administration for the towns affected by the Merrimack River flood control compact and the Connecticut River flood control compact. Rep. Ratzki of Andover; **F-H**.

**New House Bills** - continued

[HB 178](#) adds an exclusion from seasonal highway weight limit regulations for trucks carrying sap for maple syrup production. Rep. Rideout of Lancaster; **TRANS-H**.

[HB 179](#) allows placement of political advertising on public property immediately outside of the corridor in which certain activities are prohibited at the polling place. Rep. Gionet of Lincoln; **EL**.

[HB 181](#) declares that before a public body goes into a non-meeting pursuant to RSA 91-A:2, it must state the reason, limit discussion to the topic stated, take attendance, and keep a record of when the non-meeting begins and ends. Rep. Calipitts of Portsmouth; **JUD-H**.

[HB 182](#) establishes a committee to study alternative public employee retirement plans. Rep. Hess of Hooksett; **ED&A-H**.

[HB 183](#) modifies the content of voter registration forms. Rep. Marston of Manchester; **EL**.

[HB 185](#) allows straight ticket voting at state general elections. Rep. Marston of Manchester; **EL**.

[HB 186](#) enables the department of environmental services and the town of New Ipswich to negotiate an agreement as to the encroachment of the town cemetery on state land. Rep. Coffey of New Ipswich; **M&CG**.

[HB 191](#) exempts projects which are privately financed in energy efficiency and clean energy districts from dollar amount caps and requirements for a loan loss reserve. Rep. Mann of Alstead; **M&CG**.

[HB 192](#) provides that the value for utility property determined by the commissioner of revenue administration for the purposes of the utility property tax shall not be used in an abatement application or an appeal under RSA 76. Rep. Coffey of New Ipswich; **M&CG. NHMA Policy**.

[HB 193](#) precludes the assessment of any fee or tax on utilities for the use of village district roads except by the village district commissioners. Rep. Coffey of New Ipswich; **M&CG**.

[HB 199](#) requires that property tax bills include a reference to low and moderate income homeowners property tax relief. Rep. Jones of Rochester; **M&CG**.

[HB 200](#) defines "farm stand" for purposes of statutory construction. Rep. Rebecca Brown of Sugar Hill; **E&A**.

[HB 204](#) provides that a cemetery trustee may not simultaneously serve as a selectman, treasurer, moderator, trustee of trust funds, tax collector, auditor, highway agent, or police chief. Rep. Rowe of Amherst; **EL**.

**New House Bills** - continued

[HB 205-LOCAL](#) redefines “property owner” for the purposes of limiting financing by energy efficiency and clean energy districts to individuals and nonprofit organizations. Rep. C. McGuire of Epsom; **M&CG**.

[HB 208-FN](#) repeals the New Hampshire regional greenhouse gas initiative program. Rep. Barry of Merrimack; **ST&E**.

[HB 214-FN](#) requires the police standards and training council to revoke the certification of any police officer who is found to have committed an act involving false statements or falsifying evidence. Rep. Tasker of Northwood; **CJ&PS**.

[HB 222-FN](#) provides that a homeowner who is over 80 years of age and has lived in his or her homestead for at least 5 years shall be exempt from the statewide education tax. Rep. Coffey of New Ipswich; **W&M-H**.

[HB 224-FN](#) repeals the property tax exemption for water and air pollution control facilities. Rep. Cushing of Hampton; **M&CG**.

[HB 226](#) permits the legislative body of a municipality to authorize the governing body to borrow from any fund controlled by the governing body. Rep. J. Belanger of Hollis; **M&CG**.

[HB 227](#) requires the approval of the appropriate legislative body before land acquired with public funds or land donated to a public entity may be taken by eminent domain, or before covenants or easements on the land may be violated. Rep. J. Belanger of Hollis; **M&CG**.

[HB 229](#) increases the maximum amount of the optional veterans’ tax credit to \$750. Rep. Chirichiello of Derry; **M&CG**.

[HB 233](#) clarifies the scope of local approval requirements for mining activity and modifies requirements for pre-application meetings. Rep. Hunt of Rindge; **M&CG**.

[HB 240](#) prohibits the use of drones to obtain evidence except in certain circumstances. Rep. Duarte of Candia; **CJ&PS**.

[HB 244-LOCAL](#) sets the permissible level of methyl tertiary butyl ether (MTBE) in drinking water from a public water system at 0 parts per billion. Rep. McConnell of Keene; **E&A**.

[HB 250](#) eliminates the requirement of perambulation of town lines and instead provides for perambulation when the selectmen deem it necessary. Rep. Crawford of Center Harbor; **M&CG**. **NHMA Policy**.

[HB 254](#) exempts municipal employees from boating restrictions applicable to specified bodies of water if they are engaged in emergency rescue operations or training. Rep. Byron of Litchfield; **RR&D**.



**New House Bills** - continued

[HB 257](#) provides that, in a municipality with biennial elections, a vote to establish or amend a charter may be placed on the ballot at the next state biennial election if it occurs before the next municipal election. Rep. P. Long of Manchester; **M&CG**.

[HB 258-FN-LOCAL](#) increases the fee that the town clerk receives for preparing motor vehicle registration forms. Rep. P. Long of Manchester; **W&M-H**.

[HB 260](#) modifies the definition of antique motor vehicle or motorcycle for purposes of motor vehicle registration. Rep. D. McGuire of Epsom; **TRANS-H**.

[HB 263](#) prohibits any political subdivision from adopting an ordinance or bylaw that restricts the residence of a sexual offender or an offender against children. Rep. Robertson of Keene; **CJ&PS**.

[HB 267-FN](#) requires employers to verify employees' eligibility to work in the United States by using a status verification system. Rep. Duarte of Candia; **LABOR**.

[HB 272](#) designates the Ham Branch watershed in Easton as a protected river and exempts the Ham Branch watershed from the comprehensive shoreland protection act. Rep. Ford of Easton; **RR&D**.

[HB 274](#) addresses the sovereignty of the state and provides for removal of public officials who violate Part I, Article 7 of the New Hampshire Constitution. Rep. Marple of Hooksett; **S-FR**.

[HB 275](#) enables the town of New Ipswich to enter into an agreement with the department of environmental services regarding the lot line of a cemetery in New Ipswich. Rep. Coffey of New Ipswich; **M&CG**.

[HB 278](#) authorizes the municipal clerk to charge an administrative fee for processing a fill and dredge permit. Rep. Danielson of Bedford; **W&M-H**.

**Senate Bills**

[SB 4](#) amends the definition of domicile for voting purposes. Sen. Carson of Londonderry; **PMA**.

[SB 13](#) requires 2/3 approval of the general court to expend or transfer funds from a dedicated state fund or account in a manner contrary to its statutory purpose. Sen. Morse of Salem; **F-S**.

[SB 17](#) requires that every publicly supported voluntary corporation ensure that the chairperson or presiding officer of its board of directors, or his or her designee, receives biennial management training. Sen. Carson of Londonderry; **PMA**.

[SB 20-FN-LOCAL](#) establishes a process for approval of the disinterment or removal of historic remains by application to the municipal clerk, with objections to be filed with and ruled upon by the probate court. Sen. Watters of Dover; **PMA**.

**New Senate Bills** - continued

[SB 30-FN-LOCAL](#) extends the use of tax increment financing (TIF) districts to certain regional water districts and clarifies the ability to establish a regional TIF district through an agreement between governmental units. Sen. Woodburn of Dalton; **PMA. NHMA Policy.**

[SB 38](#) establishes a commission to develop a state conservation plan. Sen. Fuller Clark of Portsmouth; **ENR.**

[SB 39](#) requires notice to voters requesting a recount on certain local questions and public posting of notice of the time and place of the recount. Sen. Soucy of Manchester; **PMA.**

[SB 41](#) establishes a commission to study government immunity from suit and accountability by its citizens. Sen. Boutin of Hooksett; **JUD-S.**

[SB 42](#) requires employers offering insurance coverage to their employees to specify the details of any contraceptive coverage to prospective employees. Sen. Pierce of Hanover; **COM-S.**

[SB 54](#) requires an alternative treatment center for therapeutic cannabis which is exempt from property taxes to make payments in lieu of taxes to the municipality in which the center's buildings and land are located. Sen. Reagan of Deerfield; **PMA.**

[SB 58](#) prohibits the use of a "reverse image" United States flag for use as a patch on certain state and municipal personnel uniforms. Sen. Carson of Londonderry; **PMA.**

[SB 63](#) decreases the number of members of the board of directors for the New Hampshire rail transit authority and establishes an advisory board. Sen. Lasky of Nashua; **TRANS-S.**

[SB 72](#) establishes a procedure for disclosure of exculpatory information in police personnel files when a police officer is serving as a witness or prosecutor in a criminal case. Sen. Carson of Londonderry; **JUD-S.**

[SB 74](#) establishes a committee to study reducing the cost of county government. Sen. Fuller Clark of Portsmouth; **PMA.**

[SB 77-LOCAL](#) authorizes the creation of a special purpose village district within the town of Danbury. Sen. Forrester of Meredith; **PMA.**

[SB 79](#) allows the selectmen to appoint undeclared voters as inspectors of election if a political party committee fails to make the appointments and party members are not available, and allows the moderator to appoint inspectors pro tempore if an insufficient number of inspectors have been appointed by the parties and selectmen. Sen. Woodburn of Dalton; **PMA.**

**New Senate Bills** - continued

[SB 83](#) prohibits members of municipal conservation commissions from entering public property not acquired by the conservation commission for the purposes of gathering data, without obtaining permission from the public owner. Sen. Daniels of Milford; **PMA**.

[SB 85](#) establishes a statutory commission to study post-retirement employment of New Hampshire retirement system retirees. Sen. Carson of Londonderry; **ED&A-S**.

[SB 97](#) authorizes municipalities to adopt ordinances to regulate stormwater in order to comply with federal and state laws and regulations. Sen. Birdsell of Hampstead; **PMA**.

[SB 98](#) allows a land use applicant to select the third party for review and consultation to the planning board as a condition of the applicant's liability for the third party's expenses. Sen. Watters of Dover; **PMA**.

[SB 100](#) makes the failure to deliver home heating fuel in the winter, after the customer pays an arrearage or enters into a reasonable repayment plan, a violation of the consumer protection act. Sen. Feltes of Concord; **COM-S**.

[SB 141](#) eliminates the requirement that three members of the zoning board of adjustment concur in order to decide in favor of an applicant. Sen. Boutin of Hooksett; **PMA**.

[SB 143](#) defines phased development for purposes of innovative land use controls. Sen. Boutin of Hooksett; **PMA**.

[SB 146](#) establishes limitations on local regulation of accessory dwelling units. Sen. Boutin of Hooksett; **PMA**.

[SB 156-FN](#) prohibits an employer from discriminating against an employee who is or has been a victim of domestic violence, sexual assault, or stalking. Sen. Hosmer of Laconia; **COM-S**.

## 2015 Town & School Moderators Workshops

SB 2 Meeting

Saturday, January 17

(Snow date: Saturday, January 24)

Traditional Meeting

Saturday, February 21

(Snow date: Saturday, February 28)

9 a.m.—12:30 p.m. 25 Triangle Park Drive, Concord, NH

Cost: \$40

Registration and continental breakfast begin at 8:30 a.m.

Attendees will receive a copy of NHMA's 2014 edition Town Meeting and School Meeting Handbook and a copy of the 2015 supplement.

### Topics include:

#### The Basic Law of Town, Village District and School District Meeting

Statutes governing the moderator's duties at town, village district and school district meetings will be discussed along with issues related to warrant articles, the operating budget, secret ballot voting and other town meeting issues. These topics will be addressed in two concurrent sessions tailored for new and experienced moderators. Ample time will be devoted to questions and answers.

#### Strategies for Running a Smooth Meeting

Moderators are faced with a challenging task: keeping meetings focused and fair to all participants, while effectively facilitating the flow of debate. This session will highlight suggested strategies for running respectful and efficient meetings.

#### Sample Scenarios

A series of sample scenarios will help attendees prepare for a wide range of meeting challenges.



Register online at [www.nhmunicipal.org](http://www.nhmunicipal.org) under CALENDAR OF EVENTS. Online pre-registration required one week prior to each date. *Space is limited.*

Questions? Call 800.852.3358, ext. 3350 or email [NHMAregistrations@nhmunicipal.org](mailto:NHMAregistrations@nhmunicipal.org)