



TOWN COUNCIL – AGENDA REQUEST FORM

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, **including back up information, 8 days prior** to the requested meeting date. **Public Hearing requests must be submitted 20 days prior to the requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

MEETING INFORMATION

Date Submitted: June 20, 2014 Date of Meeting: July 17, 2014
 Submitted by: Tim Thompson, Robert Best Time Required: 15 Minutes
 Department: Community Development Background Info. Supplied: Yes No
 Speakers: Tim Thompson

CATEGORY OF BUSINESS (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Appointment:	<input type="checkbox"/>	Recognition/Resignation/Retirement:	<input type="checkbox"/>
Public Hearing:	<input type="checkbox"/>	Old Business:	<input type="checkbox"/>
New Business:	<input checked="" type="checkbox"/>	Consent Agenda:	<input type="checkbox"/>
Nonpublic:	<input type="checkbox"/>	Other:	<input type="checkbox"/>

TITLE OF ITEM

Consideration of Zoning Ordinance Amendments relative to Self-Storage Facilities

DESCRIPTION OF ITEM

The Planning Board, at their June 17, 2014 meeting, held a public hearing on the attached amendments to the Zoning Ordinance (Sections 1.03, 2.02.3, & 2.02.4(B)) regarding Self-Storage Facilities, and recommended by a 7-0-0 vote that the Town Council adopt the proposed amendments. Please see attached memo and proposed ordinance language.

REFERENCE (IF KNOWN)

RSA:	675:2	Warrant Article:
Charter Article:	5	Town Meeting:
Other:		N/A:

EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Projector:	<input type="checkbox"/>	Grant Requirements:	<input type="checkbox"/>
Easel:	<input type="checkbox"/>	Joint Meeting:	<input type="checkbox"/>
Special Seating:	<input type="checkbox"/>	Other:	<input type="checkbox"/>
Laptop:	<input type="checkbox"/>	None:	<input checked="" type="checkbox"/>

CONTACT INFORMATION

Name:	Tim Thompson, AICP	Address:	6 Baboosic Lake Rd
Phone Number:	424-3531	Email Address:	tthompson@merrimacknh.gov

APPROVAL

Town Manager: Yes No Chair/Vice Chair: Yes No

Hold for Meeting Date:



Town of Merrimack, New Hampshire

Community Development Department

6 Baboosic Lake Road

Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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MEMORANDUM

Date: June 20, 2014

To: Town Council

From: Timothy J. Thompson, AICP, Community Development Director

Subject: **Zoning Ordinance Amendments regarding Self-Storage Facilities**

Background: As the Council may be aware, the Zoning Board granted by a 4-1-0 vote an Appeal of Administrative Decision for the former Zylas on December 18, 2013, which overturned the Planning & Zoning Administrator's decision that self-storage facilities are classified as "warehouse" uses, and therefore only permitted in the Town's Industrial Districts. The effect of the ZBA's decision, by now considering self-storage facilities to be a "personal service use" is that all other existing self-storage facilities previously approved by the Planning Board as "warehouse" uses in the I-1 District are now considered non-conforming.

In order to remedy the "consequences" of the ZBA's decision, the Planning Board directed staff to develop amendments to the Zoning Ordinance to address the situation. Attached to this memo, please find the Planning Board's recommended amendments to the Zoning Ordinance to address this situation. The Board unanimously supports the adoption of these amendments by the Town Council.

Summary of Proposed Amendments:

Zoning Ordinance

- Section 1.03 (Definitions): Add new definition of self-storage facility, renumber remainder of the Section;
- Section 2.02.3: Add new Subsection "D" for Conditional Use Permits for Self-Storage Facilities in the C-2 District, renumber remaining Sections;
- Section 2.02.4(B): Insert new permitted use for Self-Storage Facilities in the I-1 and I-2 Districts, renumber remainder of Section.

cc: File
Eileen Cabanel, Town Manager
Robert Best, Planning Board Chair

SECTION 1 - PURPOSE AND DEFINITIONS

1.01 Purposes

This ordinance shall be known as the Zoning Ordinance and Building Code. To promote the health, safety, convenience and general welfare of the Town of Merrimack and to make it an attractive place in which to live, the following ordinance and building code is hereby enacted by the voters of said Town of Merrimack.

102. Other Definitions Found at Other Locations in This Ordinance

- A. Certain terms and words are also defined at section 2.02.8 *Flood Hazard Conservation District*, Page 28.
- B. Certain terms and words are also defined at Section 2.02.11 *Aquifer Conservation District*, page 42.
- C. Certain terms and words are also defined at Section 17.04 *Signs*, page 126.
- D. Certain terms and words are also defined at Section 2.02.12 *Shoreland Protection District*, page 49.

1.03 - Definitions

- A. For the purposes of this ordinance, certain terms and words are hereby defined.
 - 1. Abutter: Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the Planning Board or Zoning Board of Adjustment.
 - 2. Accessory Dwelling Unit: A second dwelling which is contained within an existing or proposed single family, detached, dwelling unit that is clearly incidental and subordinate in extent, use and purpose to the principal dwelling.
 - 3. Accessory Use: A subordinate use of land or building which is customarily incidental and subordinate to the principal building or to the principal use of the land and which is located on the same lot with the principal building or use.
 - 4. Airport/helicopter/aircraft: An area of land or water providing certain specified facilities and services for use in connection with air transportation which could be used as a site for landing and taking-off of aircraft. Aircraft means any engine powered contrivance for air transportation.

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Section 1.03 - Definitions (continued)

45. Restaurant: An establishment whose principal business is selling food and beverages in a ready-to-consume state whether said food and beverages are consumed on or off the premises.
- a) Restaurant, carry-out: An establishment which sells food and beverages in a ready-to-consume state where no provisions are made for consumption on the premises.
 - b) Restaurant, combination: An establishment which sells food and beverages in a ready-to-consume state which may be either consumed on or taken off of the premises.
 - c) Restaurant, drive-in: An establishment which sells food and beverages in a ready-to-consume state primarily for consumption on the premises by persons in parked motor vehicles.
 - d) Restaurant, sit-down: An establishment which sells food and beverages in a ready-to-consume state primarily to persons who are seated within the building or outside on the premises.
46. Seasonal Building or Structure: A building or structure, usually but not always a dwelling unit, which was originally designed to be occupied only during the warm months of the year, not during winter; such a structure may not have been originally built with insulation or any permanent, central heating system; such a structure, when originally constructed, may not have had a septic system designed for year round use. (Reference 9.02.E)
47. Self-Storage Facility: A building, group of buildings or other facility having compartments, rooms, spaces, containers or other type of units that are individually leased, rented, sold or otherwise contracted for, by customers for the storage of non-toxic, non-explosive personal or business goods or property, and where the facility owner/operator has limited access to the units. For purposes of this Ordinance, "self-storage facility" shall be considered synonymous with self-storage warehouse, self-service storage facility, mini-warehouse or mini-storage.
48. Setback, Front Yard: Open space extending across the full width of lot between the front lot line and nearest line of the principal building or any enclosed portion thereof. The depth of such yard shall be the shortest horizontal distance between the front lot line and the nearest point of the building or any enclosed portion thereof.

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Section 1.03 - Definitions (continued)

49. Setback, Rear Yard: Open space extending across the full width of lot between the rear line of the lot and the nearest line of the building or any enclosed portion thereof. The depth of such yard is the shortest horizontal distance between the rear lot line and the nearest point of the building. When the rear lot line is less than 10 feet long or if the lot comes to a point at the rear, the depth of the rear yard is measured to an assumed rear lot line not less than 20 feet long, lying wholly within the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of said front lot line.

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50. Setback, Side Yard: Open space between the side lot line, and the nearest line of the principal buildings, or any enclosed portion thereof, extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front lot line and/or rear lot line. The width of a side yard shall be the shortest distance between the side lot line and the nearest point of the principal building or any enclosed portion thereof.

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51. Setback, Yard: A required open space on a lot unoccupied and unobstructed by any principal structure or portion thereof, except for such projections into any required open space as are expressly permitted herein.

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52. Special Exception: Uses authorized under the Zoning Ordinance subject to appropriate conditions and safeguards as set forth in the ordinance as may be approved by the Zoning Board of Adjustment. Applicants for a special exception need not prove hardship but must comply with all other applicable zoning laws and any conditions for approval imposed by the Zoning Board.

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53. Street: Class V Highway or better, as defined in RSA 229:5(VI).

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54. Structural Alterations: Any change in the supporting members of a building or structure, such as walls, columns, beams or girders.

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55. Structure: Anything constructed or erected, the use of which demands its permanent location on the land, or anything attached to something permanently located on the land.

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56. Travel Trailer: A mobile home designed to be used for temporary occupancy for travel, recreational or vacation use; with the manufacturer's permanent identification "Travel Trailer" thereon; and when factory equipped for the road, being of any length provided its gross weight does not exceed forty-five hundred (4500) pounds, or being of any weight provided its overall length does not exceed twenty-eight (28) feet.

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57. Variance: A grant of permission by the Zoning Board of Adjustment that authorizes the recipient to do that which, according to the strict letter of the zoning laws, could not otherwise legally be done.

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Section 1.03 - Definitions (continued)

58. Wetlands: “Wetlands” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

59. Zoning Administrator: An appointed official whose primary responsibility is to administer and enforce the zoning code of the Town of Merrimack.

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60. Zoning Board of Adjustment: A quasi-judicial body which hears and decides matters relating to the application of the zoning ordinance and considers appeals from the decisions of the Zoning Administrator and Building Official and considers variance and special exception applications.

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SECTION 2 - ESTABLISHMENT OF DISTRICTS

2.01 - The Town of Merrimack is hereby divided into twelve districts:

- R. Residential District
- C-1. Limited Commercial District
- C-2. General Commercial District
- I-1. Industrial District
- I-2. Industrial District
- I-3. Industrial District
- W. Wetland Conservation District
- F. Flood Hazard Conservation District
- E. Elderly Zoning District
- PRD. Planned Residential District
- A. Aquifer Conservation District
- SP. Shoreland Protection District

The location and boundaries of districts are and shall be as shown on the Zoning Map, the Wetlands Conservation District Map, the Flood Hazard Conservation District Map, the Soils Limitation District Photo Maps, the Elderly Zoning District Map, and the Planned Residential District Map which are hereby declared to be a part of this ordinance.

2.01.1 - Industrial District - Metes and Bounds, I-1, I-2, I-3

- A. From Souhegan River North to Bedford line from Merrimack River to 200 feet west of the railroad tracks and the extension of the industrial zone in the area of the B&M Railroad at the northerly side of the Souhegan River as mapped [including all of Tax Map Parcels 6D-1/75 except for that portion of the parcel south and west of the southwesterly property line of Tax Map Parcel 6D-1/76 and north and west of a line drawn from the southwestern corner of Tax Map Parcel 6D-1/76 to a point at a jog in the southwesterly boundary line of Tax Map Parcel 6D-1/75, said point being approximately 249 feet east of the Front Street Right-of-Way, and all of Tax Map Parcels 6D-1/76, 6E-2/60 and 6E-2/61 but excluding all of Tax Map Parcels 6D-1/69 and 75-4, 6E-1/5, 7, 8, 9, 10, 10-1, 11, 12, 13, 38, 37, 36, 35, 34, 33 and 6E-2/39.
- B. Beginning at a point at the intersection of the westerly right-of-way line of Camp Sargent Road and the southerly right-of-way line of Continental Boulevard; thence
 - 1. Westerly along the said southerly right-of-way line of Continental Boulevard, a distance of seven hundred ninety (790) feet, more or less, to a point at the most westerly corner of Lot 4D/54-4 and the most northerly corner of Lot 3D/3; thence
 - 2. Southeasterly along the southwesterly line of said line of said Lot 4D/54-4 and Lot 4D/53 and the northeasterly line of said Lot 3D/3, a distance of three hundred sixty-nine (369) feet, more or less, to a point on the westerly line of Lot 3D/18; thence

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TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02.3 - District C-2, General Commercial - Permitted Uses (continued)

- 7) Twice yearly inspections and bonding required: a) the structural integrity of all towers, whether in use, abandoned or unused, shall be inspected at least twice a year; b) copies of inspection reports shall be filed with the Community Development Department within thirty (30) days of the inspection; c) all owners of commercial wireless telecommunication towers shall obtain and maintain a bond to cover the cost of removal of abandoned, unused towers or portions of towers. d) the amount of said bond shall be reviewed by the Town every five (5) years to ensure the amount of security is adequate and may be increased if necessary; e) failure to file the required biannual inspection report with the Community Development Department within the specified time-frame shall constitute sufficient grounds to cause the bond to be called.
- 8) Permit Required: a) building permits shall be obtained for all towers, accessory structures and antennae; b) the number of users and the total number of antennae on any individual tower shall not exceed that which is permitted under the site plan approved by the Merrimack Planning Board.
- c) Written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna if the applicant is proposing to build a new tower. This evidence can consist of an analysis of the location, height, strength, potential interference, and co-location costs which would make co-location impractical.

D. Conditional Use Permit:

- 1. Pursuant to the authority provided in RSA 674:21, the Planning Board may grant a Conditional Use Permit for Self-Storage Facilities within the C-2 District.
- 2. Purpose & Intent: Self-Storage Facilities have characteristics in common with both commercial uses and industrial uses. This subsection provides regulations to appropriately site Self-Storage Facilities in the C-2 District while maintaining the desired character and function of those zones. In general, Self-Storage Facilities generate low levels of vehicular and pedestrian activity and typically do not contribute to the vitality of a commercial area compared to other commercial uses. Historically self-storage facilities have visually resembled industrial facilities, but some trends in the industry have featured designs compatible with higher quality commercial development. If designed appropriately as stand-alone structures that emulate the exterior architecture of residential or multi-family residential or as components located within larger commercial/ office developments, Self-Storage Facilities may be located without adversely impacting the intent of the C-2 District or surrounding neighborhoods, provided the criteria below are satisfied.
- 3. The following criteria must be satisfied in order for the Planning Board to grant a Conditional Use Permit for Self-Storage Facilities:
 - a) Granting of the application would meet some public need or convenience;
 - b) Granting of the application is in the public interest;
 - c) The property in question is reasonably suited for the use requested;

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TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02.3 - District C-2, General Commercial - Permitted Uses (continued)

- d) The use requested would not have a substantial adverse effect on the rights of the owners of surrounding properties;
- e) There must be appropriate provision for access facilities adequate for the estimated traffic from public streets and sidewalks, so as to assure public safety and to avoid traffic congestion;
- f) Electrical service to storage units shall be for lighting and climate control only. No electrical outlets are permitted inside individual storage units. Lighting fixtures and switches shall be of a secure design that will not allow tapping the fixtures for other purposes;
- g) If the facility abuts residentially zoned property, the facility loading bays, docks or doors shall not be visible from the residential property or from public rights-of-way;
- h) In order to promote visual compatibility with commercial development allowed in commercial zones, Self-Storage Facility buildings shall incorporate appropriate landscaping/screening and architectural and design features common to commercial and/or multifamily development. (Examples of such architectural and design features include: massing; proportion; facade modulation; exterior building materials and detailing; varied roofline; pedestrian scale; fenestration; repetition; etc.).

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E. General Requirements:

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Site Plan Review: In each case where a building or use is proposed in this district other than a single-family residence, the Building Official shall refer the site plan of the proposal to the Planning Board for its review in accordance with its subdivision and/or site review regulations. Such Board shall determine that all requirements of this ordinance have been met, and buffer protection provided to adjacent residential uses and, after holding a public hearing on each application, shall approve, approve with modifications, or disapprove said site plan. In modifying or disapproving any site plan, the Board shall enter its reasons for such actions in its records.

2.02.4 - District I-1 & I-2, Industrial - Permitted Uses

A. District Objectives

These districts allow for the establishment of manufacturing employment opportunities in the community and takes into consideration truck access and the availability of utilities. Research and development and other high density activities should be concentrated in this area.

Any permitted industrial or commercial use of which no land, building, structure, or equipment, or ancillary appendages shall be used for any purpose which would be injurious, noxious, or offensive by way of odor, fumes, smoke, dust, vibration, noise, light, or other objectionable features or hazardous to the community on account of fire or explosion or any other cause. The Planning Board shall adopt such standards and regulations as it may deem necessary in order to help ascertain conformance with the above regulations.

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02.4 - District I-1 & I-2 - Permitted Uses (continued)

B. The following uses only are permitted in the Industrial District I-1:

1. Manufacturing Industries,
2. Warehouse and Wholesale Uses,
3. Office Uses Greater than 10,000 Square Feet,
4. Public Utilities,
5. Churches,
6. Gasoline Stations,
7. Enclosed Service and Repair, including Automotive Vehicles,
8. Machinery and Transportation Equipment, Sales, Service and Repair,
9. Freight and Trucking Terminals, Offices, and Brokers,
10. Contractors Yards,
11. Parking Garages,
12. Animal Hospital, Veterinary Clinics, provided at least 200 feet of side and rear yards are provided from any residential district,
13. Research & Testing Laboratory
14. Fuel Storage and Distribution (Bulk).
15. Printing Establishment,
16. Contract Cleaning Establishment,
17. Industrial Supply Establishment,

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02.4 - District I-1 & I-2 - Permitted Uses (continued)

18. Support Uses to an Industrial District:

- a) Restaurants,
- b) Branch Banks,
- c) Offices,
- d) Hotel/Motel,
- e) Daycare

19. Breweries and Bottling Facilities,

20. Athletic fields and indoor or outdoor skating facilities.

~~21. Self-Storage Facilities~~

~~22. Telecommunication Towers, Co-location on Existing Towers, and Co-location on Existing Non-Tower Structures, provided that the following criteria are satisfied:~~

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a. New Towers

- 1) Towers shall be set back from the property line by a distance equal to the height of the tower. The Planning Board may permit a lesser setback where alternative protections to abutting properties are provided by way of easement, covenant or other adequate deed restriction or where the proposed tower is designed in full compliance with all applicable building codes and building/construction plans submitted to the building inspector are certified and stamped by a licensed structural engineer prior to the issuance of a building permit. Prior to the issuance of a Building Permit, the tower design and plans shall be reviewed by a structural engineer designated by the Town.
- 2) Accessory facilities must satisfy the minimum zoning district setback requirements.
- 3) Towers shall maintain a neutral, non-reflective color so as to reduce visual obtrusiveness.
- 4) For security purposes, towers and ancillary facilities shall be enclosed by a minimum six (6) foot fence.
- 5) All utility buildings and structures accessory to a tower shall be screened from view by suitable vegetation from any adjacent residentially zoned property or public roads.

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Robert Best wanted legal advice about who has authority to decide the issue. Alastair Millns said that someone must know the capacity of the line between Pearson Road and Windover Lane. Robert Best said the Board needs reliable numbers about costs and whether the PWD and Greenfield figures are comparable. He said the applicant wants to install sewers because a cluster plan has large open space. Otherwise he could build a grid plan with septic systems. Michael Redding wanted advice about who should make the decision before asking the applicant to do an engineering analysis. Nelson Disco differed; whoever decides will want to know if Windover Lane can handle the system. Robert Best would support PWD if the costs are comparable.

William Hebel, 153 Wire Road, said the plateau is 15'-20' above his property. He is concerned about runoff.

Jesse Fraser, 142 & 144 Wire Road, asked how sewage would get over the river to Windover Lane. Brian Pratt said the Town right-of-way crosses the Brook. He will do a directional drill under the Brook. Jesse Fraser said the homes on Bryant Circle are 24' below Wire Road. Brian Pratt said he would install a sewer manhole in the center of Wire Road and optional mini-pump stations for any homes whose systems fail. The cost would be \$3,000-\$4,000 per home/station. There are still two exits. A traffic study was done. Robert Best said those issues would be discussed at the design stage.

7. Public Hearing – Zoning Ordinance Amendments (Sections 1.03, 2.02.3, & 2.02.4(B)) related to Self-Storage Facilities

Tim Thompson explained that the ZBA made all existing self-storage in the Industrial zone non-conforming when it ruled on an administrative decision. The proposed Amendments would resolve that issue.

There was no public comment.

The Board voted 7-0-0 to recommend approval to the Town Council, on a motion made by Alastair Millns and seconded by Stanley Bonislawski.

8. Public Hearing – Subdivision Regulations Amendments (Section 7.03.E – Table 1) related to parking for Self-Storage Facilities

Tim Thompson explained that the Amendments revise the number of spaces required per unit for internal self-storage facilities to 1 @ 250 and two for employees. Such facilities generate little traffic. The number is consistent across the country, according to his research. All facilities will now be in compliance and will not need waivers.

There was no public comment.

The Board voted 6-1-0 to adopt the amendments, on a motion made by Alastair Millns and seconded Nelson Disco. Tom Koenig voted in the negative.

9. Discussion/possible action regarding other items of concern

Michael Redding asked the status of the survey of the school bus stop at Madeleine Bennett Road, which Tim Thompson said has been done and will be ready by the end of the week. The preliminary feedback from PWD is that the stop has zero impact.

Tim Thompson announced that Highway Safety Committee voted 5-4 to endorse the intersection design at Madeleine Bennett and Old Blood Roads. He asked whether the Planning Board still wants a third party consultant to review safety at the intersection. If so, he will have to hire someone other than CLD, since one of the Highway Safety Committee members who voted on

TITLE LXIV PLANNING AND ZONING

CHAPTER 675 ENACTMENT AND ADOPTION PROCEDURES

Zoning Ordinance, Historic District Ordinance and Building Code Enactment Procedures

Section 675:2

675:2 Method of Enactment in Cities and Towns Operating Under Town Council Form of Government. –

I. In cities or in towns operating under the town council form of government, and in counties in which there are located unincorporated towns or unorganized places, the local legislative body shall determine the manner in which a zoning ordinance, historic district ordinance, or a building code is established and amended; provided, however, that any question concerning the establishment and amendment of a zoning ordinance, historic district ordinance, or a building code may be placed on a ballot separate from the ballot used to elect city or town officers. The planning board shall forward to the town clerk all proposed amendments to a zoning ordinance, historic district ordinance, or building code not later than the fifth Tuesday prior to the date for electing city or town officers.

II. No zoning ordinance, historic district ordinance, or building code shall be established or amended until after a public hearing is held in accordance with the procedures required under RSA 675:7 on the proposed zoning ordinance, historic district ordinance, building code or amendment.

Source. 1983, 447:1. 1985, 103:24; 266:1. 1989, 266:25. 1990, 54:1, eff. June 5, 1990.

