



Helping communities face the challenges and impacts of growth while maintaining their character and sense of place.

Planning Board Basics: *Roles and Responsibilities*

iTRaC is the Nashua Regional Planning Commission's new approach to community planning that focuses on integrating transportation, land use and environmental planning. The program was developed to assist communities in dealing with the challenges of growth in a coordinated way that sustains community character and a sense of place.

What is a planning board?

A Planning Board is a local land use board that focuses on developing and implementing innovative planning strategies that guide the development of the municipality with a focus on enhancing “public health, safety, and general welfare and encourage the appropriate and wise use of land” (RSA 672:1). A planning board has three major roles. These include 1) the planning role 2) the legislative role, and 3) the regulatory role.

What makes up a planning board?

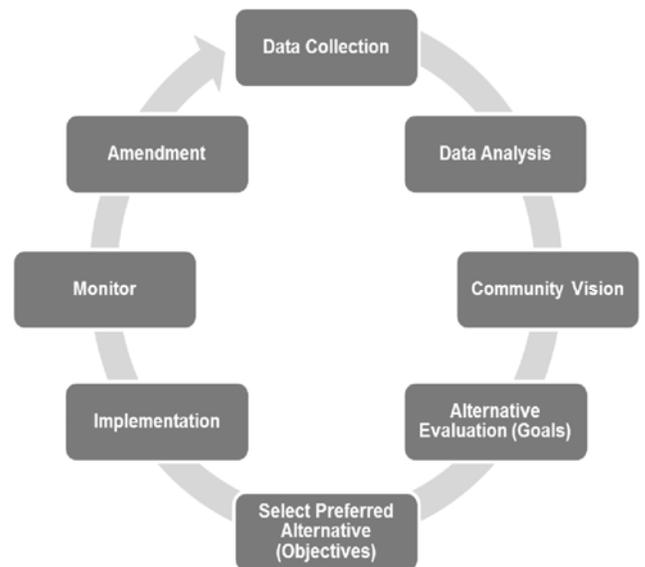
Planning Boards can have five to nine members, but this can vary depending on the community and as established by NH RSA 673:2 Boards can include up to five alternates. Members are either appointed or elected, and serve 3-year terms (RSA 673:5).

The Planning Role

Establishing a vision for the future of the community and identifying the steps necessary to achieve that vision.

Master Plan

Planning Boards are responsible for creating and updating a master plan. A master plan is a set of statements about land use and development principles for the town with accompanying maps, diagrams, charts, and descriptions. It is used to give legal standing to the implementation of the community’s vision through the Zoning Ordinance, Land Use Regulations, and other measures of the Board. There are two sections that are required by state law, a vision section and a land use section. Other optional sections include transportation, natural resources, natural hazards, cultural and historic resources, regional concerns, housing, community facilities, economic development, recreation, utilities, neighborhoods, community design, energy, and implementation.



The Master Plan Process

Capital Improvement Program (CIP)

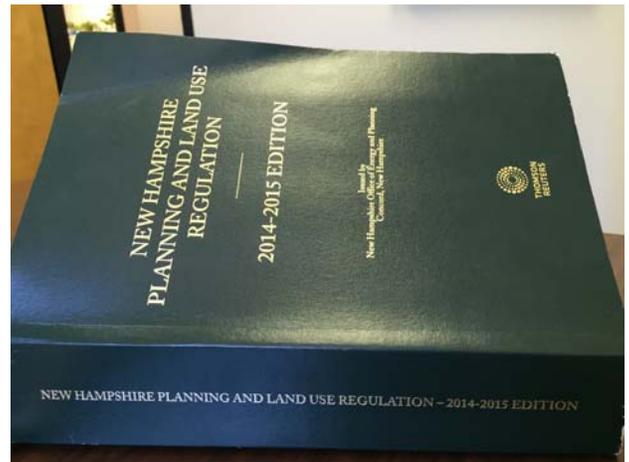
A CIP is a schedule of capital needs for a minimum of six years into the future. These generally include items of higher expense such as new public buildings or vehicles. CIPs are used to help the governing body and budget committee create the annual municipal budget. A town cannot legally adopt a CIP without approval from the legislative body and can only do so after adopting a master plan. The planning board can create a CIP or municipalities can also form a CIP committee whose sole purpose is to create a CIP. A CIP must be established before the adoption of impact fees and growth management ordinances.

The Legislative Role

Proposing ordinances and enacting regulations—establishing the rules by which to achieve the vision.

Zoning Ordinances

Zoning ordinances are regulations that designate how land is going to be used. The planning board does NOT adopt but instead RECOMMENDS adoption and amendments. Zoning ordinances should support or execute goals laid out by the master plan. To enact or amend a zoning ordinance, first the planning board must review and draft a proposal. Then a public hearing is held to receive feedback from citizens on the proposed ordinance or amendment. After the public hearing, the Planning Board is able to vote on whether to send the proposal to the legislative body for adoption. This may be a town meeting or a Town/City Council or Board of Aldermen depending on the community.



Subdivision Regulations

A subdivision is

"...the division of the lot, tract, or parcel of land into 2 or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this title"

- RSA 672:14

With authorization from the legislative body, the Planning Board has the authority to draft, adopt, and amend subdivision regulations. Subdivision regulations must acknowledge factors such as street layout, utilities, lot configuration, etc. The regulations should be consistent with the master plan and intent of zoning ordinances but must not be broader than state regulation.

Site Plan Review Regulations

Site plans are only applicable for non-residential and multi-family uses. Pertaining to site plans, multi-family includes all residential structures larger than duplexes, which may create a potential overlap between subdivision and site plan authority dependent on the application. Regulations should address matters such as traffic, parking, building location, utilities, landscaping, signage, etc. and MUST address procedures, purpose, standards, performance guarantees, and waiver provisions. The Planning Board has the authority to draft, adopt, and amend site plan regulations with authorization from the legislative body. A public hearing must be held in order to adopt or amend site plan regulations.

Growth Management Ordinance and Impact Fee Ordinances

A proper master plan and CIP are required before adopting a growth management or impact fee ordinance.

Growth Management Ordinance: A growth management ordinance requires a local study to verify its need. One can only be adopted if “there is a demonstrated need to regulate the timing of development, based upon the municipality’s lack of capacity to accommodate anticipated growth in the absence of such ordinance” - RSA 674:22, II. There must be a termination date included in the ordinance. Temporary development moratoria may also be enacted if “unusual circumstances that affect the ability of the municipality to provide adequate services and require prompt attention and to develop or alter a growth management process” - RSA 674:22 II. A temporary development moratorium can only last for one year (additional moratorium can be enacted if there are circumstances that did not exist at the time of adoption of the previous moratorium) and can only be proposed by the Planning Board.



Impact Fee Ordinance: An impact fee ordinance can be adopted and exercised if developments impact municipal and school capital facilities (roads, water systems, sewer systems, recreational facilities, and school facilities). Impact fees are not to be used for operational costs, maintenance costs, or for acquisition of open space. A report must be produced annually and within 60 days of the end of the fiscal year to detail all expenditures of impact fee revenue and to identify capital projects and dates for which fees were expended. All impact fee revenue must be expended within six years of the collection date or returned to the developer/owner.

Some Other Duties of a Planning Board

- Advise other boards and commissions on planning issues.
- Hold joint meetings if necessary.
- Appoint special committees.
- Represent the town on issues of local and regional planning interests.
- Educate the public.

The Regulatory Role

Applying ordinances and rules to specific situations in fulfillment of the vision.



Subdivision and Site Plan Review

Communities may require preliminary conceptual consultation and design review before a formal or complete application is submitted. Preliminary conceptual consultation encompasses non-binding conceptual discussions with no requirement of notice or a public hearing. Although, good practice suggests that it should be on the agenda and also show up in the minutes. The design review phase includes non-binding discussions with more detail presented. The design review phase also requires notice to be given to the abutters. In the formal application phase, notice to abutters is required, affected municipalities must be notified if there is a potential for regional impact, and a formal hearing must be held before the Planning

Board makes a final decision. The first step in the process requires the Planning Board to determine the completeness of the application within 30 days of the receipt. After the application is determined to be complete, the planning board has 65 days to approve, approve with conditions, or deny the application. The Planning Board cannot approve a subdivision or site plan that isn't in compliance with the zoning ordinance. Only the Zoning Board of Adjustment (ZBA) can grant variances to the zoning ordinance.

Appeals of Planning Board Decisions

Subdivisions and Site Plans: if a decision on an application is based on a requirement of subdivision or site plan regulation, the appeal has to be made to the superior court within 30 days of the planning board's decision.

Zoning: If any portion of the decision is based on the planning board's interpretation of the zoning ordinance, the appeal can be made to the ZBA. However, the scope of the ZBA is limited to reviewing that specific zoning interpretation.

Innovative Land Use Controls: when the planning board's decision is based on the administration of an innovative land use control adopted in accordance to RSA 674:21, the appeal cannot be made to the ZBA but must instead be made to the superior court.

Preemption of Local Authority

New Hampshire is not a Home Rule state; instead New Hampshire follows Dillon's Rule. This means that municipalities only have as much authority as the state legislature specifically permits to them.

Local Land Use Regulation: planning, land use ordinances and regulations, and growth management all fall under the authority of municipalities within the parameters set by state statute.

Exceptions: Sometimes the state may carve out regulatory areas and vest that power somewhere else. Usually the power goes to a state agency, such as environmental permits. However, the court is not favorable of arguments to preempt local planning authority, so any state statutes that do so must be specific and demonstrate an intention to preempt local decision making.



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Sources:

NH Office of Energy and Planning: Spring Conference—Presentation made on May 11th 2013 by Christopher G. Parker and Sarah Marchant

NH Office of Energy and Planning 2013 Planning Board Handbook



Value yesterday. Enhance tomorrow. Plan today. www.nashuarpc.org

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Updated May 2015