

Introduction to Local Land Use Boards



JUNE 1, 2019

NH OFFICE OF STRATEGIC INITIATIVES

SPRING PLANNING AND ZONING
CONFERENCE

Today's Roadmap



- Discuss land use boards and their purpose
- Provide background on planning history
- Outline planning process basics
- Describe how a board should operate
- Provide you with resources to learn more

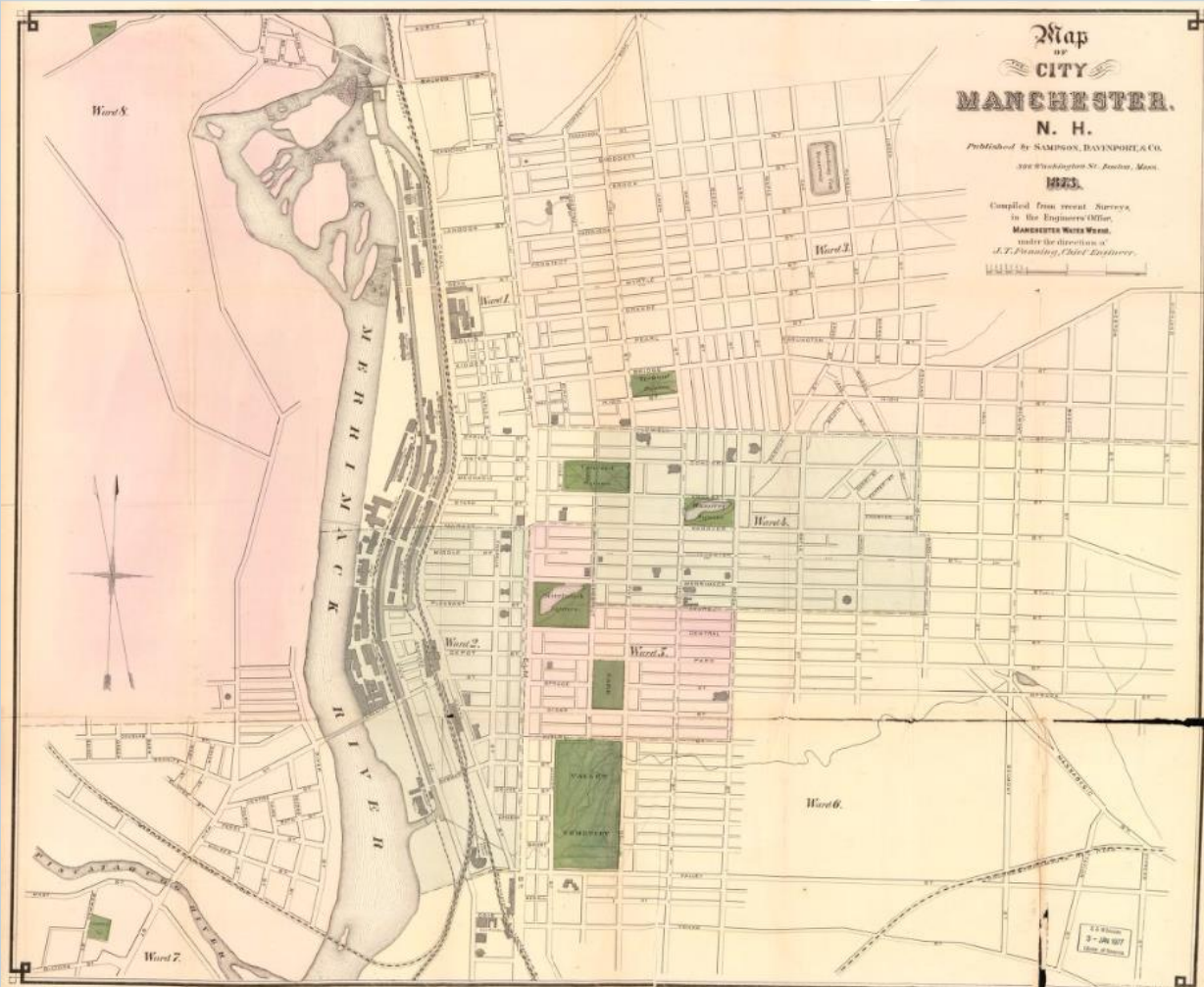
Why Regulate Land Use Development?



Foundations of Planning

- Health
- Safety
- Welfare

Why Regulate Land Use Development?



1800's
Planned
Industrial
Towns &
Cities

Livability Principles and Smart Growth



**Traditional
Settlement
Patterns**



**Community
and Economic
Vitality**



**Housing
Choices**



**Natural
Resources
Functions &
Quality**



**Transportation
Choices**



**Climate Change
& Energy
Efficiency**

Hot Topics



- Accessory Dwelling Units. RSA 674:71 – 73
- Short-term Rentals
- Solar panels (residential and commercial)
- Agricultural and agritourism uses
- Housing availability and affordability

Planning and Land Use Regulation Law



- New Hampshire is NOT a Home Rule State
- RSAs – Revised Statutes Annotated
 - ✦ Planning and Zoning laws – RSA Chapters 672 to 678
 - ✦ Right to Know Law – RSA Chapter 91-A
- Administrative Rules
- NH Supreme Court

Land Use Boards



RSA 672:7 - defines land use board

- Planning Board
- Zoning Board of Adjustment
- Historic District Commissions
- Building Inspector/Building Code Board of Appeals
- Others authorized by RSA 673 or the legislative body
 - ✦ Heritage Commission
 - ✦ Agriculture Commission
 - ✦ Housing Commission

But Not the Conservation Commission



- Not defined as a land use board. It is established under RSA 36-A.
- The PB and ZBA often seek its opinion. Its opinion is advisory.
- Charged with protecting municipal natural resources

Planning Board Roles



- Master Plan - RSA 674:2-4
- Zoning Ordinance - 674:16
- Subdivision Regulations - 674:36
- Site Plan Review Regulations - RSA 674:44
- Capital Improvement Plan - RSA 675:5-8
 - ✦ Growth Management - RSA 674:22
 - ✦ Impact Fees - 674:21
- Default Regulator of Excavation Permits - RSA 155-E:1

Zoning Board of Adjustment Roles










Only Enumerated Powers (RSA 674:33)

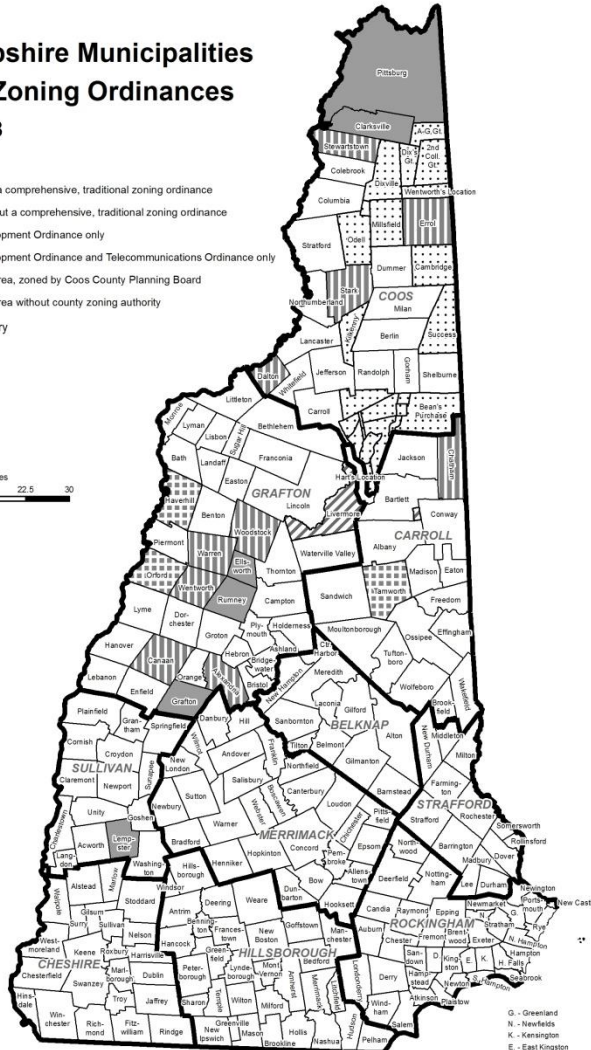
- Appeals of Administrative Decisions
- Variances → Based on statutory criteria
- Special Exceptions → based on local ZO criteria
- Equitable waiver (RSA 674:33-a)
- Other...

NH Zoning Status

New Hampshire Municipalities Status of Zoning Ordinances October 2018

-  Municipality with a comprehensive, traditional zoning ordinance
-  Municipality without a comprehensive, traditional zoning ordinance
-  Floodplain Development Ordinance only
-  Floodplain Development Ordinance and Telecommunications Ordinance only
-  Unincorporated area, zoned by Coos County Planning Board
-  Unincorporated area without county zoning authority
-  County boundary

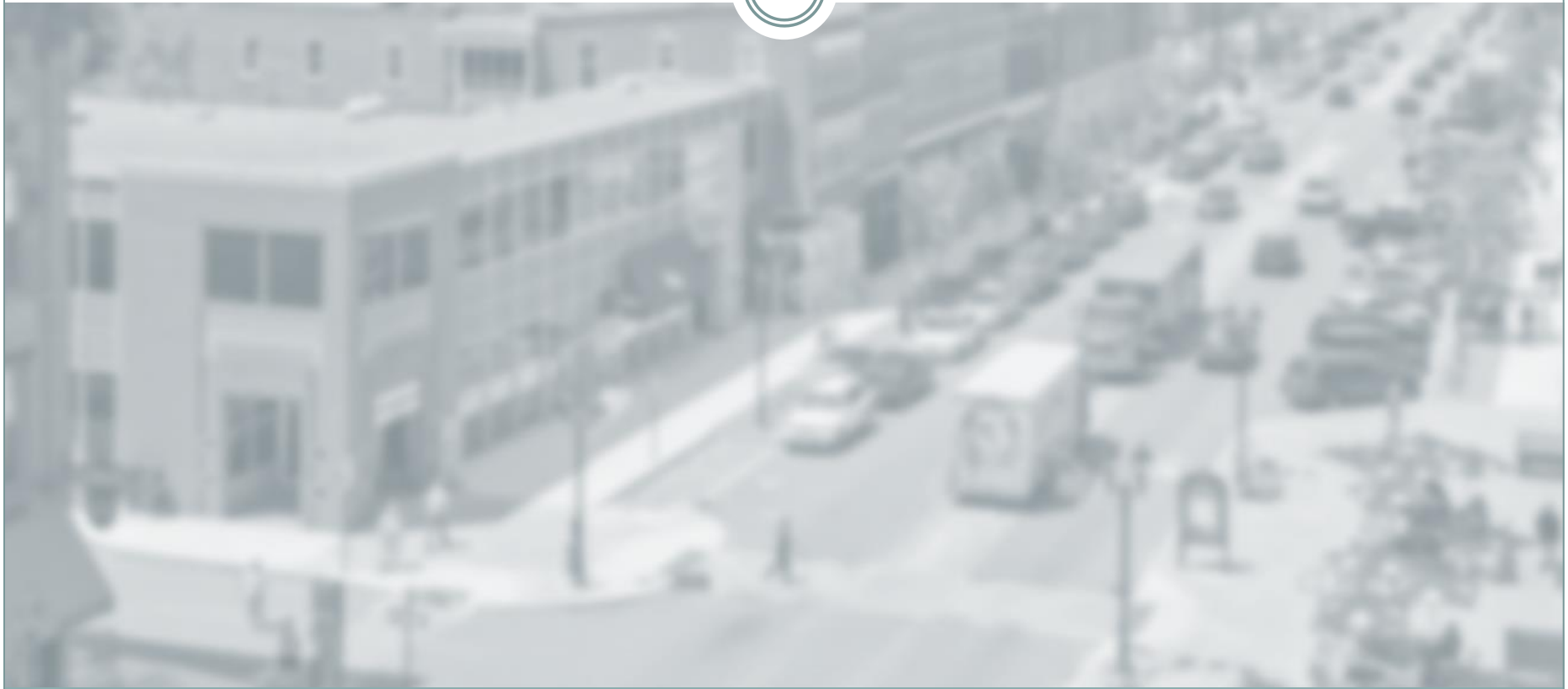
Scale in Miles
0 3.75 7.5 15 22.5 30



G - Greenland
N - Newfields
K - Kensington
E - East Kingston
D - Danville

Map produced at NH Office of Strategic Initiatives, October 2018.

The Planning Process



Planning Process



Create Planning Board

Set Bylaws

Adopt Master Plan

Capital Improve-
ment Program

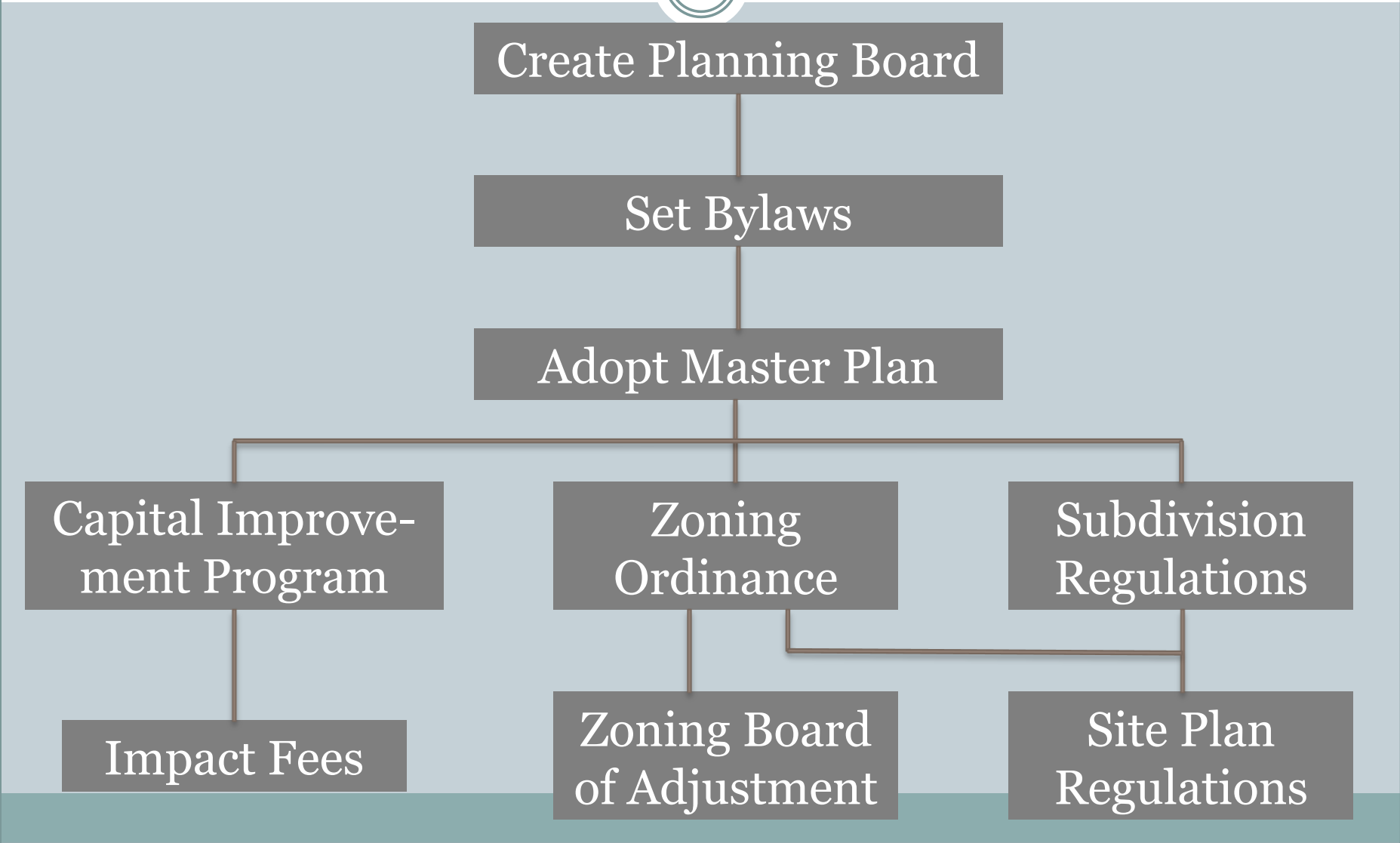
Impact Fees

Zoning
Ordinance

Zoning Board
of Adjustment

Subdivision
Regulations

Site Plan
Regulations



The Master Plan



The Master Plan



- Land use and development principles
- Maps, diagrams, charts and descriptions
- Legal standing to the implementation of the Town's vision
- Accounts for social and economic values
- Describes how, why, when and where the community should build, rebuild and preserve

The Master Plan



Vision (required)

Land Use (required)

Natural Resources

Economic Development

Community Facilities

Utilities

Transportation

Historic Resources

Housing

Community Design

Cultural Resources

Energy

Natural Hazards

Neighborhood Plan

Regional Concern

Implementation

The Master Plan



Do think of the Plan as:

- The Town's vision
- A living dynamic document
- A tool for community growth
- A guide for capital investment

Don't Think of the Plan As:

- Regulations
- A static document
- Funding
- A burden

Zoning Adoption



- Planning Board's Role:
 - ✦ reviews and drafts proposals based upon needs
 - ✦ holds a public hearing to receive feedback on proposed ordinance or amendments
 - ✦ can vote to send the ordinance or amendment to Town Meeting via a Warrant Article
- Warrant Article:
 - ✦ placed on agenda, presented at deliberative session
 - ✦ voted on by the Legislative Body at Town Meeting
- If adopted, the Warrant Article is then incorporated into the Zoning Ordinance

Zoning Ordinance



- The Planning Board RECOMMENDS and does not adopt zoning ordinances
- Adoption of a Master Plan is a prerequisite
- The Zoning Ordinance and amendments should support or implement the goals of the Master Plan

Subdivision Regulations



MAY Address:

- Services
- Street Layout
- Utilities
- Health
- Open Space
- Configuration
- And more...

Site Plan Regulations



MUST Address:

- Procedures
- Purpose
- Standards
- Performance Guarantees
- Waiver Provisions

Site Plan Regulations



MAY Address:

- Traffic
- Parking
- Utilities
- Landscaping
- Building location
- Signage
- And More...

Subdivision and Site Plan Adoption Process



The Planning Board:

- Reviews and drafts proposals
- Holds a public hearing
- Adopts the proposal

Connections



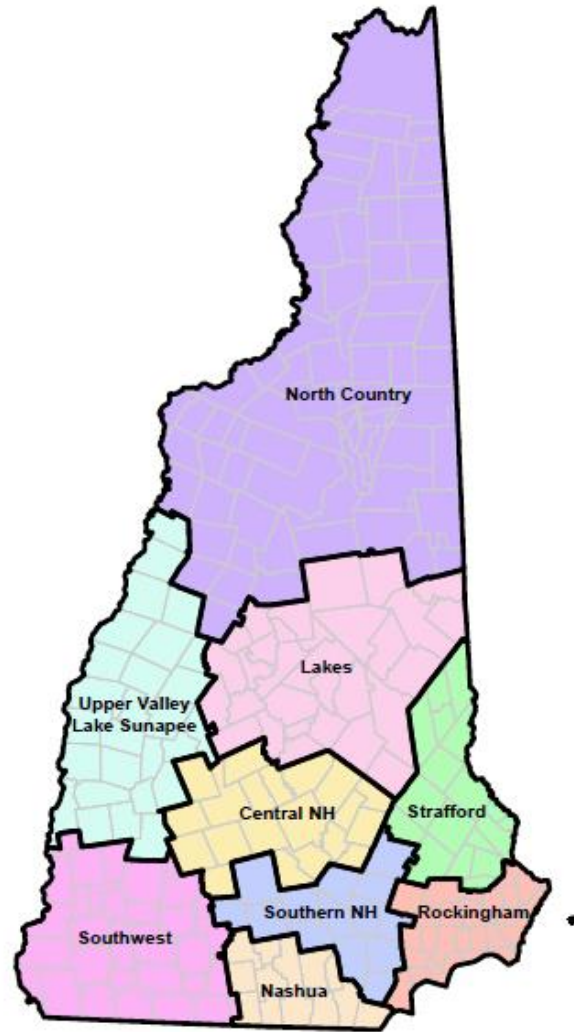
Linking Local, Regional, and State Planning

**State
Development
Plan
RSA 9-A**

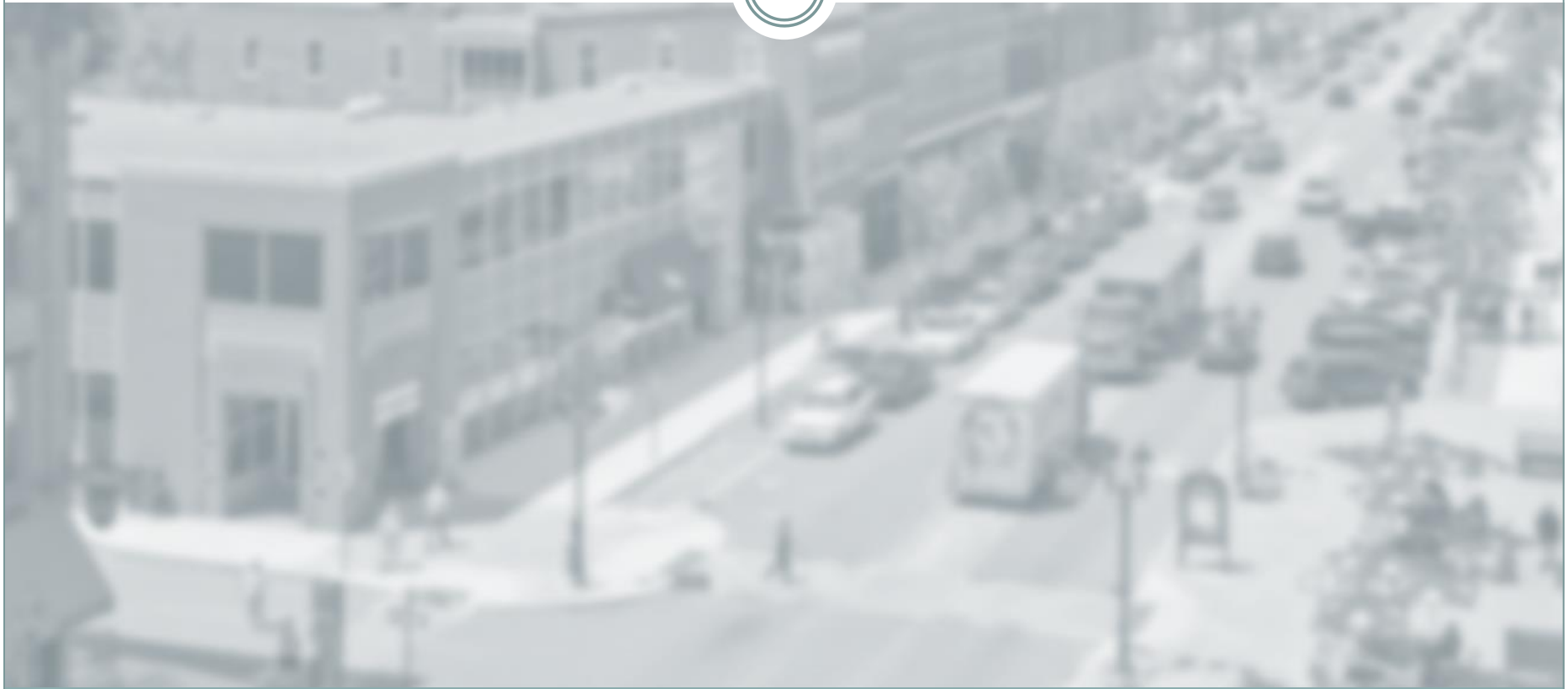
**Regional
Planning
RSA 36:47**

**Local Master
Plan
RSA 674:2**

Regional Planning Commissions



The Working Board



Types of Meetings



- Public v. Nonpublic
 - ✦ Meeting with legal counsel
- Meeting v. Public Hearing

Board Meetings



RSA 673:10

- ZBA, Heritage, Historic District, Ag, Housing
 - ✦ At the call of the chair
- Planning Board
 - ✦ At least once per month
- Majority = quorum
 - ✦ Required to transact business

Board Meetings



Notice of a Public Hearing-RSA 676

- Mailed at least 10 days prior to meeting to abutters and involved parties
- Posted in two places to inform the general public
- Day of posting and day of meeting don't count

The Basics



RSA 673 & RSA 91-A (Right to Know)

- Organization – Chair, Meetings
- Minutes – 5 days to produce
- Written Decisions – Available
- Members – per RSA and town (elected v. appointed)
- Alternates – Appointed or Elected, per RSA

Rules of Procedure



RSA 676:1: Board MUST Adopt Rules of Procedure

- Guide for board members, applicants, abutters, and the public
- Know what to expect
- Avoid arbitrary process

Hearing Process to Adopt Regulations & Recommend Ordinances



1. Convene and read legal notice
2. State the manner of hearing conduct
3. Board shall present the matter for consideration
4. Board questions (if any)
5. Public testimony (state name & address)
6. Close hearing
7. Take a motion and second
8. Board deliberation and discussion
9. Vote

How to be a Good Board Member



- Comes prepared—has read all materials. Decisions will affect the applicant and the community
- Remains impartial—in a juror's role when hearing an application.
- Maintains order and respect—address the chair
- Adheres to the ordinance and regulations—has learned them well!
- Stays focused on the issues—doesn't get sidetracked by interesting, but irrelevant topics

Board Member Disqualification



- Notify the chair ASAP (before hearing begins) if you need to disqualify so an alternate can be seated
- Disqualified members can not sit at the table
- Disqualify if you have a personal or financial interest
- Conflicts may exist if:
 - Expect to gain or loose
 - Related to the applicant
 - Advised or assisted the applicant
 - Given an opinion on the matter
 - Prejudged the matter
 - Employ the applicant or agent
 - Employed by a party in the case

Role of the Board Chair



- Power of the gavel
- Setting the tone

Meeting Conduct



- All persons speaking should only address the board
- No cross-witness arguments or cross-examination
Questions may be raised, but directed to the Chair
- The Chair should repeat the question in an impartial manner and seek relevant answers
- Ask the applicant how much time they reasonably need, and hold them to it
- Limit public testimony/comments to a specified time limit (3-5 minutes typical)

Planning Staff



- Town planning staff (or not...)
- RPC consultation
- Other consultation

Questions? Contact Us



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