

**Town of Auburn
Citizen Fiber Broadband Advisory Committee
May 3, 2021
Town Hall**

7:00 p.m.

- () Call to Order**
- () Committee Organization / Introduction of Members**
- () Committee Purpose and Effort – Todd Bedard, Selectman**
- () Review of RSA 33:3-g - Broadband Infrastructure Bonds and RSA 38:38 through 38:41 – Broadband Access**
- () Review of Model Request for Information on Broadband Coverage**
- () Review of RSA 91-A / Right-to-Know Law Standards – Bill Herman**
- () New Business**
- () Next Meetings / Events**
Monday, May 17, 2021 – 7:00 PM – Town Hall
- () Adjourn**

Note: "Any person with a disability who wishes to attend this public meeting and needs to be provided reasonable accommodations in order to participate, please contact the Board of Selectmen's Secretary at (603) 483-5052 x100, so that arrangements can be made."

TITLE III

TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 33

MUNICIPAL FINANCE ACT

Section 33:3-g

33:3-g Broadband Infrastructure Bonds. –

I. A municipality or communications district formed under RSA 53-G may issue bonds for the purpose of financing the development, construction, reconstruction, renovation, improvement, and acquisition of broadband infrastructure in any locations within a municipality unserved by broadband as defined in RSA 38:38, I(c). Without limiting the foregoing, broadband infrastructure may be the subject of public-private partnerships established in accordance with the provisions of RSA 33:3.

II. Bonds issued under this section shall be payable in annual payments so that the amount of annual payment of principal and interest in any year on account of any bond shall be not less than the amount of principal and interest payable in any subsequent year by more than 5 percent of the principal of the entire bond. The total amount of payments shall be sufficient to extinguish the entire bond at such bond's maturity. The first payment of principal on any bond shall be made no later than 5 years and the last payment not later than 30 years after the date issued. Each authorized issue of bonds shall be a separate and distinct loan.

III. A municipality shall not issue bonds for the purpose of financing the development, construction, reconstruction, renovation, improvement, and acquisition of broadband infrastructure in any location within a municipality unserved by broadband as defined in RSA 38:38, I(c) unless a request for information has been issued, at a minimum, to all providers serving the issuing community and such providers have been given 2 months to respond to the request. The request for information may include, but is not limited to, information identifying locations within a municipality served by broadband as defined in RSA 38:38, I(c). After completing, issuing, and receiving responses to such request for information, a municipality may issue a request for proposals for the purpose of engaging in a public-private partnership pursuant to RSA 33:3 or RSA 33-B for the deployment of broadband infrastructure, as defined in RSA 38:38, I(e), and the provision of broadband service as defined in RSA 38:38, I(f). A municipality may select a proposal based on criteria including, but not limited to, provider ability to deploy, manage, and maintain a broadband network. A municipality may determine that no provider has met the criteria included in the request for proposals and may issue bonds for purposes pursuant to RSA 33:3 and RSA 33-B, including but not limited to, open networks. If a broadband provider does not respond to a request for information pursuant to this paragraph, the locations served by that broadband provider shall be considered unserved, unless those locations are served by a broadband provider who responded to that municipality's request for information.

IV. Any request for information issued pursuant to this section after December 31, 2020 shall conform with a model request for information issued by the New Hampshire department of business and economic affairs.

Source. 2006, 225:3, eff. July 31, 2006. 2018, 118:4, eff. July 29, 2018. 2020, 28:1, 2, eff. Sept. 20, 2020; 28:6, eff. July 22, 2020.

TITLE III

TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 33

MUNICIPAL FINANCE ACT

Section 33:3

33:3 Purpose of Issue of Bonds or Notes. – A municipality or county may issue its bonds or notes for the acquisition of land, for economic development, for planning relative to public facilities, for the construction, reconstruction, alteration, and enlargement or purchase of public buildings, for other public works or improvements, or for the financing of improvements, of a permanent nature including broadband infrastructure as defined in RSA 38:38, I(e), to serve any location within a municipality unserved by broadband as defined in RSA 38:38, I(c) for the purchase of departmental equipment of a lasting character, and for the payment of judgments. The issuance of such bonds or notes shall include, but not be limited to, public-private partnerships involving capital improvements, loans, financing, and guarantees. The public benefit in any public-private partnership must outweigh any benefit accruing to a private party. Bonds or notes for the purposes of economic development may be issued only after the governing body of the municipality or county has held hearings and presented the public benefit findings to the public and after such issuance has been approved by the legislative body. A municipality or county shall not issue bonds or notes to provide for the payment of expenses for current maintenance and operation except as otherwise specifically provided by law.

Source. 1917, 129:5, 6. PL 59:5, 6. RL 72:5, 6. 1953, 258:1. RSA 33:3. 1971, 34:1, eff. May 31, 1971. 1996, 55:1, eff. June 23, 1996. 2006, 225:1, eff. July 31, 2006. 2018, 118:2, eff. July 29, 2018.

TITLE III

TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 38

MUNICIPAL ELECTRIC, GAS, OR WATER SYSTEMS

Broadband Access

Section 38:38

38:38 Broadband Access. –

I. In this subdivision:

- (a) "Access tariff" means the fee charged on a monthly or annual basis to broadband providers for access to the broadband infrastructure.
- (b) [Repealed.]
- (c) "Broadband" means the transmission of information, between or among points specified by the user, with or without change in the form or content of the information as sent and received, at rates of transmission defined by the Federal Communications Commission as a wireline advanced telecommunications capability as defined by section 706 of the Telecommunications Act of 1996, irrespective of the network technology used.
- (d) "Broadband provider" means any provider of broadband services, except aggregators of broadband services, as defined in section 226 of the 1996 Telecommunications Act.
- (e) "Broadband infrastructure" means all equipment and facilities, including all changes, modifications, and expansions to existing facilities, as well as the customer premises equipment used to provide broadband, as defined in subparagraph (c), and any software integral to or related to the operations, support, facilitation, or interconnection of such equipment.
- (f) "Broadband service" means the offering of broadband for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.
- (g) "Open network" means any broadband infrastructure which is open to any third party users in a nondiscriminatory manner on a fair and equitable basis using publicly available access tariffs for services.
- (h) "Open network interfaces" means the technical and operational means, manners, and methods for any third party access to the broadband infrastructure, which shall be provided on the basis of generally acceptable industry standards available at the time of access.

II. A municipality may use its broadband infrastructure for the purpose of providing an open network and assuring that third party access is available in accordance with current state and federal regulations.

III. If a broadband provider does not respond to a request for information issued pursuant to sections RSA 33:3-g, III and RSA 33:3-g, IV, the locations served by that broadband provider shall be considered unserved unless those locations are served by a broadband provider who responded to that municipality's request for information.

Source. 2006, 225:6, eff. July 31, 2006. 2018, 118:6, 8, July 29, 2018. 2020, 28:3, eff. Sept. 20, 2020.

TITLE III

TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 38

MUNICIPAL ELECTRIC, GAS, OR WATER SYSTEMS

Broadband Access

Section 38:39

38:39 Broadband Access Tariffs. – For defraying the cost of acquisition, construction, payment of the interest on any debt incurred, management, maintenance, operation, and repair of broadband infrastructure, or the construction, enlargement, or improvement of such systems, the governing body may establish a scale of rates called access tariffs, may prescribe the manner and the time for the payment of such tariffs, and may change such tariffs when it deems advisable.

Source. 2006, 225:6, eff. July 31, 2006.

TITLE III

TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 38

MUNICIPAL ELECTRIC, GAS, OR WATER SYSTEMS

Broadband Access

Section 38:40

38:40 Broadband Fund. –

I. The funds received from the collection of access tariffs shall be kept as a separate fund to be known as the broadband fund. Such fund shall be allowed to accumulate from year to year, shall not be commingled with town or city tax revenues, and shall not be deemed part of the municipality's general fund accumulated surplus. Such fund may be expended only for the purposes specified in RSA 33:3 and RSA 33-B.

II. Except when a capital reserve fund is established pursuant to paragraph III, all broadband funds shall be held in the custody of the municipal treasurer. Estimates of anticipated revenues and anticipated expenditures from the broadband fund shall be prepared and submitted to the governing body as a special warrant article as set forth in RSA 32, if applicable, and shall be included as part of the municipal budget submitted to the local legislative body for approval. Expenditures shall be within amounts appropriated by the local legislative body.

III. At the option of the local governing body, all or part of any surplus in the broadband fund may be placed in one or more capital reserve funds held in the custody of the trustees of trust funds pursuant to RSA 35:10. If such a reserve fund is created, then the governing body, may expend such funds pursuant to RSA 35:15 without prior approval or appropriation by the local legislative body, but all such expenditures shall be reported to the municipality pursuant to RSA 38:41. This paragraph shall not be construed to prohibit the establishment of other capital reserve funds for any lawful purpose relating to broadband access.

Source. 2006, 225:6, eff. July 31, 2006. 2018, 118:7, eff. July 29, 2018.

TITLE III

TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 38

MUNICIPAL ELECTRIC, GAS, OR WATER SYSTEMS

Broadband Access

Section 38:41

38:41 Broadband Fund Report. – The governing body shall annually make a report of the broadband fund to the municipality showing the expenses and income of the fund, and all other material facts. This report shall be published in the annual report of the municipality.

Source. 2006, 225:6, eff. July 31, 2006.

MODEL TEMPLATE

To: Broadband Provider Name
Contact Person
Street Address
City, State ZIP

SUBJECT: Request for Information (RFI) On Broadband Coverage in (name of city or town), NH

Dear (broadband provider name):

By an affirmative vote of the (name of city or town) (name of governing board) at their (date) meeting, the (City/Town) of (name of city or town) is requesting broadband coverage information to identify served locations in the Town as defined by NH RSA 38:38, I(c). An unserved location is defined as a location that does not have access to at least 25 Mbps download/3 Mbps upload speeds (25 Mbps/3 Mbps). The location does not have to be subscribing to this service if available, but the service must be available at the street location to qualify as served.

We require you provide an ESRI shapefile or list of street segments identifying first and last serviceable addresses for your coverage area and a spreadsheet list of served locations to meet this request. Per 2018 NH Senate Bill 170 (NH RSA 33:3-g, III), you have 60 days to respond to this request. In addition, include an Excel spreadsheet file indicating whether addresses have a minimum of 25 Mbps/3 Mbps service available.

The (City/Town) of (name of city or town) is making this request according to the requirements of 2018 NH Senate Bill 170 (NH RSA 33:3-g, III) to pursue the option of utilizing bond funding for the purpose of upgrading the broadband infrastructure to meet the 25 Mbps/3 Mbps specification.

Once information is received or two months have passed, the (City/Town) of (name of city or town) may issue a Request for Proposals (RFP) for the purpose of improving broadband infrastructure. Proposals would be sought from all providers interested in entering into a public-private partnership with the (City/Town) for this purpose.

Please contact me if you should have any questions.

Sincerely,

Chair of the (name of city/town and name of board)

Bill Herman

From: Colquhoun, Lorna <Lorna.J.Colquhoun@livefree.nh.gov>
Sent: Thursday, March 18, 2021 12:40 PM
To: Bill Herman
Subject: RE: Broadband Infrastructure Bonds
Attachments: image002.emz; Model RFI for Broadband Coverage RSA 33-3-g IV-3.pdf

Hi Bill;

This took a little longer than I expected, but please find the model RFI for broadband attached. Let me know if you have any questions.

Thank you for your patience.

Lorna

Lorna Colquhoun
Communications Director

Division of Economic Development
Business and Economic Affairs
State of New Hampshire
Journalists on deadline: 603-419-0533
nheconomy.com // Facebook and Twitter: nheconomy



From: Bill Herman <townadmin@townofauburnnh.com>
Sent: Thursday, February 25, 2021 2:09 PM
To: Colquhoun, Lorna <Lorna.J.Colquhoun@livefree.nh.gov>
Subject: Broadband Infrastructure Bonds

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Good Afternoon Lorna –

The Auburn Board of Selectmen this week took an initial step to look at the issue of broadband and to possibly consider a process that could include the formation of a communications district and the consideration of a broadband infrastructure bond.

This was initially brought to the table by one of our Board members, and the Selectmen on Monday evening met with representatives of Consolidated Communications, who provided information and encouragement for the Board to further consider this potential.

In doing initial state statute review and a very basic information dive at this early juncture, I see in RSA 33:3-g that any request for information that may be issued after December 31, 2020 shall conform with a model request for information issued by the NH Department of Business and Economic Affairs. I had done a basic look through the agencies' web site, but was not successful in locating the model document there.

I am wondering if it would be possible to forward to me a copy of the model Request for Information for our review and information.

Thank you in advance for your consideration.

Bill

Bill Herman, CPM
Town Administrator
Town of Auburn
PO Box 309
Auburn, NH 03032
(603) 483-5052, ext. 111



NOTICE: Privacy should not be assumed with e-mails associated with Town business. Under New Hampshire's Right-to-Know law (RSA 91-A), documents – including e-mail communications – in the possession of public officials or public agencies concerning Town business are classified as public records that may be subject to public disclosure.