



# Planning Board Roles and Responsibilities

**Spring Planning and Zoning Conference**

NH Office of Planning and Development

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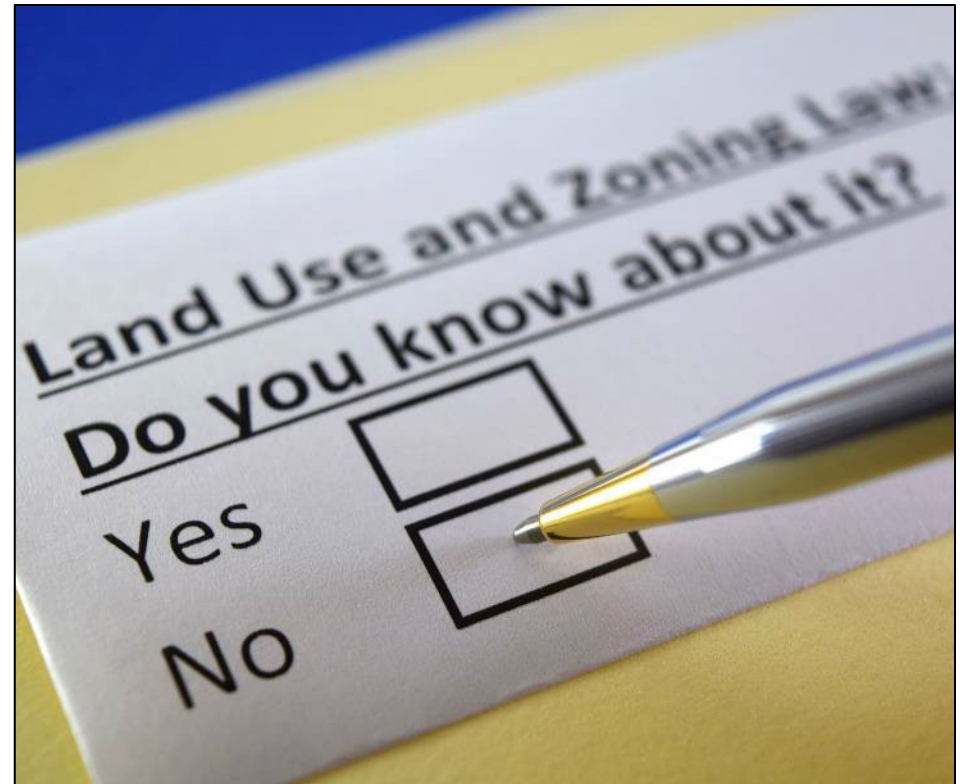
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# Surveying the Terrain of the Planning Board

- Civic Responsibilities
- Land Use Law & Resources
- Three Realms of the Planning Board
  - Planning
  - Legislative
  - Regulatory



# Civic Responsibilities

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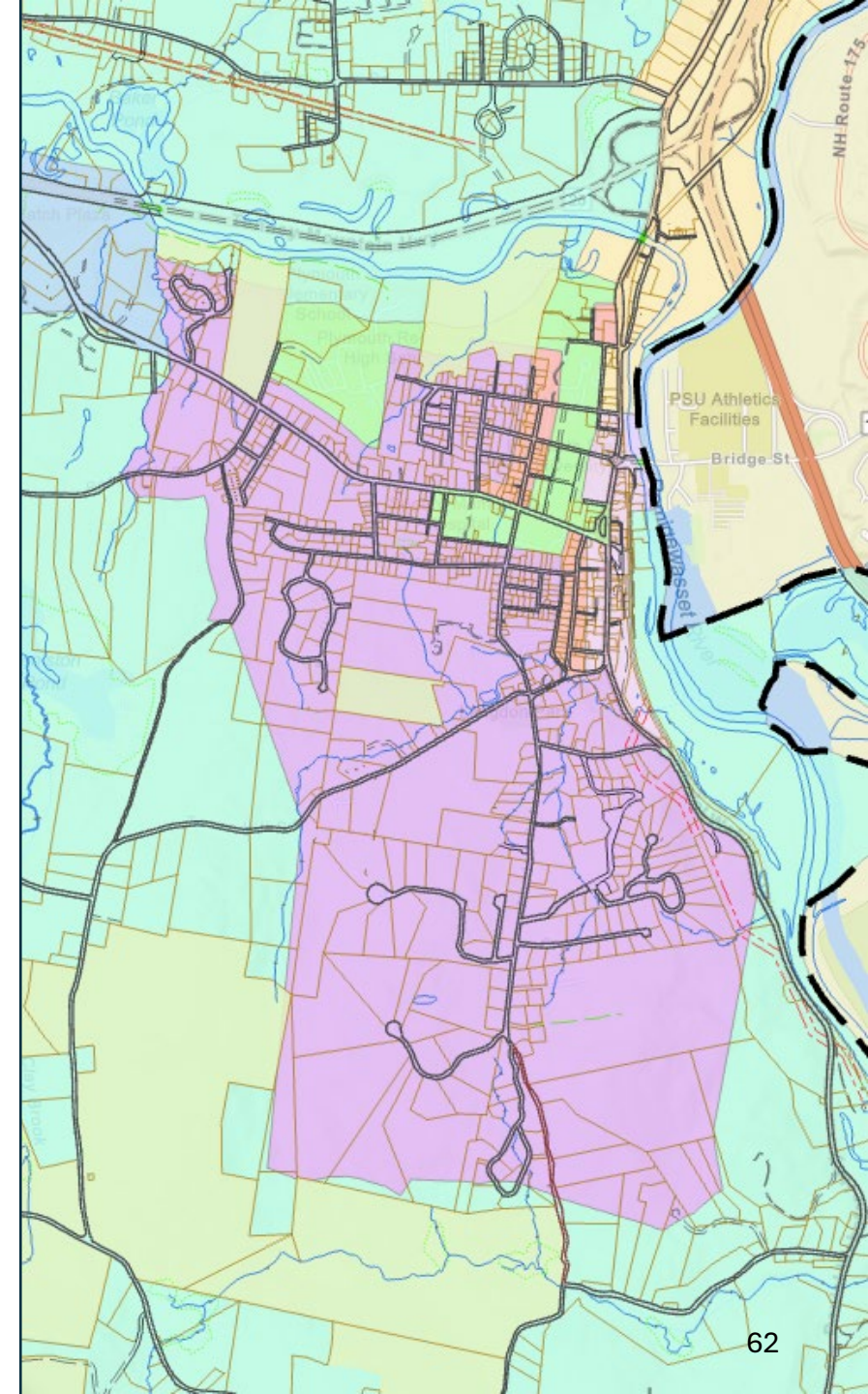
# Planning and Zoning

Planning Board members have an important role to play in the civic life and general welfare of their communities!

The purpose of zoning in NH is to promote the HEALTH, SAFETY, and GENERAL WELFARE of the community.

(Zoning Grant of Power: RSA 674:16, 1)

Historical context: Euclid at 100



# Civic Responsibilities of Board Members

- Volunteer service to the municipality and community
- Maintain and build trust in municipal governance
- Decision-making related to development and land use
- Ensure openness and transparency
- Provide opportunities for public engagement
- Communicate effectively & listen – Outreach & engagement



# Planning Board Responsibilities Checklist



- ✓ Familiarize yourself with local ordinances and procedures
- ✓ Prepare for each meeting
- ✓ Be respectful of fellow board members and the public
- ✓ Consider applications fairly and without bias
- ✓ Do no prejudge applications, including outside of board meetings
- ✓ Understand and follow right-to-know laws (RSA 91-A)
- ✓ Recuse yourself when appropriate (RSA 673:14,I) – juror standard

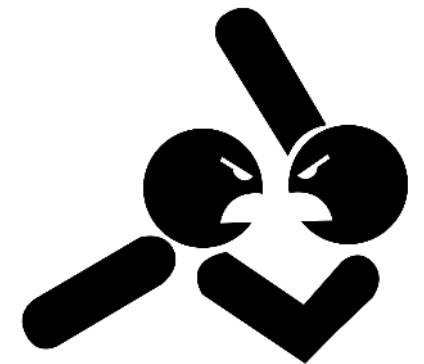
# Understanding the Planning Board: **Members**

- By the Numbers: total of 9 members in cities and 5 or 7 in towns
- Membership: appointed by the governing body OR elected
- Alternates: up to 5 can be authorized by local legislative body (RSA 673:6)
  - May participate as non-voting members
  - May be designated as voting member if a member is absent or disqualified
- Ex-Officio: appointment of one member and one alternate from council/select board
- Officers: chair and other officers elected from non-ex officio members for one-year term
  - Chair sets the agenda and facilitates meetings



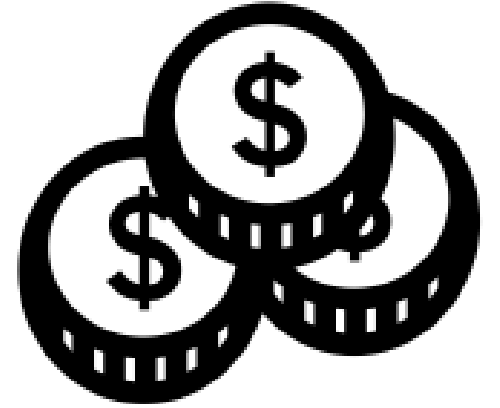
# Understanding the Planning Board: Meetings

- Minimum of one regular meeting per month (RSA 673:10, II)
  - Balancing and organizing workload (the “Three Realms”)
- Quorum: majority of membership. RSA 673:10, III
  - Retaining and recruiting board members
- Virtual board attendance (RSA 91-A:2)
  - Opportunities for virtual attendance – quorum must be physically present
- Being heard and promoting civility and trust
  - Bylaws, codes of conduct, Robert’s and Riggins Rules



# Understanding the Planning Board: **Finances**

- Board may appoint employees subject to the same employment rules as other corresponding civil employees of the municipality
- The board may contract with planners, engineers, architects, and other consultants for such services as it may require
- The board may accept and use gifts, grants, or contributions for the exercise of its functions, in accordance with the procedures established for the expenditure of funds within the municipality
- Fees collected by the planning board must be held in a separate, nonlapsing account, and not commingled with other municipal funds
- See Local Land Use Boards – Finances (RSA 673:16)

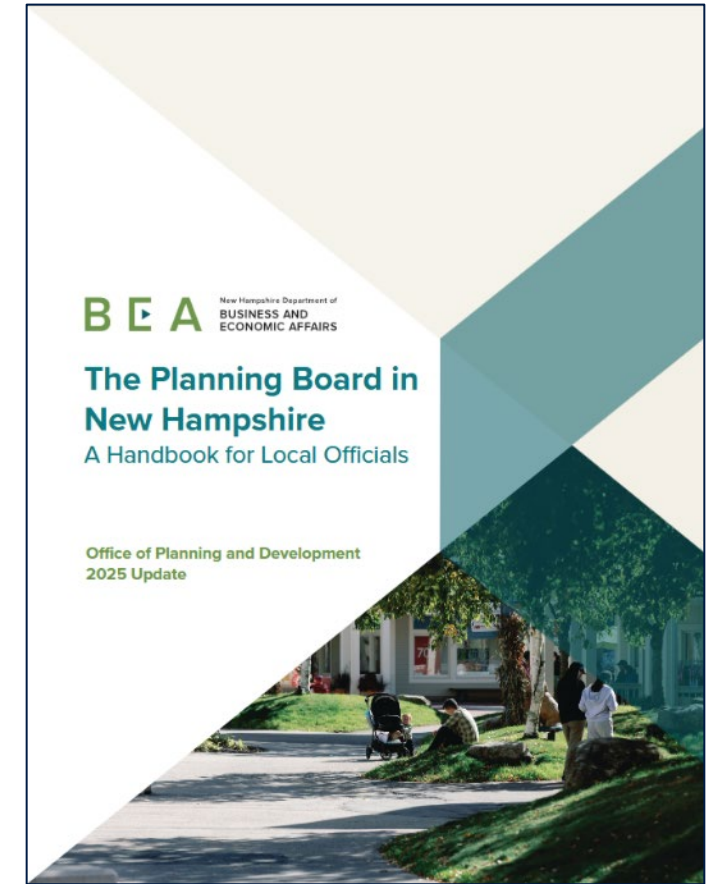


# Land Use Law and Resources

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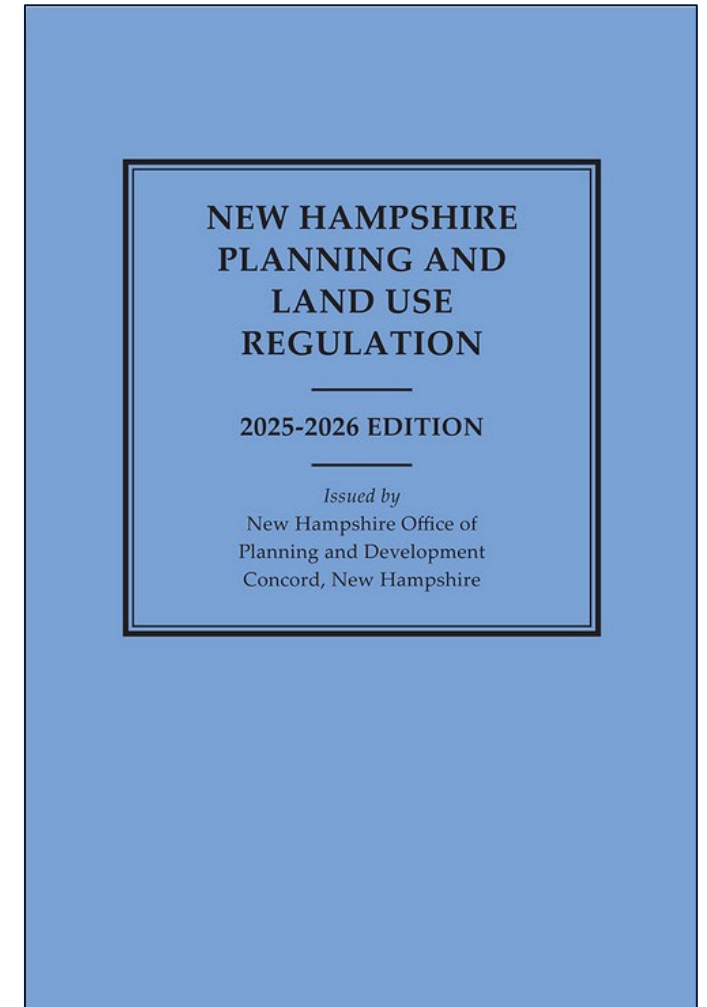
# Getting to Know your Planning Resources

- New Hampshire planning and land use law documents (next slide)
- Municipal planning documents
- State level planning and land use staff and other resources
  - NH OPD, NH Municipal Association, NH Housing, etc.
  - Handbooks, toolkits, calculators, videos, slide decks, and more!
- Regional planning commissions
- Municipal planning and land use staff
  - Local staff are an invaluable resource for planning-related questions
- Municipal attorney: when the board is in doubt about the law, legal counsel should be consulted



# More Planning and Land Use Law Resources

- Revised Statutes Annotated (RSA)
  - [www.gencourt.state.nh.us/rsa/html/indexes/default.html](http://www.gencourt.state.nh.us/rsa/html/indexes/default.html)
- Search for Current Legislation/Bills
  - [https://www.gencourt.state.nh.us/bill\\_Status/quickSearch.aspx](https://www.gencourt.state.nh.us/bill_Status/quickSearch.aspx)
- NH Supreme Court Decisions
  - [www.courts.state.nh.us/supreme/opinions/index.htm](http://www.courts.state.nh.us/supreme/opinions/index.htm)
- NH Municipal Association – information and legislative updates
  - [www.nhmunicipal.org](http://www.nhmunicipal.org)
- New Hampshire Planning and Land Use Regulations, LexisNexis



# The Three Realms of the Planning Board

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## 1. The Planning Role



## Capital Improvements Program (RSA 674:5)

- A schedule of municipal “capital improvements” for at least six years
- Purpose to guide governing body and budget committee on annual budget
- CIP is prerequisite for impact fee and growth management ordinances

## Impact Fee Ordinance (RSA 674:21, V)

- Impact fees may be imposed on new development to account for its impact on municipal and school capital facilities / rational nexus
- Based on study and in consideration of proportionality of impact
- Must be expended within 6 years, after which remaining funds to be refunded

## Growth Management Ordinance (RSA 674:22)

- Purpose to control the timing of development “based on the municipality’s lack of capacity to accommodate anticipated growth”
- Requires study to substantiate need, end date, & annual review of progress
- See also **Temporary Moratoria** (RSA 674:23): may be adopted in “unusual circumstances” and can remain in effect up to one year



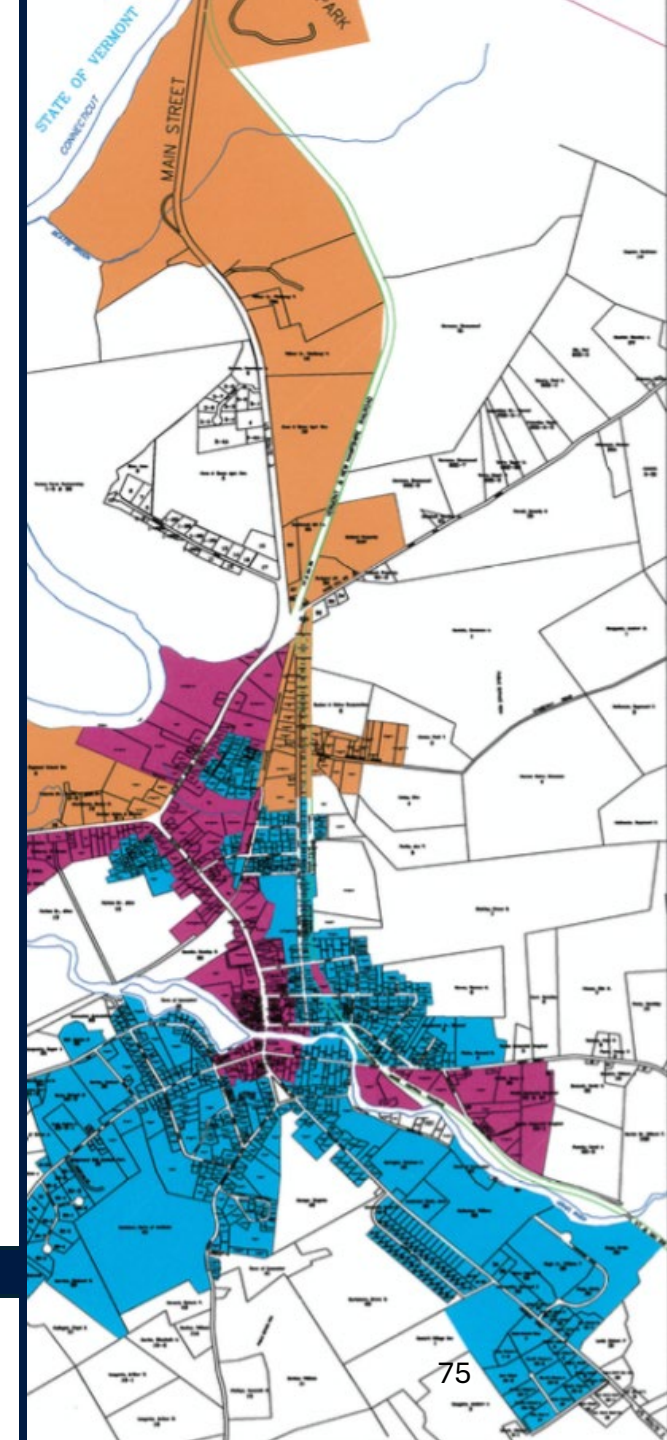
# **The Three Realms of the Planning Board**

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## **2. The Legislative Role**

# Zoning Ordinance (RSA 674:16-20 & RSA 675)

- Legally binding document designed to “regulate and restrict” development based on such factors as location, use, density, dimensions, and size
- Adopted by local legislative body
- Zoning amendments, typically, are recommended by the planning board
- Citizen petitioned zoning amendments require signatures of 25 registered voters
- The planning board must hold at least one public hearing
- Consult NH OPD Zoning Amendment Calendar for schedule/deadlines



## Subdivision Regulations

- “Provide against such scattered or premature subdivision” and “provide for the harmonious development of the municipality”
- Should include standards for identifying property boundaries, lot configurations, road construction standards, and more
- RSA 674:35-42
- Regulations are adopted by the planning board; a public hearing is required
- Make the standards clear and minimize need for subjective judgements
- Regulations should provide clear procedures that reflect the zoning ordinance and should NOT be used to do things that zoning is supposed to do

## Site Plan Regulations

- “Plans for the development or change or expansion of use of tracts for nonresidential uses or for multi-family dwelling units”
- Should include standards for scope of development, parking, landscaping, environmental impacts, signage, and more
- RSA 674:43-44



# The Three Realms of the Planning Board

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## 3. The Regulatory Role

The planning board has multiple regulatory roles, including subdivision and site plan review



Timeline for subdivision and site plan review

RSA 676:4



Preliminary Consultation has no set time limit



Application to be submitted at least 21 days prior to anticipated acceptance at meeting



Notice to abutters and public made at 10 days prior to meeting for plan acceptance



Hold at least one public hearing and make decision within 65 days of plan acceptance (exceptions)



Issue written decision within 5 business days

# Pre-Application Review

## Preliminary Conceptual Consultation

Non-binding, no public hearing, no abutter notification

“Napkin sketch” concepts and general discussion of development ideas

RSA 676:4 II (a)

## Design Review

Non-binding, no public hearing, abutters are notified and notice published

Preliminary engineering, identify special studies that may be needed, identify potential impacts or concerns, and advice from the board

Vesting of 12 months from the end of design review (RSA 676:12, VI)

RSA 676:4, II (b)



# Formal Application and Acceptance

## Application

Receive application

Notice abutters (RSA 672:3)

Consider need for departmental review

Consider need for review by third party consultants – RSA 676:4-b

## Waivers

Consider application requirements and waiver requests

Waiver requirements

Make certain waivers granted are recorded in the meeting minutes

RSA 674:36, II(n)

RSA 674:44, III (e)

## Regional Impact

Consider whether meets definition of Development of Regional Impact per RSA 36:55

If DRI, pause review and acceptance; notice RPC and abutting town

Timeline extended 30 days

## Acceptance

Consider the completeness of the application, including waivers and potential regional impact

Vote on whether to accept the application as sufficiently complete to continue the review process

# Public Hearing and Deliberations

## Evidence

The application and all submitted documentation

Public hearing and testimony, including submitted letters

Site visit

Staff report

Departmental review

Third party review

Personal knowledge\*

## Public Hearing

Statutorily required

Who gets to speak?

Role of chair to maintain order and follow rules of procedure, which may include time limits

All comments and questions are addressed through the chair

## Deliberations

Weigh the evidence and use reasonable discretion

Base judgments in relevant laws and regulations, not in opinion or even Master Plan

Personal knowledge can be considered, but not in face of uncontradicted expert testimony

Make specific findings of fact

# Making a Decision

## The Decision

Make decision within 65 days\* of acceptance

- Decision made by a majority vote – a tie is not a decision
- The decision must be supported by relevant findings of fact

### The Decision

- Approval & Conditional Approval
  - Conditions precedent – approval isn't final until they're met
  - Conditions subsequent – ongoing conditions after approval
- Disapproval
  - A disapproved (or denied) application cannot be reconsidered unless it is materially different from the initial application

## Notice

Written Notice of Decision is required and shall include written findings of fact

Decision and meeting minutes must be on file for public inspection within 5 business days of the vote

RSA 676:3

# Vesting of Development Rights



Planning Board Regulations may define “substantial completion of improvements” and “active and substantial development”

Active and substantial development (typically within 3 years) vests the development and exempts it from local regulatory changes for 7 years

Substantial completion secures permanent vesting

Failure to define “active and substantial development” awards 7-year exemption automatically.

RSA 674:39

# Alternative Review Procedures

The town meeting or town or city council may authorize the planning board to delegate its site review powers for minor site plans to a committee of technically qualified administrators. (RSA 674:43, III)

City Council or planning board establish thresholds based on the size of a project or a tract below which site plan review shall not be required. (RSA 674:43, IV)



# Questions?

