

**HB 1021 - AS INTRODUCED**

2022 SESSION

22-2133

08/11

HOUSE BILL            **1021**

AN ACT                prohibiting regulation of religious land use based on the religious nature of the assembly or speech taking place on the land or in the structure.

SPONSORS:            Rep. Wuelper, Straf. 3; Rep. Gould, Hills. 7; Rep. Ankarberg, Straf. 10

COMMITTEE:          Judiciary

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ANALYSIS

This bill prohibits the regulation of religious land use based on the religious nature of the assembly or speech taking place on the land or in the structure.

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Explanation:        Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struck through.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT prohibiting regulation of religious land use based on the religious nature of the assembly or speech taking place on the land or in the structure.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Statement of Findings and Purpose.

2 I. The general court hereby finds that:

3 (a) Part I, Article 5 of the New Hampshire Constitution protects religious practice and  
4 exercise including the right to build houses of worship free from discretionary zoning or planning  
5 regulations. See *State v. Mack*, No. 2019-0171 (NH Dec. 22, 2020)

6 (b) There is never a compelling governmental interest in treating religious land use  
7 differently than similarly situated uses for non-religious purposes.

8 (c) Nevertheless, many zoning ordinance and other land use regulations regulate land  
9 use based on the religious nature of the assembly or speech by requiring “churches” or “houses of  
10 worship” to obtain special exception or conditional use permits not required of non-religious uses  
11 such as movie theaters, event venues or schools.

12 (d) Houses of worship have been substantially burdened by the delay, uncertainty and  
13 expense occasioned by being required to apply for zoning or planning permits or complying with  
14 conditions imposed due to the religious nature of the land use.

15 (e) Small congregations and minority religious groups may not have the resources to  
16 challenge municipal planning and zoning regulations that are applied due to the religious nature of  
17 the assembly.

18 (f) Many congregations face delays of months or even years and additional costs of tens  
19 of thousands of dollars to comply with municipal planning and zoning regulations of religious land  
20 use.

21 II. It is necessary to statutorily clarify that no municipality may regulating religious land  
22 use based on the religious nature of the assembly or the religious nature of the speech taking place  
23 on the land or in the structure.

24 2 New Subdivision; Religious Use of Land and Structures. Amend RSA 674 by inserting after  
25 section 74 the following new subdivision:

26 Religious Use of Land and Structures

27 674:75 Religious Use of Land and Structures. No zoning ordinance or site plan review  
28 regulation shall prohibit, regulate or restrict the use of land or structures for religious purposes;  
29 provided, however, that such land or structures may be subject to non-discretionary narrow,  
30 objective and definite regulations concerning the height of structures, yard sizes, lot area, setbacks,

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1 open space and building coverage requirements as long as said requirements are applicable to all  
2 uses regardless of the religious or non-religious nature of the use of the property and do not  
3 substantially burden religious exercise.

4 3 Effective Date. This act shall take effect upon its passage.