
Lecture 3: Land Use Law Update

Part One: Statutes, 2008-2011

NH Local Government Center 2011 Municipal Law Lecture Series

Benjamin D. Frost, Esq., AICP
Director, Public Affairs
New Hampshire Housing
(603) 310-9361
bfrost@nhhfa.org
www.nhhfa.org

Today's Roadmap

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Local Land Use Boards and Their Members

Terms of Office; Land Use Board Def'n

2010 Ch. 226 (HB 1174)

- RSA 673:5, III

- For appointed land use board members, if upon expiration of term no successor has been appointed, provides for continuation until such appointment is made – “holdover” status

- RSA 672:7

- Amends definition of “local land use board” to include any board or commission authorized under RSA 673
 - Formerly only planning board, zoning board of adjustment, building code board of appeals, historic district commission, building inspector
 - Now also includes heritage commission, agriculture commission, housing commission and anything else the Legislature might subsequently include in RSA 673

- Pay attention to statutes that refer to “land use boards”

Designation of Alternates

2009 Ch. 114 (HB 44)

- RSA 673:12, III
 - Local land use board chair may designate an alternate to fill a vacancy temporarily until the vacancy is filled
 - RSA 673:11 only addresses the appointment of alternates when a regular member is absent or disqualified

Role of Alternate Board Members

2010 Ch. 270 (SB 448)

- **RSA 673:6, V**
 - “An alternate member of a local land use board may participate in meetings of the board as a nonvoting member pursuant to rules adopted under RSA 676:1.”
- **RSA 676:1**
 - “... The rules of procedure shall include when and how an alternate may participate in meetings of the land use board.”
- **Amend your rules of procedure to address this!**

Special Meetings for Zoning in SB2 Towns 2010 Ch. 69 (HB 1211)

- RSA 40:13, XVII
 - If the sole purpose of the special town meeting is for adoption, amendment or repeal of zoning, historic district ordinance, or building code, no deliberative session required
- Why? Because zoning amendments can't be amended at the deliberative session – one session, only for voting

Planning Board Members on Other Boards 2011 Ch. 190 (HB 409)

- RSA 673:7
 - Current law prohibits more than one planning board member from serving on other local boards and commissions
 - **New:** 2 planning board members may serve on other boards or commissions, except that only 1 planning board member may serve on
 - Local governing body
 - Conservation commission
 - Other local land use board

Minutes / Conditions of Approval

2009 Ch. 266 (SB 189)

- RSA 676:3, II; RSA 677:4; RSA 677:15, I
 - Draft minutes must be available to the public no later than 5 business days after the meeting or vote (formerly 144 hours)
 - Now consistent with RSA 91-A (right-to-know law)

- RSA 676:3
 - Applicants must be notified with detailed written description of any conditions necessary to obtain final approval
 - Recorded plats shall include (on or with) the final written decision and all conditions of approval

Planning Board Procedure

Design Review Vesting (Old and New)

2006 Ch. 285 (HB 1508), 2008 Ch. 229 (HB 331)

- 2006 – RSA 676:12

- “Design review” protection of plans; doesn’t apply to “preliminary conceptual consultation”—see RSA 676:4, II(a) and (b)
- Protection from local regulatory changes for up to a year from the completion of the design review process

But wait! There’s more!

- 2008 – RSA 676:4, II(b)

- Allows planning boards to identify when design review period ends by establishing reasonable regulations, including submission requirements (is this really necessary?)

Planning Board Waivers

2009 Ch. 292 (HB 43)

- RSA 674:36, II(n) & 674:44, III(e)
 - Addresses the limitation on planning board authority imposed by *Auger v. Strafford* (2007)(*Auger I*)
 - Restores board flexibility roughly to where it was under common law (*Frisella v. Farmington*, 1988)
 - Waivers may be granted if
 - (old law, roughly) Hardship is shown and granting would not be contrary to the spirit and intent of the regulation, **OR**
 - (add new law) Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.
 - The basis for any waiver is to be recorded in the board's minutes
 - Provisions for waivers to either subdivision (RSA 674:36, II(n)) or site plan regulations (RSA 674:44, III(e))

Third Party Review

2009 Ch. 73 (HB 156)

- RSA 676:4-b
 - Adds new RSA 676:4-b, providing detail to planning board practices of hiring consultants
 - during application review process, and
 - during project construction
 - Review billing must be accompanied by detailed invoices with reasonable task descriptions for services rendered
 - Construction defects or deviations from approval that are observed by a third party inspector must be promptly reported to planning board and applicant
 - Failure to report defects or deviations may subject the inspector to a complaint to the Joint Board of Licensure

Dam Owner Notification

2009 Ch. 31 (SB 28)

- RSA 676:4, I
 - (b) Application requirements: “Since construction of ***any structure near streams or rivers*** downstream of a dam can increase the hazard classification of the dam established by the department of environmental services, ***the application shall identify the nearest dam upstream*** and include the name and address of the dam owners.”
 - (d) Certified mail notice required to upstream dam owners and DES dam bureau for development proposals “near rivers and streams and downstream from a dam.”

Dam Owner Notification, revisited

2011 Ch. 164 (HB 205)

- RSA 676:4, I(b) and (d)
 - Introduced as a repeal of 2009 legislation; House changed to reform
 - Removes 2009 language from RSA 676:4, I(b) and (d)
 - Adds new subparagraph to RSA 676:4, I(d)
 - *(2) For those proposals in which any structure or proposed building site will be **within 500 feet of the top of the bank** of any lake, pond, river, or stream, the planning board shall also notify the department of environmental services by **first class mail** at the same time that notice is provided to abutters, cost to be paid in advance by the applicant consistent with subparagraph (d)(1). **The sole purpose of notification to the department shall be to provide information to the department for dam hazard classification. This requirement shall not confer upon the department the status of an abutter. Failure by the municipality to notify the department shall not be considered a defect of notice.***

Planning Board Application Acceptance 2010 Ch. 39 (SB 328; not “HB” in text)

- RSA 676:4, I(b)
 - An application shall not be considered incomplete solely because it is dependent upon the issuance of permits or approvals from other governmental bodies; however, the planning board may condition approval upon the receipt of such permits or approvals in accordance with subparagraph (i).
- RSA 676:4, I(i)
 - **Conditional approvals:** “... Such conditions may include a statement notifying the applicant that an approval is conditioned upon the receipt of state or federal permits relating to a project, however, a planning board may not refuse to process an application solely for lack of said permits.”
- Must a planning board accept an application for something that would obviously violate zoning?
- If so, must it also approve it, subject to ZBA approval?

Agriculture and Timber Harvesting

2011 Ch. 85 (SB 104)

- RSA 674:1, VI (Planning board duties)
 - Powers ***“shall not include regulating timber harvesting operations that are not part of a subdivision application or a development project subject to site plan review under this chapter.”***
 - Means that boards can't address pre-application logging
- RSA 674:17, I(i) (Zoning enabling statute)
 - To encourage the preservation of agricultural lands and buildings ***and the agricultural operations described in RSA 21:34-a supporting the agricultural lands and buildings***

ZBA Procedure

ZBA Member Selection

2009 Ch. 286 (HB 534)

- **RSA 673:3**
 - A municipality may now legally switch from an appointed to an elected ZBA—the statute previously only provided for a change from elected to appointed
 - Either change may be made without amending the zoning ordinance

Zoning Variance Standards (1 of 3)

2009 Ch. 307 (SB 147)

■ RSA 674:33, I(b)

- A rough codification of *Simplex v. Newington*, 145 N.H. 727 (2001), incorporation of the test in *Governor's Island Club v. Gilford*, 124 N.H. 126 (1983), and a rejection of the distinction between use and area variances in *Boccia v. Portsmouth*, 151 N.H. 85 (2004)
- But see legislative purpose statement for treatment of post-*Simplex* cases, including *Boccia*.

Boards of adjustment may grant a variance if they find—

- (1) The variance will not be contrary to the public interest;
- (2) The spirit of the ordinance is observed;
- (3) Substantial justice is done;
- (4) The values of surrounding properties are not diminished; and
- ...

Zoning Variance Standards (2 of 3)

- RSA 674:33, I(b) (cont'd)
 - (5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
 - (A) For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:
 - (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
 - (ii) The proposed use is a reasonable one.
 - (B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Zoning Variance Standards (3 of 3)

- RSA 674:33, I(b) (cont'd)
 - The definition of “unnecessary hardship” set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance
 - This shall apply to any application or appeal for a variance that is filed on or after the effective date of this act
- Eliminates the distinction between “use” and “area” variances
- Roughly codifies the language of Simplex; codifies the stricter Governor’s Island test if Simplex can’t be met
- Boccia’s economic analysis language is still good law!

ZBA May Charge for Consultant Review 2010 Ch. 303 (HB 1380)

- RSA 676:5
 - IV. ZBA “may impose reasonable fees to cover its administrative expenses and costs of special investigative studies, review of documents, and other matters which may be required by particular appeals or applications.” (Identical to planning board’s authority in RSA 676:4, II(g)).
 - V.(a) A board of adjustment reviewing a land use application may require the applicant to reimburse the board for expenses reasonably incurred by obtaining third party review and consultation during the review process, *provided that the review and consultation does not substantially replicate a review and consultation obtained by the planning board.* (Italicized text also now required of planning board in RSA 676:4-b, I.)
 - (b) Detailed invoices and accounting of costs required.
- Addresses a long-standing question of law, which played an important part behind the scenes in Continental Paving v. Litchfield, 158 NH 570 (2009).

Enforcement

Fines for Continuing Violations

2009 Ch. 173 (HB 106)

- RSA 676:17, I

- New sentence: “Each day that a violation continues shall be a separate offense.”
- 2006 changed fine of \$275 from maximum to minimum (but “shall be subject to...” gives court discretion)
- Individual violations avoid accumulation of a single fine and escapes district court jurisdictional limit of \$25,000 (RSA 502-A:14, II)

Public Buildings and Accessibility

2009 Ch. 285 (HB 530)

■ RSA 155-A:5

- New construction, rehabilitation, alteration of public buildings must comply with accessibility standards of state building code
- Contractors must certify (and be qualified to certify); or qualified building inspector may certify
- Enforceable by NH Disability Rights Center (a federally recognized non-profit organization) or by disabled individuals; includes costs and fees if they prevail
- Not limited to *publicly-owned* buildings
- Effective January 1, 2010; applies to work commenced on or after July 1, 2010

Vesting and Growth Management

More-Than-4-Year Exemption

2009 Ch. 93 (SB 93)

■ RSA 674:39

- For any subdivision or site plan approved by a planning board between January 1, 2007 and July 1, 2009
 - Three years (not 12 months) in which to undertake active and substantial development or construction
- For any subdivision or site plan approved by a planning board between January 1, 2005 and July 1, 2009
 - Six years (not four) in which to achieve substantial completion (after which vesting is permanent)

New “Vesting” Periods

2011 Ch. 215 (SB 144)

- RSA 674:39 – ~~Four~~⁵-Year Exemption
 - “**Vesting**” is protection against changes to land use regulations
 - Existing par. V, adopted in 2009: “Notwithstanding the time limits established in paragraph I, every subdivision plat and site plan approved by the planning board on or after January 1, 2007 and prior to July 1, 2009 shall be allowed 36 months after the date of approval to achieve active and substantial development or building as described in subparagraph I(a) and every subdivision plat and site plan approved by the planning board on or after July 1, 2005 and prior to July 1, 2009 shall be allowed 6 years after the date of approval to achieve substantial completion of the improvements as described in paragraph II.”
 - Delete V and change to a **FIVE-year** exemption for projects to achieve substantial completion; with 24 months in which to undertake “active and substantial development or building”

Approval Date	“Active and Substantial” Period	“Substantial Completion” Period
Past – 12/31/2004	12 months	4 years
1/1/2005 – 12/31/2006	12 months	6 years
1/1/2007 – 6/30/2009	36 months	6 years
7/1/2009 – present	24 months	5 years

Growth Management Reform

2008 Ch. 360 (HB 1260)

- **RSA 674:22 and :23**
 - Codification of judicially-imposed limits to Growth Management and Interim Growth Management Ordinances
- **Growth Management Ordinance: RSA 674:22**
 - Demonstrated need to regulate timing of development, based on a study by or for the planning board or governing body, or submitted by petition, and showing a lack of capacity to meet anticipated growth; study based on competent evidence
 - Specific termination date required (how long? 5 years probably safe)
 - Directs the planning board (or CIP committee) to promptly develop plan for orderly and rational development of services needed to accommodate anticipated normal growth; annual confirmation of reasonable progress presented by planning board to local legislative body

Growth Management Reform (cont'd)

- Temporary Moratoria or Development Limits: RSA 674:23
 - May only be proposed by planning board
 - Unusual circumstances that affect the ability of the municipality to provide adequate services or that require prompt attention
 - Ordinance must contain
 - Statement of circumstances giving rise to the need
 - Planning board's written findings
 - List of types of development to which the ordinance applies
 - Term—one year maximum; additional moratoria may be adopted for different circumstances
 - Planning board's findings: describe the circumstances and recommend a course of action to alleviate them
 - Exemptions or special exceptions may be provided for development that has minimal impact on the circumstances

Lot Mergers

Involuntary Lot Mergers Prohibited

2010 Ch. 345 (SB 406)

- RSA 674:39-a
 - “No city, town, county, or village district may merge preexisting subdivided lots or parcels except upon the consent of the owner.”

- Consider: abutting substandard lots owned by the same person
 - Does this limit a planning board’s ability to require merger as part of site development? Probably not.
 - Does it limit a ZBA’s ability to require merger instead of granting a variance for development of one lot? Probably yes.
 - Does it apply retroactively to undo previous involuntary mergers? Probably not.

Involuntary Lot Mergers Undone 2011 Ch. 206 (HB 316)

- RSA 674:39-aa
 - Lots involuntarily merged (for zoning, assessing, or taxation purposes) prior to Sept. 18, 2010 shall be restored to their pre-merger status at the request of the owner, ***provided***
 - Request is made prior to Dec. 31, 2016
 - No owner in chain of title voluntarily merged the lots; all subsequent owners estopped from requesting restoration. Municipality has the burden to prove voluntary merger
 - Requests made to local governing body, whose decisions may be appealed pursuant to RSA 676
 - Municipalities may adopt more liberal ordinances
 - Municipalities must post notice that lots may be restored; public place (no later than Jan. 1, 2012 and in 2011 – 2015 annual reports)

Residential Sprinklers

Residential Sprinkler Moratorium

2010 Ch. 282 (HB 1486)

- Uncodified section (§4) of session law
 - Detached one- and two-family dwellings; through June 30, 2011
 - No new sprinkler requirements by municipalities or local land use boards by ordinance, regulation, code, or administrative practice
 - OK to require that sprinklers be *offered*
 - This “shall not prevent a planning board from finding that particular subdivision applications are scattered or premature, in accordance with RSA 674:36, II(a), for lack of adequate fire protection. In such cases, applicants may propose, and a planning board may accept, the installation of fire sprinkler systems as a means of addressing the planning board’s findings.”
- For land use boards, “administrative practice” probably means *conditions of approval*

Sprinkler Requirements Prohibited

2011 Ch. 203 (HB 109) & SB 91, pending

- [HB 109] RSA 674:36 (subdivisions)
 - Planning boards shall not require as a condition of approval, or adopt regulations requiring, fire suppression sprinklers in proposed 1- and 2-family structures exclusively used for residential purposes
 - Other conditions and requirements OK – cisterns, fire ponds, etc.
 - Governor's veto overridden
- [SB 91] RSA 674:51 (building codes)
 - No municipality or local land use board shall adopt [*or enforce*] any ordinance, regulation, code, or administrative practice requiring sprinklers in 1- and 2-family structures used only for residential purposes; categorical exemption for mobile homes
 - “or enforce” clause removed over concerns from fire chiefs about ability to enforce previously adopted regulations and conditions
 - Senate voted to override Governor's veto; House has not yet voted

Environment and Energy

Master Plan Energy Chapters 2008 Ch. 269 (SB 422)

- RSA 674:2, III(n)
 - Enables development of master plan chapter on local energy planning
 - “An energy section, which includes an analysis of energy and fuel resources, needs, scarcities, costs, and problems affecting the municipality and a statement of policy on the conservation of energy.”
 - Master plan chapters are limited to those identified in the statute

Small Wind Energy Systems

2008 Ch. 357 (HB 310)

- RSA 674:62 - :66
 - Limits how municipalities can regulate turbines used mainly for on-site energy consumption (law title says it “allows” regulation)
 - Notice provisions for abutters and affected neighboring municipalities
 - Maximum local property line setback of 150% of system height
 - In the absence of local regulation, this is also the default minimum setback statewide—but this may be reduced by a ZBA if variance criteria are met (of course, ZBA can also vary a local standard)
 - Minimum property line noise level of 55 decibels in local regulation (“no lower than”)
 - OEP model ordinance:
www.nh.gov/oep/resourcelibrary/swes/index.htm

Outdoor Wood-Fired Hydronic Heaters 2008 Ch. 362 (HB 1405)

- RSA 125-Q
 - Establishes emissions standards for any outdoor wood-fired hydronic heater (OWHH) purchased in-State; setback and stack requirements that vary depending on the EPA emissions rating
 - Municipalities
 - May impose stricter setback and stack requirements
 - May prohibit OWHH in one or more zoning districts
 - May prohibit continued use of those OWHHs that are a public nuisance or that cause injury to public health
 - May not unreasonably limit the installation or operation of OWHHs

Shoreland Protection

2011 Ch. 224 (HB 2)

- Substantial changes to RSA 483-B, the Comprehensive Shoreland Protection Act (becomes “Shoreland Water Quality Protection Act”)
- Eliminates municipal authority to increase the primary building setback beyond 50 feet
- Allows for “permit by notification” for projects that involve
 - Less than 1,500 s.f. of impact and adds no more than 900 s.f. of impervious surface
 - Stormwater management improvements
 - Maintenance of public utilities, roads, and public access
 - Others permitted by DES rules
- DES will have 5 days to rule on permit by notification applications
- Waiver (formerly “variance”) standard relates to environmental impact
- Expansion of non-conforming structures allowed when they will become “more nearly conforming”

Fluvial* Erosion Hazard Zoning 2009 Ch. 181 (HB 290)

■ RSA 674:56, II

- Enables municipalities to adopt FEHZ as part of zoning or as a separate ordinance (board of adjustment required, either way)
- Zones to be consistent with DES fluvial erosion hazard protocols
- Planning board shall submit zone maps to DES, which shall comment within 30 days
- DES comments shall be advisory only

* “**Fluvial**” is used in geography and Earth science to refer to the processes associated with rivers and streams and the deposits and landforms created by them. --Wikipedia

Dark Sky Policy

2009 Ch. 212 (HB 585)

■ RSA 9-D

- State purchasing standards for outdoor luminaires (fully shielded if greater than 1,800 lumens)
- Maximum illuminance not to exceed the minimum level recommended by the Illuminating Engineering Society of North America or the FHWA.
- Same standards for public utility installation or replacement for roadway lighting; may be waived by governing body of municipality
- 9-D:3 “It shall be the policy of the state of New Hampshire to encourage municipalities to enact such local ordinances and regulations as they deem appropriate to conserve energy consumed by outdoor lighting; to minimize light pollution and glare; and to preserve dark skies as a feature of rural character wherever practicable.”

Local Energy Commissions

2009 Ch. 275 (HB 189)

■ RSA 38-D

- Enables the appointment of a commission by either the local legislative or the local governing body; 3-10 members, staggered 3-year terms
- “...for the study, planning, and utilization of energy resources for municipal buildings and built resources of such city or town”
 - Research municipal energy use
 - Recommend to local boards pertaining to municipal energy plans and sustainable practices, such as energy conservation, energy efficiency, energy generation, and zoning practices
 - Non-lapsing energy fund; appropriations and receipt of gifts authorized (either over \$500 requires public hearing and governing body approval)

Property Assessed Clean Energy (PACE) 2010 Ch. 215 (HB 1554)

- RSA Chapter 53-F
 - Enabling legislation – allows municipalities to create districts in which municipal loans may be made to property owners to do energy efficiency and clean energy improvements
 - Improvements must be based on an energy audit by a certified auditor
 - Improvements must be cash-flow positive for property owner
 - Repayment cannot exceed expected life of improvements
 - Repayment made as part of property tax bill, secured by lien in event of delinquency

- PACE is currently held up nationally by Federal questions (FHFA, Fannie Mae, and Freddie Mac are concerned about priority status of municipal liens)

Property Assessed Clean Energy (PACE), revisited – 2011 Ch. 68 (HB 144)

■ RSA Chapter 53-F

- Introduced as to repeal PACE; House instead reforms it
- Limits municipal bonding to revenue bonds (not general obligation bonds that pledge full faith and credit)
- Eliminates authority to use general municipal revenues, including for loan loss reserve
- Eliminates provision for priority lien for delinquencies; liens shall be junior to existing liens of record

Workforce Housing

Workforce Housing (1 of 2)

2008 Ch. 299 (SB 342)

■ RSA 674:58 - :61

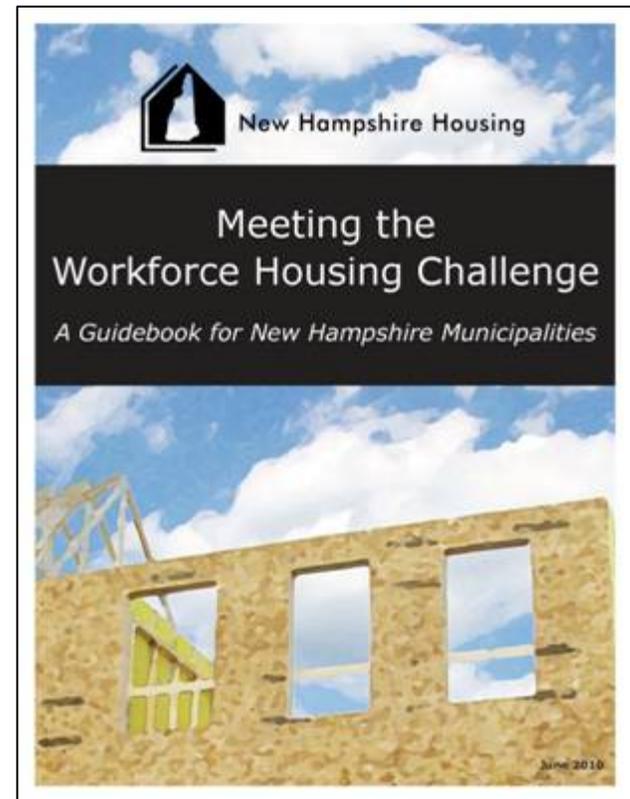
- All communities must allow reasonable and realistic opportunities for the development of workforce housing that is “economically viable”, and including rental multi-family housing
- Also adds a series of definitions as a means of providing greater guidance than the Court’s opinion
 - Affordable: 30% of gross income
 - Renter household at 60% area median income
 - Owner household at 100% area median income
- Opportunity for WH development must exist in a majority of residentially zoned area in a municipality
- Exceptions for those communities that can demonstrate that they have provided their “fair share” of current and projected regional needs for affordable housing
- Accelerated appeals mechanism—hearing within 6 months, either by judge or by court-appointed referee
- Effective January 1, 2010 (extended from 7/1/09 by Ch. 157 ‘09)

Workforce Housing (2 of 2) **2010 Ch. 150 (HB 1395)**

- RSA 674:60, IV
 - Explicitly allows planning boards to require long-term affordability restrictions as a condition of approval of workforce housing

***Workforce Housing guidebook
now available –***

www.nhhfa.org/rl_WHguide.cfm



Local Housing Commissions

2008 Ch. 391 (HB 1259)

■ RSA 674:44-h

- Enables municipalities to establish local housing commissions as a local board
- Advisory only, not regulatory
- Assist other local boards in the development of housing plans and identifying needs; responding to particular development proposals
- Establishment of a local affordable housing fund; similar to the conservation fund administered by the conservation commission—may be used to facilitate transactions involving affordable housing
- As an alternative, the law also enables the creation of affordable housing revolving funds under RSA 31:95-h

School Construction

School Siting and Funding Policy

2010 Ch. 327 (SB 59)

- RSA 199:1 Locations of schools
 - Substantial renovation or new construction – at least one public hearing to garner input of municipal boards; school board to consider local zoning and master plan “in order to maximize best planning practices.”
- RSA 198:15-b, VIII
 - Additional land shall not be required except for traffic safety
- RSA 198:15-c
 - Dept of Education shall not fund school construction projects that “conflict with effective statewide planning *pursuant to RSA 9-A or the principles of smart growth pursuant to RSA 9-B.*”
- “Teeth” will be in implementation, especially by DOEd

Developments of Regional Impact

DRI Notice

2009 Ch. 49 (HB 210)

- **RSA 36:57, II; RSA 677:2**
 - Local land use board making a determination of regional impact must notify the affected municipality and the regional planning commission within 5 business days

Building Inspectors and Regional Impact 2008 Ch. 357 (HB 310)

■ RSA 36:57, IV

- Part of the Small Wind Energy Law
- Building Inspectors are defined as a “local land use board” in RSA 672:7; all local land use boards are required to make determinations of the potential for regional impact of an “application for development”
- RSA 36, 57: IV. “Notwithstanding the foregoing, when the building inspector determines that a use or structure proposed in a building permit application will have the potential for regional impact and no such determination has previously been made by another local land use board, he or she shall notify the local governing body. The building inspector shall also notify by certified mail the regional planning commission and the affected municipalities, who shall be provided 30 days to submit comment to the local governing body and the building inspector prior to the issuance of the building permit.”

RPCs and Developments of Regional Impact – 2009 Ch. 194 (SB 29)

■ RSA 36:56

- Regional planning commissions enabled to develop guidelines to assist local land use boards in their DRI determinations
 - *II. Each regional planning commission may, with public participation following the public posting of notice of the intent to develop guidelines, including notice published in a newspaper of general circulation in the planning region, develop guidelines to assist the local land use boards in its planning region in their determinations whether or not a development has a potential regional impact. The regional planning commission may update the guidelines as needed and provide them, as voted by the regional planning commissioners, to all municipalities in the planning region.*

Conservation Commissions

Conservation Commissions

2008 Ch. 317 (SB 381; not “HB” in text)

■ RSA 36-A

- Clarifies RSA 36-A:4, stating that conservation commissions may receive, by gift or otherwise, land within or outside a municipality’s boundaries (but not purchase) subject to local governing body approval;
- Adds RSA 36-A:4-a Optional Powers—Legislative body may authorize Commission to
 - Expend funds for purchase of land outside municipal boundaries, subject to local governing body approval
 - Expend funds for contributions to “qualified organizations” under §170(h)(3) of the Internal Revenue Code, for purchase of property interests or facilitating transactions relative thereto—includes transaction costs without receiving a property interest as a quid pro quo

Questions? Carol Andrews, Executive Director
NH Association of Conservation Commissions
CarolAndrews@nhacc.org

Community Revitalization Tax Relief Incentive

Community Revitalization Tax Relief Incentive – 2009 Ch. 200 (HB 96)

- RSA 79-E Originally adopted in 2006
 - Expanded to apply to allow incentive to be applied to *replacement* of structures, not just to their rehabilitation
 - May be granted if
 - the structure has no significant historical, cultural, or architectural attributes, and
 - where the statutory public benefit of replacement would exceed that of rehabilitation
 - Determination of historical, cultural, and architectural attributes to be made by Heritage Commission or Historic District Commission; if neither exists, then by NH Division of Historical Resources (DHR)
 - Governing Body may request a technical evaluation by DHR

Community Revitalization Tax Relief Incentive, 2010 Ch. 329 (SB 128)

- RSA 79-E
 - Last year, amended
 - To give municipalities authority to set higher thresholds of cost for rehabilitation, and
 - To allow municipalities to establish stricter standards for identifying “qualifying structures”

Questions?
