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**New Hampshire  
Council on Resources and  
Development**

Report on Growth Management

to

Governor John Lynch  
New Hampshire General Court

December 2006

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## **I. INTRODUCTION**

*What is smart growth?* “Smart growth” means the control of sprawl, which is the excessive use of land per unit of development. Smart Growth can take a variety of forms, many of which are identified in RSA 9-B, New Hampshire’s smart growth statute: vibrant commercial activity within traditional downtowns, strong community identity, traditional settlement patterns, locating municipal buildings and services downtown, alternative transportation, attractive landscapes, and a healthy environment.

Although it is the responsibility of all of the state’s municipalities to engage in their own planning efforts, the state and its many agencies play an important role in encouraging or influencing patterns of development. The state may locate new offices or build highways that draw citizens into downtown areas where they will be more likely to frequent shops and restaurants and encourage even greater development of our village and city centers. Similarly, other local projects that the state funds, such as local water supply and sewer improvements, or the protection of watershed resources or critical habitat, can result in more efficient use of land.

*New Hampshire’s Smart Growth Law.* In 1999 the Legislature recognized the impact of state agency decisions on local land use patterns and enacted RSA 9-B. This statute requires each state agency to consider “smart growth” principles when providing advice, expending funds, or distributing grant monies, for public works, transportation, or major capital improvement projects, and for the construction, rental, or lease of facilities.

RSA 9-B also calls for a coordinated and comprehensive effort by state agencies for economic growth, resource protection, and planning policy to encourage smart growth. Specifically, RSA 9-B:6 requires the Council on Resources and Development (CORD) to prepare a report every four years on the following:

- I. Progress by state agencies in considering the state’s policy on smart growth when providing advice or expending state or federal funds.
- II. Progress by the state agencies represented on CORD in coordinating their activities to encourage smart growth.
- III. Efforts to encourage development in accordance with the principles of smart growth by regular review of state operating procedures, granting policies, and regulatory framework.
- IV. Suggested policy changes or legislation that CORD believes would strengthen the state’s ability to achieve smart growth.

As in the past, CORD asked state agencies to evaluate their current actions that may

have an impact, either positive or negative, on smart growth, and how best to address these issues in the future. Additionally, CORD asked the agencies to identify statutes that might conflict with RSA 9-B, and how to coordinate smart growth efforts.

Additionally, CORD sought the input of the state's 234 municipalities. With the assistance of the New Hampshire Municipal Association and the New Hampshire Housing Finance Authority, CORD conducted an online survey and invited city councils and town boards of selectmen to offer their input on the practices of state agencies and progress in meeting the requirements of RSA 9-B.

The survey questions posed to state agencies and municipalities are listed in Appendix A. Respondents to both surveys are listed in Appendix B. Recommendations based on survey findings are delivered in Section V.

## **II. SMART GROWTH PROGRESS: STATE AGENCIES**

The actions, programs, or policies of state agencies that affect smart growth and sprawl can be divided into three categories: office siting, agency policy, and agency grants.

A majority of agencies perceive that they have little ability to impact growth management. This is certainly true for some, such as the New Hampshire Veterans' Home, which has a fixed location and does not award grants. It is also partly true for many of the state's adjudicative boards or licensing agencies, because they do not award grants for the development of capital facilities. But to the extent that the state's smaller agencies are in locations that pull their patrons out of downtowns and into peripheral areas, the state may be contributing to sprawl.

### **1. OFFICE SITING**

Many state agencies use regional or district offices or other local facilities, such as town halls, to provide services. State agencies can help promote smart growth by selecting locations in urban or village centers, utilizing existing structures, near or with alternative transit opportunities (e.g. bus, rideshare, bicycle or pedestrian routes), or in locations that minimize impact to the natural environment. State agency responses showed an awareness of this issue, but most small agencies observed that they are limited to choosing lowest rent locations, as required by state purchasing policy. Such locations tend to be outside established downtowns.

Highlights of some notable comments follow:

- ❖ The **Department of Administrative Services** requires the following text in each “request for proposal” for office space seeking new or renewal rental space:
  - Proposals that offer office space located in existing “downtown” buildings shall be shown favorable preference during the RFP review process. This favorable preference is required by RSA 9-B, the State of New Hampshire’s “Smart Growth” initiative.
  - Staff parking spaces may be located either on site (adjacent to the proposed facility) or off-site, within 800 feet of the proposed facility.
- ❖ The **Department of Transportation** states that it plans to relocate two bureaus from Stickney Avenue in downtown Concord to other existing Transportation facilities, as these bureaus do not have public contact. This will allow the City to pursue acquisition of the property for redevelopment that supports downtown revitalization.
- ❖ The **Department of Safety** observes that the Motor Vehicle Division seeks suitable downtown locations whenever they are available, so long as they provide accessible street layouts for testing drivers in automobiles and heavy commercial vehicles.
- ❖ Several agencies noted their relocation to State Office Park South’s renovated **Walker Building**, located at the corner of Pleasant and South Fruit Streets.
- ❖ The **Department of Education, Vocational Rehabilitation Division** noted that it always attempts to locate its statewide offices in downtown locations.
- ❖ The **Department of Environmental Services** has relocated a satellite office from Bartlett to an existing U.S. Forest Service building in Gorham.
- ❖ The **Office of Energy and Planning** states that the GRANIT geospatial data system at UNH Complex Systems should also be utilized to analyze patterns of state agency office location and its impacts on growth trends throughout the state.

## 2. AGENCY POLICY

Communities and client populations, as well as regional and state agencies, need guidance on how to conduct their business in a way that promotes smart growth. Although many agencies responded to this category by stating that their policies had little or no impact on growth management, some agencies see a direct link between their mission and policies and the patterns of development statewide. Some agencies, due to the specific nature of their services, did not have a mission statement supporting smart growth but are committed to the principles.

- ❖ The **Department of Environmental Services** identified an extensive array of policy-based programs that directly or indirectly contribute to smart growth. Fundamental to this effort is Environmental Services' ongoing education, participation in cooperative community outreach projects, and the promotion of infrastructure and transportation alternatives that provide a better use of land while reducing the impact of growth on clean air and clean water.
- ❖ The **Fish and Game Department's** mission directly supports the smart growth principle of creating a viable wildlife habitat. The Department works in partnership with the public to conserve, manage and protect the state's fish, wildlife and marine resources and their habitats, provide the public with opportunities to use the resources, and educate the public.

The **Fish and Game Department** has recently completed a State Wildlife Action Plan. This comprehensive conservation plan provides a guide for State, county, municipal, and non-governmental organizations to manage and conserve critical habitats and species. Communities across the state were given habitat criteria and geographic information system maps to aid the communities in planning conservation actions that could use limited funds to conserve the most valuable open space.

- ❖ The **Office of Energy and Planning** observed that Chapter 229, Laws of 2002, established a more coordinated process to create state, regional, and local master plans that promote smart growth. The state development plan, in addition to determining state priorities and allocating state resources, must now also take into consideration regional and local land use plans. In turn, regional and local plans are encouraged to be consistent with the state plan. This session law, in conjunction with Chapter 178 of the same year, established a consistent list of required or suggested content for state, regional, and local master plans.

- ❖ The **Department of Transportation** has completed the State Long Range Transportation Business Plan (Transportation Plan). A Community Advisory Committee, chaired by the New Hampshire Charitable Foundation, provided guidance, as did an Inreach Committee composed of staff from a variety of regional, state, and federal agencies, and the public.

The Transportation Plan established many goals supportive of smart growth principles aimed at improving the State's transportation networks, infrastructure, facilities and equipment, through greater levels of coordination or new collaboration with other local, regional, or state agencies. Improvements may also come through internal decisions to make transportation investments and decisions that contribute to the preservation and enhancement of public health, the environment and quality of life or provide mobility, accessibility, and modal choice to meet existing and future travel needs of people and goods.

The **Department of Transportation** also notes that grouping of offices of various state agencies will support the future State Employee Rideshare Program, led by Transportation, Energy and Planning, Administrative Services, Central New Hampshire Regional Planning Commission, and the City of Concord. A particular target of this program is the State Office Park South redevelopment. A successful rideshare/local transit program could mitigate traffic as well as the need for parking structures on the former New Hampshire Hospital campus.

### **3. AGENCY GRANTS AND TECHNICAL ASSISTANCE**

State agencies directly invest in infrastructure by: providing funding for downtown revitalization projects; providing financial assistance to municipalities for construction or reconstruction of schools, water and sewer systems, and other community facilities; building roads and bridges; and providing bicycle and pedestrian facilities. Such expenditures can help promote smart growth and limit sprawl and its effects if they are made with a commitment to maintain and enhance urban and village centers.

- ❖ The **Department of Transportation** outlined several areas that are related to the implementation of smart growth principles.
  - **CTAP.** The Community Technical Assistance Program (CTAP) is being developed in coordination with the Salem-Manchester I-93 Project, deals most directly with growth management issues. The goal of CTAP is to develop comprehensive programs to meet the growth challenges that face the 26 communities along the I-93 corridor. Decisions regarding the

allocation of technical assistance and other resources to communities are being made by a broadly representative Steering Committee, with oversight by Transportation with overall responsibility for the project.

- ***Context Sensitive Solutions.*** Context sensitive solutions (CSS) is a collaborative, interdisciplinary approach that involves all stakeholders to develop transportation facilities that fit their physical setting and preserve scenic, aesthetic, historic and environmental resources, while maintaining safety and mobility. Transportation is committed to implementing CSS in all new projects and has trained its employees and other partners to integrate CSS into its work. The Department has also worked with CSS approaches in several projects, including Littleton's Main Street and the Meredith waterfront.
  - ***Corridor Studies*** are key to understanding the relationship between land use and transportation. A corridor management study has a long-term focus, addressing land use and transportation strategies to be undertaken over a 20-year or greater time horizon. The study should result in a corridor management plan that recommends land use and transportation strategies that comprehensively address present and future transportation needs. Transportation provides assistance to communities through the regional planning commissions to conduct corridor studies while Transportation has conducted larger corridor studies for multiple community corridors.
- ❖ The **Department of Environmental Services** manages six funding sources and three programs that contribute to smart growth:
- ***Watershed Assistance Grants*** give priority to projects to improve water quality in specific watersheds. For developed and developing areas, projects that reduce sprawl and direct development toward more concentrated areas are likely to be funded.
  - The ***Regional Environmental Planning Program*** emphasizes conservation planning and smart growth. During 2006-07, the state's regional planning commissions will be developing a guide for innovative land use controls, many of which focus on allowing greater density in appropriate places, such as village centers and downtowns, in exchange for lower densities in rural areas.

- The ***Wastewater Engineering Bureau*** manages loan and grant programs that assist New Hampshire communities with their wastewater systems and septage/sludge disposal facilities. The availability and expansion of centralized systems offers an opportunity to strengthen downtown areas by consolidating development in urbanized cores.
- The ***Oil Remediation Program*** gives a high priority to cleanup of village centers and downtown areas. The Petroleum Brownfields related grants are oriented toward encouraging smart growth projects.
- The ***Brownfields Program*** encourages the strengthening of village centers and downtown areas. Of the nearly 100 sites that have participated in our initiatives, more than half are located in these critical areas.
- The ***Water Quality Planning and Implementation*** program provides funding to the Regional Planning Commissions and the Connecticut River Joint Commissions in support of the Rivers and Lakes Management and Protection Programs. Projects typically entail river corridor, watershed, and lake management plan development, as well as support for water quality monitoring, outreach, and other implementation efforts.
- The ***Rivers Management and Protection Program*** is based on a two-tier approach: state designation of significant rivers and protection of instream values through local development and adoption of river corridor management plans to protect shorelines and adjacent lands. River corridor management plans may be adopted as part of a community's Master Plan. It also enables the development of long range management plans for state owned lands within designated river corridors.
- The ***Lakes Management and Protection Program*** was established to "complement and reinforce existing state and federal water quality laws." The program provides technical assistance to state, federal, public and private agencies in addition to the preparation and implementation of protection plans. Additionally, the program reviews existing state statutes and proposed legislation addressing lakes and water quality management.
- The ***Planning, Prevention, and Assistance Unit*** is focused on

interacting with local municipalities and other state and nonprofit agencies on smart growth efforts. The Unit provides direct technical assistance on pollution prevention, environmental management, and worker and environmental safety. In addition, NHDES continues to provide education and technical assistance on approaches to better manage growth and minimize the impact of development through location choice and design. An increased focus has been placed on working with local municipalities to improve local zoning and land use regulations to achieve these goals.

- ❖ The **Department of Education** notes that its new High Performance Schools incentive (Chapter 228, Laws of 2005) for school construction awards points for projects that keep schools downtown.
- ❖ The **Office of Energy and Planning** encourages smart growth decision-making through numerous programs. For example, the Scenic Byways program directs tourists to in-town visitors' centers. The Weatherization Assistance Program helps to maintain the cost effectiveness and structural integrity of existing residences, reducing the need for new home construction. The Municipal and Regional Assistance Program directly aids municipalities in developing and implementing local ordinances and "best practices" that promote smart growth and deter sprawl.
- ❖ The **Fish and Game Department** provides financial assistance to communities and conservation partners to conserve habitat through fee and easement acquisition. It also provides education and technical assistance to communities to address conservation needs and protect critical habitat. Fish and Game works in partnership with UNH Cooperative Extension to provide outreach to members of the public.
- ❖ The **Department of Resources and Economic Development** offers two programs that promote community reinvestment and the principles of smart growth.
  - The **Community Reinvestment Opportunity Program (CROP)** offers tax credits as incentive to stimulate economic redevelopment, expand the commercial and industrial base, create new jobs, reduce sprawl, and increase tax revenues within the state by encouraging economic revitalization in designated areas. CROP zones target redevelopment of brownfields or existing

developed areas with a population decrease, concentration of low-income households, or land suitable for infill development.

- The **Job Grants** program seeks to redirect investment in job growth that will strengthen underutilized communities with pre-existing infrastructure. The program provides businesses up to \$20,000 for each new job they create in Sullivan and Coos county communities with a median income below \$40,500.

### **III. SMART GROWTH: MUNICIPAL CONCERNS**

In developing this report, CORD sought the views of the state's municipal officials relative to the performance of state agencies on smart growth matters. The few municipalities who responded provided good insight, including the following:

- The scattered or premature development criteria could be better defined so that planning boards can better determine if a land use is appropriate (RSA 674:36, II (a)).
- More money should be provided to regional planning commissions and towns to educate planning boards and local citizens on the merits of smart growth and the dangers of sprawl.
- State agencies sited within strip malls are disadvantageous to smart growth and downtown development. Multiple agencies, each with individual high demands for dedicated parking, should be compelled to coordinate their efforts.
- There should be a direct geographic connection between major employment and regional housing centers. In the absence of public transit, sprawl occurs where housing and employment center adjacency does not exist.
- There is often an imbalance between the location employment opportunities and affordable housing for those employees. Funding alternatives to Community Development Block Grants (CDBG) should be implemented to facilitate housing development in major employment centers not eligible for CDBG grants.
- A housing fund for municipalities to negotiate affordable housing in private developments during the planning board's application review process would dramatically expand the potential to create affordable housing.
- State wetland standards, site specific requirements, and subdivision reviews

sometimes work at cross-purposes, and should be integrated.

- Case studies or local examples of what other New Hampshire communities have done to achieve smart growth would be helpful in educating the public.
- Information now available on state agency websites (e.g., Energy and Planning) should be better publicized to make smart growth concepts and resources better understood in New Hampshire.
- Give greater attention to regional growth and the effect it has on communities located between rapidly growing commercial and industrial areas.
- Improve interagency communication and information sharing.

#### **IV. STATUTORY CONFLICTS**

Though most agencies could not identify conflicts between existing statutes and the smart growth policy contained in RSA 9-B, a few were noted. The **New Hampshire Housing Finance Authority** (NHHFA) observed that a smart growth policy that directs investment toward existing developed land is also guiding development to areas where the costs of development (and redevelopment) are higher on a per-unit basis. This has the potential to conflict with the NHHFA's mandate to maximize the number of housing units that can be developed using existing financial resources. Additionally, RSA 204-C:20, VI requires that housing loans made by NHHFA "shall not create or contribute to an undue concentration of low income families in one neighborhood," yet from a smart growth perspective it is the existing neighborhoods that are likely to be the best targets for redevelopment. NHHFA also notes that under current building codes, it can be considerably more expensive to rehabilitate existing structures than to construct new ones.

The **Department of Administrative Services** states that it is not clear how far an agency should go in "giving preference" to downtown locations. For example:

- **Cost.** How much more per square foot should an agency be willing to pay for residency in downtown buildings, versus a building in outlying areas?
- **Barrier-free access.** Often, existing downtown buildings are likely to require considerable renovation in order to provide barrier-free access, and at times, existing conditions preclude such renovations. In such a case, the requirements for accessibility govern, and the downtown building cannot be considered. If a downtown structure is viable for renovation but at too great a cost, it cannot be selected.
- **Parking, security and other agency needs.** The needs of the agency must be

met, and in some cases this will rule out a downtown location. The most frequent shortcomings of downtown buildings are accessibility and parking. An agency with 30 or more employees as well as steady traffic from the public is difficult to accommodate in most downtown areas. In recognition of this difficulty, however, Administrative Services now requires all requests for leased office space to allow off site staff parking, no more than 800' from the proposed office space. Client/visitor parking and barrier-free parking, however, must be located adjacent to the office space.

The **Department of Education** observes that although new school minimum site requirements often lead to schools toward the edge of town, Education is lenient with waivers, so long as the needs can still be met on the proposed sites. Education notes that it is particularly difficult to place high schools in downtown areas, because of the demand for athletic fields and parking. The Department states that it supports the principles of smart growth but its top priorities are the safety of students and ensuring that a site will allow the necessary facilities to support academic and co-curricular programs.

## **V. CONCLUSIONS AND RECOMMENDATIONS**

We must continue to incorporate concerns about sprawl into state agency decisions, and strengthen the smart growth opportunities of regional and municipal entities through education and partnerships. Planning efforts should focus on developing new approaches to decision-making.

We must continue to build on our successes, such as the redevelopment of the New Hampshire Hospital grounds and the interagency process developed by the Department of Transportation for the I-93 project. We must set an example by choosing to locate new facilities in existing, developed areas. Several agencies have done so or have incorporated smart growth approaches into their location decision-making process. State agencies need clearer guidance on how far they can deviate from state standards in order to locate facilities in downtown areas.

The state should have an overall land use and growth management mission statement to guide its decisions.

### **RECOMMENDATIONS**

1. *Council on Resources and Development. Though its decision-making authority was restricted by HB 1343 during the 2006 legislative session, CORD should assume the leadership role in promoting the implementation of smart growth principles. Its tasks should include:*

- (a) ***Mission Statement.*** CORD should develop a mission statement for the State of New Hampshire's overall land use and growth management.
  - (b) ***Policy and Procedure Review.*** CORD should review state policies and procedures to establish the framework to implement the requirements of RSA 9-B. This will enable CORD to evaluate state capital planning, facilities leasing decisions, and other facilities expenditures to ensure that they comply with the state's smart growth policies under RSA 9-B:5, and to evaluate the distribution of state and federal funds to local and regional entities to encourage consistency with the state's growth management policies under RSA 9-B:4.
  - (c) ***Review of capital budget requests and facilities siting.*** CORD should work to implement the requirements of RSA 9-B by developing criteria and procedures for reviewing the capital budget requests of state agencies, their building operation and maintenance plans, and their facility location and planning, including lease agreements for state facilities.
  - (d) ***Agency smart growth training.*** CORD should develop and implement a mechanism to inform state agencies about the benefits of smart growth, and how smart growth can enhance their missions. In particular, CORD should focus on the comprehensive nature of smart growth that includes economic, social, and environmental benefits.
  - (e) ***Interagency Facility Siting Committee.*** CORD should seek formal establishment of a committee to assist state agencies in reviewing sites for proposed new facilities. The Office of Energy and Planning would manage the committee, with CORD oversight.
  - (f) ***Smart Growth funding criteria.*** CORD should develop criteria and procedures to review and coordinate the distribution of federal and state funds by state agencies to local and regional entities for the purpose of promoting the state's smart growth policies.
  - (g) ***Planning Education Task Force.*** CORD will convene a task force on improving the availability of educational resources to members of local land use boards.
2. ***Agency internal review for smart growth consistency.*** With the assistance of CORD, agencies should develop internal review mechanisms (similar to that of the Department of Environmental Services) to scrutinize their current policies and programs closely, evaluating them for consistency with RSA 9-B.
  3. ***Promote collaborative decision-making.*** Agencies should determine how they could collaborate with other state agencies to achieve decision-making that draws on their

varied strengths. The Fish and Game Department's recent effort in creating the State Wildlife Action Plan is an example of such collaboration.

4. ***Continue building and using the GRANIT database.*** Reliable information is essential to the success of efforts to monitor growth trends and to assess the impact of sprawl. The GRANIT database is a vitally important tool to state agencies and to the public. The Office of Energy and Planning and UNH should develop additional training as needed to ensure that the GRANIT database is fully utilized.
5. ***Recognize the comprehensive nature of planning.*** Agencies are encouraged to engage in dialog and planning with other affected agencies and organizations. For example, recognizing the interplay between transportation and land use planning, models such as the I-93 project and context sensitive design techniques should be followed whenever appropriate.
6. ***Develop planning tools for local and regional use.*** As state agencies work to incorporate smart growth concepts into their decisions, municipalities and regional planning commissions should be supplied with appropriate examples of smart growth successes, and model regulatory language for achieving them. The "Achieving Smart Growth" project jointly developed by the Office of Energy and Planning, the Department of Transportation, and the Department of Environmental Services seeks to meet this need. This website should be modified to be more dynamic so that new resources can be posted as they are developed.
7. ***Consider increased funding to promote smart growth principles.*** Many state agencies have existing programs that either directly or indirectly promote the principles of smart growth. Through increased funding these programs would be strengthened and potentially have greater impact. Increased funding would also facilitate agency implementation of smart growth goals.

## **Appendix A**

CORD submitted the following questions to state agencies:

Office Siting	In an attempt to support downtown revitalization efforts, does your agency locate its own offices in downtown areas and in existing buildings whenever practical?
Agency Policy	Does your agency's mission statement and/or rules reflect the state's policy on smart growth? If not, are there plans to revise?
Agency Grants	In providing grants, technical assistance, education, and other forms of assistance to local communities and others, does your agency give priority to projects that strengthen village centers and downtown areas?
Conflicts	What conflicts do you see between the state's smart growth principles and laws that constrain or guide your agency's actions and policies?
Coordination	RSA 162-C:2, XII calls for CORD to coordinate state actions to meet the state's smart growth principles. What can CORD do to help your agency assess its smart growth impact and identify opportunities to meet the requirements of RSA 9-B?

CORD submitted the following questions to municipalities:

1. How do state agency policies, actions, rules and regulations affect the pattern of land use in your region?
2. Do you know of state laws or policies that conflict with the smart growth principles in RSA 9-B? If yes, please specify.
3. Do state agencies act in a manner that is consistent with the principles of smart growth in RSA 9-B? Please be specific.
4. What state-level changes to statute, administrative rules, policy, or procedure would you recommend to encourage smart growth?

## **Appendix B**

The following state agencies and municipalities responded to the CORD surveys:

Board of Accountancy	Human Rights Commission
Board of Tax and Land Appeals	Insurance Department
Business Finance Authority	Joint Board of Licensure and Certification
Christa McAuliffe Planetarium	Liquor Commission
City of Berlin	National Guard
Commission on the Status of Women	Office of Energy and Planning
Community Development Finance Authority	Police Standards and Training Council
Department of Administrative Services	Post-Secondary Education Commission
Department of Agriculture, Markets, and Food	Public Employees Labor Relations Board
Department of Corrections	Public Utilities Commission
Department of Cultural Resources	Racing Commission
Department of Education	Real Estate Appraisers Board
Department of Environmental Services	Retirement System
Department of Resources and Economic Development	Secretary of State
Department of Revenue Administration	Town of Barrington
Department of Safety	Town of Fremont
Department of Transportation	Town of Haverhill
Fish and Game Department	Town of Nelson
Governor's Commission on Disability	Town of Rindge
Highway Safety Agency	Town of Salem
Housing Finance Authority	Veterans Council
	Veterans Home