It's the Great Pumpkin Quest

What Will Halloween Look Like this Year?
Agenda

🎃 Legal Guidance
🎃 Public Health & State Guidance
🎃 Case Studies from New Hampshire
Legal Authority to Regulate Halloween + Considerations for the Pandemic
Historical Origins of Municipal Regulation

The early 20th Century saw Halloween become a “celebration of mischief.”

1920s-1940s saw serious property damage caused, mostly, by rowdy groups of teens, and often included fires, serious damage to homes and cars, and, at times, rioting.

In 1950, the U.S. Senate Judiciary Committee recommended Halloween be redesignated “National Youth Honor Day” in order to facilitate a day of celebration of moral fiber and eliminate the dangers of the evening. (It didn't pass).

Violence decreased in the decades after the 40s largely as municipalities put effort into organizing and encouraging alternative activities, particularly trick-or-treating.
Trick or Treat
From the Historical to Today
A Shift from Common Law to Statutes?

**Common Law**
The inherent “police powers” of a municipality – allowing them to protect health, safety, and welfare – could be construed to allow for regulation of activities that threaten those.

**Statutes**
The preference for regulatory power, however, resides in statutes, not the common law.

Note: Cities & Town Councils have more statutory authority under RSA 47:17 than other municipalities.
Some municipalities set the times of trick-or-treat and become involved in the process by providing municipal resources (e.g. police).

Some municipalities suggest times for trick-or-treat and have varying degrees of involvement.

Some municipalities don’t get involved.
Incorporates RSA 47:17, VII
Allows governing bodies “to prohibit the rolling of hoops, playing at ball or flying of kites, or any other amusement or practice having a tendency to annoy persons passing in the streets and sidewalks, or to frighten teams of horses within the same.”

Certainly the State has a legitimate interest in protecting citizens from the effects of certain types of annoying or alarming telephone calls.

There are, however, many instances when one may communicate with another with the possible intention of causing a slight annoyance...that one is legitimately entitled to seek.
Here comes the Calvary!

‘Frightened Horses’

様々 NHMA training often ‘modernizes’ the statute’s reading – focusing on impeding traffic flow.

様々 BUT horses are more subject to fright than drivers.

様々 Hoebeve: Howe, 98 N.H. 168 (1953) - Literally a case about whether horses will be frightened by a plane flying 388 feet in the air rather than several hundred feet higher.

 possibile Not reasonable to expect that such a case would proceed if it involved a person driving an automobile.

様々 Thousands of cases about frightened horses, and what may frighten them.
RSA 147:1

Health Officer Regulations

 Regulations must relate to the public health “as in the [health officer’s] judgment the health and safety of the people require.”

 Regulations take effect when:
  - Approved by the select board
  - Recorded by the town clerk,
  - Published in some newspaper printed in the town or posted in 2 or more public places in the town.
BUT!

Be Careful – Authority Has Never Faced Legal Challenge

🌞 Most expansive use of RSA 147:1, to date, has been municipal “mask” ordinances.
_ghost_ Targeted to require a specific action in a specific setting where a specific threat exists.

👻 Covid-19 is spread through asymptomatic carriers who have close physical contact with others.

👻 Temperature checks and other “signs” of infection will not be present in asymptomatic individuals.

👻 Only viable, least-restrictive option is widespread mask use.

💀 Halloween-specific ordinance should also follow clearly reasonable steps.

👻 Imprecise ordinances more likely to be struck down.
Other Festivities

Look to State Guidance
(Even if Emergency Orders #17 & #40 expressly exclude “local government”)
State Guidance

- Universal Guidance
- Fairs & Festivals
- Road Races

Pay attention to any Halloween-specific guidance.
Remember that even though municipalities don’t have to follow state guidance, businesses and private organizations do, so be careful if a non-profit or other organization hosts an event!
Public Health Guidance
Three Main TakeAways
(From Any Covid-19 Health Guidance)

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distance
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barriers
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Time

Every piece of public health guidance focuses on these three concepts, and the relationship between them.
Things to Remember for Halloween

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🎯 Halloween Masks are **NOT** substitutes for CDC recommended face coverings
🎯 Trick-or-Treaters (and others) should **NOT** congregate
🎯 If screaming will likely occur, greater distancing is advised
💀 The greater the distance, the lower the risk of spreading a respiratory virus
Masks: A Practical Tip

Mask on Mask

Encourage proper CDC recommended face coverings, even if other masks are an option. **However**, remind parents to encourage CDC recommended face covering over Halloween masks where one-or-the-other must be chosen.
COVID-19:

Stay home if you are not feeling well.

Avoid large gatherings or parties and find ways to trick-or-treat while staying at least 6 feet away from others, including when handing out and accepting treats.

Practice frequent hand cleaning - bring a bottle of alcohol-based hand sanitizer with you while trick-or-treating and use it often.
Halloween Safety Tips

The Costume

- Keep costumes short to prevent trips and falls.
- Use make-up instead of a mask. Masks often obstruct a child’s vision making tasks like crossing the street and going up and down stairs dangerous.
- Make sure children wear light colors, put reflective tape on their costumes, or carry flashlights and/or glow sticks.

The Trick or Treating

- Make sure older children trick-or-treat with friends, never alone. Parents should map out a safe route. Young children should be accompanied by adults.
- Instruct children to stop only at familiar homes where the outside lights are on.
- Remind children not to enter the homes or cars of strangers.
- Follow your communities trick-or-treating hours.
- A good alternative to "Trick or Treating" is for parents to organize parties at home, in schools, or in community centers.

The Treats

- Remind children not to eat any of their treats until they get home.
- Parents should check all treats at home in a well-lighted area and dispose of anything that seems to have been tampered with, has been opened, or is not wrapped.
- Remember to also inspect fruits for anything suspicious.
CDC Halloween Guidance: Low Risk Activities

- Carving or decorating pumpkins with members of your household and displaying them
- Carving or decorating pumpkins outside, at a safe distance, with neighbors or friends
- Decorating your house, apartment, or living space
- Having a virtual Halloween costume contest
- Doing a Halloween scavenger hunt where children are given lists of Halloween-themed things to look for while they walk outdoors
- Having a Halloween movie night with people you live with
- Having a scavenger hunt-style trick-or-treat search with your household members in or around your home rather than going house to house
Low Risk: Waiting for the Great Pumpkin, Alone, in the Pumpkin Patch
Participating in one-way trick-or-treating where individually wrapped goodie bags are lined up for families to grab while continuing to social distance

Having a small group, outdoor, open-air costume parade where people are distanced more than 6 feet apart

Attending a costume party held outdoors where protective masks are used and people can remain more than 6 feet apart

Going to an open-air, one-way, walk-through haunted forest where appropriate mask use is enforced, and people can remain more than 6 feet apart

Visiting pumpkin patches or orchards where people practice healthy habits and are able to maintain social distancing

Having an outdoor Halloween movie night with local family friends with people spaced at least 6 feet apart
CDC Halloween Guidance: High Risk Activities

- Participating in traditional trick-or-treating where treats are handed to children who go door to door
- Having trunk-or-treat where treats are handed out from trunks of cars lined up in large parking lots
- Attending crowded costume parties held indoors
- Going to an indoor haunted house where people may be crowded together and screaming
- Going on hayrides or tractor rides with people who are not in your household
- Traveling to a rural fall festival that is not in your community if you live in an area with community spread of COVID-19
Boys and girls of every age
Wouldn't you like to see something strange?

Come with us and you will see
This, our town of Halloween

This is Halloween, this is Halloween
Pumpkins scream in the dead of night
This is Halloween, everybody make a scene
Trick or treat till the neighbors gonna die of fright
It's our town, everybody scream
In this town of Halloween

For the musically inclined…
High Risk Activities
Halloween

Many traditional Halloween activities can be high-risk for spreading viruses. There are several safer, alternative ways to participate in Halloween. If you may have COVID-19 or you may have been exposed to someone with COVID-19, you should not participate in in-person Halloween festivities and should not give out candy to trick-or-treaters.

**Lower risk activities**

These lower risk activities can be safe alternatives:

- Carving or decorating pumpkins with members of your household and displaying them
- Carving or decorating pumpkins outside, at a safe distance, with neighbors or friends
- Decorating your house, apartment, or living space
- Doing a Halloween scavenger hunt where children are given lists of Halloween-themed things to look for while they walk outdoors from house to house admiring Halloween decorations at a distance
- Having a virtual Halloween costume contest
- Having a Halloween movie night with people you live with
- Having a scavenger hunt-style trick-or-treat search with your household members in or around your home rather than going house to house
Case Studies
How New Hampshire's communities are approaching the pandemic
We are allowing trick or treating from 5pm – 8pm on 10/31. Town is monitoring the number of active cases to make an informed decision. Town has provided written COVID precautions and following general Halloween rules (i.e. porch light on/off).

Weare Police Department is sponsoring a contest on who can come up with the most creative and scary way to distribute candy while maintaining social distancing. The only rule is candy must be delivered from 6 feet away.
Candy Slides & Candy Zip Lines to ensure physical distancing
Auburn

Trunk or Treat!

Prevent interactions between those at risk with those who may be infected
North Hampton

Trick or Treat

Friday Oct.30th, 4-7pm

In an effort to maintain Trick or Treat and in the safest way possible during the pandemic, the Town of North Hampton is offering the following safety guidelines

If you do not wish to have your home participate in giving out treats, you may simply dim your lights and even include a sign if you wish. North Hampton Parks and Recreation can email you a sample sign upon request.

Homes who are participating in Trick or Treat should......

- Only give out wrapped items
- Give out items outside, on a table, keeping 6 foot distance, or behind a storm door and replace treats before each visitor or group
- Not hand treats to children directly
- Put out hand sanitizer

Trick or Treaters who are participating should.............

- Trick or Treat in small groups, preferably with family members only, and within your own neighborhood.
- Avoid large groups and going inside any homes.
- Carry hand sanitizer, gloves are not recommended
- Wear protective masks (this may be a part of a costume if its cloth)

If you are uneasy about getting treats door to door, you can always just provide your own. Then you can still go door to door and hand them out to your own children at each stop.

These guidelines may be adjusted at any time based on updated recommendations from the CDC and/or state. For more information or if you have any questions email jmanal@northampton-nh.gov
We can all have a creepy and kooky Halloween. One that’s a bit mysterious and spooky, maybe one that’s even a little bit ooky, if we follow recommendations from the public health family.
Questions?