

2020 Election Law Changes

(New sections and amended sections are in italics)

(Repealed sections are highlighted in yellow)

Chapter 36
(SB45) NEW
Eff. 1.1.20

RSA 262:32, VIII. Abandoned Vehicles; Reasons for Removal and Impoundment; Election Day. *VII. A vehicle is parked or has been left unattended on election day for longer than 3 hours in an area designated for voters who are temporarily present for the purpose of voting.*

Chapter 36:1
(SB45) NEW
Eff. 1.1.20

RSA 652:16-h Electioneering. *Electioneering means visibly displaying or audibly disseminating information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being voted. Electioneering includes, but is not limited to:*

I. Wearing clothing or paraphernalia that displays a candidate's name, likeness, or logo, a ballot measure's number, title, subject, or logo, a political party's name or logo, or any communication that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure, provided that a person eligible to vote or register to vote in the voting district who is unable to remove or cover clothing that explicitly advocates for or against any candidate, political party, or measure, may wear such clothing in the polling place while actively engaged in the process of registering to vote or while actively engaged in the process of voting.

II. Distributing or posting a card, handbill, poster, placard, picture, pin, sticker, circular, or any other form of communication that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure.

Chapter 14:2
(HB1266) Amended
Eff. 7.17.20
REPEALED 1.1.21

RSA 654:17 Absentee Registration Affidavit; Covid-19. *New affidavits for "Absence from Town" and "Physical Disability or Concern for Covid-19"*

Chapter 35:1
(SB 44) Amended
Eff. 9.26.20

RSA 655:25 Assent to Candidacy. Amend oath on form to read:
The above-named, __, personally known to me (*or who has proven his or her identity to me*), appeared and made oath that the above declaration by him subscribed is true.
Before me, _____ Justice of the Peace, Notary Public, *Town/City Clerk, or Deputy Clerk*

Chapter 23:2
(SB 283) Amended
Eff. 7.17.20

RSA 656:42, VII. Electronic Ballot Counting Devices; Rules. VII. Each electronic ballot counting device shall have a *removable memory device which can be secured in the device with a tamper evident seal that will disclose unauthorized access to the hardware and software inside the device. Electronic ballot counting devices that are stored in a canvas bag or storage case when not in use shall have a bag or case that is capable of being secured with a tamper evident seal.*

Chapter 23:3
(SB 283) Amended
Eff. 7.17.20

RSA 656:42, VIII(b) and (c). In both (b) and (c) change the word "card" to "*device*".

Chapter 23:4
(SB 283) Amended
Eff. 7.17.20

RSA 656:42, VIII(d)(1)(A)-(C) Electronic Ballot Counting Devices; Rules.

(A) The connection of the zippers on the closed canvas cover of the counting device *carrying bag, case, or the device base for devices stored in their bases.*

(B) The memory *device.*

(C) Electronic ballot counting device housing *and all ports or access points to the device hardware or software, such, that the seal(s) would be broken if the device is accessed.*

Chapter 23:5
(SB 283) Amended
Eff. 7.17.20

RSA 656:42, VIII(d)(7)-(8) Electronic Ballot Counting Devices; Rules.

(7) Whenever the town or city clerk receives a memory *device* from the vendor, the clerk shall break the memory *device* seal, insert the memory *device* in the electronic ballot counting device, and apply a new seal. The clerk shall lock any *programmed* memory *device* not inserted into an electronic ballot counting device in a safe and record the names of individuals that have access to such safe on the activity log.

(8) Whenever the town or city clerk removes the memory *device* from the electronic ballot counting device, the clerk shall immediately return it to the memory card programmer, *or, if programmed locally, secure the device in a safe and reseal the empty memory device slot or port.*

RSA 656:42, VIII(e)(10)-(11) Electronic Ballot Counting Devices; Rules.

Chapter 23:6
(SB 283) Amended
Eff. 7.17.20

(10) The clerk shall test all electronic ballot counting devices and memory *devices* in the possession of the town or city.

(11) Prior to placing the electronic ballot counting device or any memory *device* into service in an election, the moderator shall certify that there is evidence that pre-election testing was conducted on each electronic ballot counting device and each memory *device* in the town or city clerk's possession, and that these *ballot counting* devices and memory *devices* have passed the test.

Chapter 23:7
(SB 283) NEW
Eff. 7.17.20

RSA 656:42 Electronic Ballot Counting Devices; Rules. IX. Any electronic digital image of a marked ballot made by a ballot counting device, whether stored on the device, on a removable memory device, or on a government computer, shall be non-public and exempt from RSA 91-A

RSA 656:45 Testing of Equipment to Conduct Post-Election Audit of Electronic Ballot Counting Devices. I. The secretary of state shall study the use of high-speed, optical/digital scan ballot counting equipment for use in conducting post-election audits of electronic counting devices used in state and federal elections. The secretary of state may purchase, using existing department funds, equipment to conduct testing of the audit procedures. Additionally, the secretary of state may, with the approval of the ballot law commission, use ballots cast in prior elections and may, with the approval of the municipality, use municipal ballots cast in prior elections to conduct such testing.

Chapter 23:1
(SB283) amended
Eff. 7.17.20
Repealed 11.1.20

II. Tested equipment shall meet the United States Election Assistance Commission's Testing and Certification Program requirements, or be eligible for approval by the ballot law commission, and shall enable completion of any post-election audit between the day following an election and the day prior to the last day to request a recount.

III. The secretary of state shall complete the study by November 1, 2020 and file a report on his or her findings with the ballot law commission and the appropriate house and senate committees.

Chapter 14:3, 4
(HB1266) Amended
Eff. 7.17.20

REPEALED 1.1.21

RSA 657:4 Absentee Voting; Application; Forms. New application form provided for September and November 2020 elections only.

RSA 657:18 Absentee Voting; Procedure by Clerk. Upon receipt of an outer envelope purporting to contain an official absentee voting ballot, the clerk of the city or town shall, subject to RSA 657:16, attach thereto the application for an absentee ballot submitted by said voter and record the information pursuant to RSA 657:15. All such envelopes shall be preserved unopened until election day *except as provided by RSA 659:49-b.*

Chapter 14:10
(HB1266
REPEALED AND
REENACTED
1.1.21

RSA 657:18 Absentee Voting; Procedure by Clerk. Upon receipt of an outer envelope purporting to contain an official absentee voting ballot, the clerk of the city or town shall, subject to RSA 657:16, attach thereto the application for an absentee ballot submitted by said voter and record the information pursuant to RSA 657:15. All such envelopes shall be preserved unopened until election day.

Chapter 14:5, 6
(HB1266) NEW
Eff. 7.17.20

REPEALED 1.1.21

RSA 657:18-a Procedure by Clerk; Single Application for Both Primary and General Elections. When the application for an absentee ballot requests both the primary and general election absentee ballot, a copy of the application shall be attached to the outer envelope of the primary ballot upon receipt and the original application preserved and attached to the general election ballot upon receipt.

RSA 658:9 Preparation of Polling Place; Arrangement. VII. *The requirements of this section may be satisfied by alternative requirements issued by the secretary of state in consultation with the attorney general and the commissioner of the department of health and human services or designee.*

Chapter 35:2
(SB44) amended
Eff. 9.26.20

RSA 658:33 Delivery of Ballots to Additional Polling Place. Before the polls are opened at the central polling place on the day of an election, the town clerk shall seal up the 2 duplicate copies of the checklist for each additional polling place lodged with the clerk by the supervisors with *the number of blank ballots determined by the moderator to be likely to be sufficient for the voters expected to vote at the additional polling place.* If the moderator has authorized the counting of votes.....(no further changes) designated by the moderator.

Chapter 35:3
(SB44) amended
Eff. 9.26.20

RSA 659:12 Who Can Vote. I. All persons whose names are entered upon the corrected checklist brought by the town or ward clerk to the polling place shall be entitled to vote.

II. No person whose name is not upon the checklist shall be allowed to vote, unless, in the opinion of the supervisors of the checklist, it clearly appears that the name of a qualified voter has been omitted from the checklist by clerical error or mistake, or *the person registers to vote at the polling place.*

III. *At the time set for closing the polls to voting, if a line of voters waiting to check in or of people seeking to register to vote and then vote exists, all people who join that line by the moment when the polls close to voting and all who are in line shall be permitted to apply for registration and, if registered, to vote. If lines of cars containing those seeking to vote exist due to parking not being available or other traffic congestion, election officials and law enforcement shall work to identify the last person who joins the line of cars at the moment when the polls close to voting and allow that person and all who previously joined the line to obtain parking, enter the polling place, apply for registration, and, if registered, vote.*

Chapter 35:4
(SB44) amended
Eff. 9.26.20

RSA 659:24 Unofficial Ballots. I. If the supply of *official election day* ballots shall become exhausted before the closing of the polls, it shall be the duty of the town or city clerk to *provide additional ballots by placing unused absentee ballots into use as election day ballots or, if the supply of unused absentee ballots is exhausted, causing unofficial ballots to be prepared by photocopying an official election day ballot.*

II. *The clerk, a deputy, or assistant shall write or stamp his or her signature or initials in a blank space near the top of each unused absentee ballot and each photocopied ballot to authenticate that ballot for use as an election day ballot.*

III. *The clerk shall certify to the moderator the number of such ballots made available for use.*

IV. *The moderator and clerk shall monitor election day turnout. If exhaustion of the supply of election day ballots is likely, the clerk shall prepare additional ballots before the supply is exhausted. To the extent practical, the moderator shall ensure a ballot is promptly available for each voter.*

V. Except as provided in this section and in RSA 658:35, no ballot without the official endorsement shall be allowed to be deposited in the ballot box.

Chapter 35:5
(SB44) amended
Eff. 9.26.20

RSA 659:36 Marking Ballot by Election Officers. No mark of any nature shall be placed on any ballot by an election officer except as provided in RSA 659:20, 659:22, 659:26-a, and 659:51. Whoever knowingly violates this section shall be guilty of a misdemeanor.

Chapter 36:2
(SB45) amended
Eff. 1.1.20

RSA 659:43 Electioneering at the Polling Place. I. *Electioneering shall be prohibited within the polling place building, provided that nothing in this section shall apply to the posting of sample ballots by election officials, pursuant to RSA 658:26, which have not been marked as voting for any candidate or measure.*

II. *The moderator shall establish one or more no-electioneering corridors, no less than 10 feet wide, that extend from all entrances of the polling place a reasonable distance along the sidewalks or to the parking lots that serve the polling place. The moderator shall establish the corridor in a*

manner that permits a voter arriving or leaving the polling place to enter or exit without interruption or interference from individuals outside the corridor, and that permits a voter to step to the edge of the corridor and speak with those electioneering if he or she chooses.

III. The moderator shall designate a preferred area for electioneering, which to the extent practical shall be within sight and conversation-level sound of the primary entrance to the polling place and shall abide by any regulations or ordinances approved by the municipality's governing body pursuant to RSA 31:41-c or RSA 47:17, XIV-a.

IV. Electioneering may occur outside the no-electioneering corridor and outside the designated preferred electioneering area.

V. Electioneering signs shall not be affixed to the polling place building or grounds.

VI. Electioneering signs shall not be left unattended.

VII. The distribution or posting of electioneering communications, including but not limited to posters, cards, handbills, placards, pictures, pins, stickers, circulars, or articles of clothing, is prohibited within any no-electioneering corridor established outside the polling place by the moderator.

VIII. Whoever violates any of the provisions of this section shall be guilty of a violation.

IX.(a) Whoever violates any of the provisions of this section shall be subject to a civil penalty not to exceed \$1,000.

(b) The court, upon petition of the attorney general, may levy upon any person who violates the provisions of RSA 659:43 a civil penalty in an amount not to exceed \$1,000 per violation. All penalties assessed under this paragraph shall be paid to the secretary of state for deposit into the general fund.

(c) The attorney general shall have authority to notify suspected violators of this section of the state's intention to seek a civil penalty, to negotiate, and to settle with such suspected violators without court action, provided any civil penalty paid as settlement shall be paid to the secretary of state for deposit into the general fund.

Chapter 36:3
(SB 45) amended
Eff. 1.1.20

RSA 659:44 Electioneering by Election Officers. (change in title only)

RSA 659:49 Processing of Absentee Ballots. I. Processing of previously received absentee ballots shall begin at 1:00 p.m. unless a different time, that is no earlier than *one hour* after the opening of the polls is posted and announced in accordance with paragraph II. The processing of the absentee ballots shall not unnecessarily interfere with normal voting procedures, nor shall the polls be closed at any time for the processing of such ballots during normal polling hours. Absentee ballots which are received after the start time for processing absentee ballots and prior to 5:00 p.m. on the day of the election shall be processed as soon after receipt as possible. Under no circumstances shall absentee ballots be counted prior to the closing of the polls.

II. Notwithstanding the provisions of paragraph I, the moderator, or his or her designee, shall post the time at which the processing of absentee ballots shall begin at the polling place and one other public location at least 24 hours before the polls open. In addition, when the polls open the moderator shall announce the time at which the processing of absentee ballots shall begin.

Chapter 14:7
(HB1266) amended
Eff. 7.17.20
REPEALED 1.1.21

RSA 659:49 Processing of Absentee Ballots. I. Processing of previously received absentee ballots shall begin at 1:00 p.m. unless a different time, that is no earlier than two hours after the opening of the polls is posted and announced in accordance with paragraph II. The processing of the absentee ballots shall not unnecessarily interfere with normal voting procedures, nor shall the polls be closed at any time for the processing of such ballots during normal polling hours. Absentee ballots which are received after the start time for processing absentee ballots and prior to 5:00 p.m. on the day of the election shall be processed as soon after receipt as possible. Under no circumstances shall absentee ballots be counted prior to the closing of the polls.

II. Notwithstanding the provisions of paragraph I, upon the written challenges of 10 or more voters who are present at the polls no later than 1:00 p.m., the moderator shall postpone the processing of all absentee ballots until after the polls close and prior to the counting of all ballots cast in the election. The moderator, or his or her designee, shall post the time at which the processing of

Chapter 14:11
(HB1266) repealed
and re-enacted
Eff. 1/1/21

absentee ballots shall begin at the polling place and one other public location at least 24 hours before the polls open. In addition, when the polls open the moderator shall announce the time at which the processing of absentee ballots shall begin.

Chapter 14:8
(HB1266) amended
EFF. 7.17.21
REPEALED 1.1.21

RSA 659:49-b Opening Absentee Ballot Outer Envelopes. The moderator or the moderator's designee may authorize the opening of absentee ballot outer envelopes on election day *or the Thursday, Friday, Saturday, or Monday* prior to the time established for processing absentee ballots in RSA 659:49, *but after the corrected checklist has been posted* provided that the opening of the outer envelopes occurs in public with notice of the time and place. *After the outer envelope has been opened, the affidavit on the inner envelope shall be examined, the voter's name shall be announced, an opportunity for a challenge of the ballot shall be given, and a notation may be made on the checklist to help facilitate processing of the ballot on election day. Notwithstanding RSA 659:51, if absentee ballots are partially processed before election day a challenge may not be made after the notation has been made on the checklist. The ballot shall remain secure in the unopened affidavit envelope until final processing on election day.*

Chapter 14:12
(HB1266)
REPEALED AND
REENACTED
EFF. 1.1.21

RSA 659:49-b Opening Absentee Ballot Outer Envelopes. The moderator or the moderator's designee may authorize the opening of absentee ballot outer envelopes on election day prior to the time established for processing absentee ballots in RSA 659:49, provided that the opening of the outer envelopes occurs in public with notice of the time and place. The envelope containing the ballot shall not be removed from the outer envelope at such time, and the outer envelope containing the inner envelope shall be secured until it is processed pursuant to RSA 659:50.

Chapter 14:9
(HB1266) NEW
EFF. 7.17.20
REPEALED 1.1.21

RSA 659:55-a Partial Processing of Absentee Ballots Prior to an Election. *I. The moderator, or his or her designee, may begin the processing of absentee ballots prior to the opening of the polls provided that the clerk shall post, in an appropriate public place and prior to election day, notice of the time and place of the processing. If the moderator chooses to do so it shall be posted in 2 appropriate public places, one of which shall be the public body's Internet website, if such exists, or shall be printed in a newspaper of general circulation in the city or town least 48 hours, excluding Sundays and legal holidays, prior to such meeting. A copy of the notice shall be provided to the secretary of state. The partial processing of absentee ballots prior to an election shall occur on the Thursday, Friday, Saturday, or Monday prior to the date of the election after the posting of the checklist. The moderator shall be assisted by at least 3 other election officers as defined under RSA 652:14. Members of the general public may observe this process. Under no circumstances shall absentee ballots be counted prior to the opening of the polls.*
II. Once notice of the processing has been posted, all absentee ballots received by the end of the day preceding the posted time for the meeting shall be partially processed. Only one session for the partial processing of absentee ballots may be scheduled prior to an election.
III. Except as otherwise provided, the moderator, or his or her designee, shall adhere to the procedures detailed in RSA 659:49-b, RSA 659:50, RSA 659:51, RSA 659:52, RSA 659:53, RSA 659:54, RSA 659:54-a, RSA 666:4, and RSA 666:5.

RSA 659:64-a Counting Write-In Votes.

I. In a town or city that uses a ballot counting device approved by the ballot law commission pursuant to RSA 656:40 and which prints an image of all write-in votes as part of the device's report of votes cast, a moderator may use the printed images to count write-in votes in place of examining each ballot to obtain the name of the person who received a write-in vote.

Chapter 23:8
(SB 283) NEW
EFF. 7.17.20

II. The moderator shall cause all write-in votes, whether viewed on the ballot or on the print out, to be examined for write-in votes that are for a person whose name is printed on the ballot as a candidate. Provided the voter did not overvote for that office, a write-in vote for a person whose name is on the ballot, shall be counted as a vote for that candidate. The moderator

shall include that vote in the total of the number of votes cast for that candidate, adding votes by write-in to votes by a marked oval.

III. A ballot where the voter marked the oval beside the name of a candidate whose name is printed on the ballot and also wrote that same candidate's name in as a write-in shall be counted as one vote for that candidate. The moderator shall include that one vote in the total number of votes cast for that candidate. The write-in shall not be counted separately as a write-in vote.

IV. If the moderator shall not use the device report of printed images of write-in votes to fulfill the requirement for publicly announcing all persons receiving votes and the number of votes that person received, the printed images shall be stored for future reference and kept in the possession of the town or city clerk. If write-in votes are tallied using the device report, the report shall be marked "name on ballot" or "NOB" beside each write-in vote that was counted as a vote for a candidate whose name was printed on the ballot.

V. If the device report is used to tally write-in votes, a copy of the report shall be preserved with the ballots used at the election. The printed report showing the write-in votes in the voter's handwriting shall be a non-public record, and shall be exempt from RSA 91-A. The moderator shall also provide the clerk with a copy of the printed images of all write-in votes to be available as a non-public record to assist with post-election reporting.

VI. For all state elections, if used in the ballot counting process, the moderator and the clerk shall retain a copy of the printed images of all write-in votes to be available for reference if needed to resolve questions regarding the return of votes. The copy shall be a non-public document and shall be stored and used in a manner that limits the risk of exposing, through recognition of handwriting, the candidate written in by any voter.

Chapter 35:6
(SB44) amended
Eff 9.26.20

RSA 659:70 Final Counting;Result. The final count of all votes on all ballots cast at the central and additional polling places, if any, shall be combined and the moderator shall announce the final count for each office *and question*.

Chapter 35:7,8
(SB44) amended
Eff 9.26.20

RSA 659:88, I(a), II I(a) A person whose name was not printed on the official state primary election ballot of a political party shall not be entitled to the nomination of that party for any office unless the person received at least 35 write-in votes *or write-in votes equaling 10 percent or more of the total votes cast for that party on the state primary election ballot, whichever is smaller.*

II. If a person is disqualified from a nomination in accordance with the provisions of paragraph I, then the nomination shall be awarded to the qualified person who received the highest number of votes, *provided that person received at least 35 votes or votes equaling 10 percent or more of the total votes cast for that party on the state primary election ballot, whichever is smaller.*

Chapter 35:9
(SB44) amended
Eff 9.26.20

RSA 659:91-a, II. Notwithstanding the provisions of RSA 655:37..... no changes... so long as he or she receives 35 write-in votes, or write-in votes equaling 10 percent or more of the total votes cast for that party on the state primary election ballot, whichever is the smaller.

Chapter 8:1
(HB 1129) amended
Eff 9.8.20

RSA 675:7, I Planning and Zoning; Notice Requirements for Public Hearing.

I.(a) Notice shall be given for the time and place of each public hearing held under RSA 675:2-4 and RSA 675:6 at least 10 calendar days before the hearing. The notice required under this section shall not include the day notice is posted or the day of the public hearing. Notice of each public hearing shall be published in a paper of general circulation in the municipality and shall be posted in at least 2 public places. Any person owning property in the municipality may request notice of all public hearings on proposed amendments to the zoning ordinance, and the municipality shall provide notice, at no cost to the person, electronically or by first class mail.

(b) *In lieu of publication in a paper of general circulation pursuant to subparagraph (a), notice may be posted on the municipality's Internet website, if such exists. If notice is posted on the municipality's website in lieu of publication in a paper of general circulation, the notice shall:*

(1) *Appear prominently on the website's home page, or a link directly to the notice shall appear prominently on the home page;*

(2) Be posted at the time stated in subparagraph (a) and shall remain on the website until the conclusion of the hearing; and

(3) Be posted in 2 other public places.