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**New Hampshire  
Council on Resources and  
Development**

**SMART GROWTH REPORT**

To

Governor Margaret Wood Hassan  
and the  
New Hampshire General Court

July 2016

*selected pages*

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## I. INTRODUCTION

In 2000, the New Hampshire Legislature recognized the impact of state agency decisions on local land use patterns and enacted RSA 9-B, *State Economic Growth, Resource Protection, and Planning Policy* (see Appendix A). 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.

“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.

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 Council on Resources and Development Mission Statement

New Hampshire’s state agencies, through their policies, programs, and operations, will serve as a role model to promote sustainable land use and community development that conserves energy, natural resources, the built environment and infrastructure, promotes vibrant communities, and strives to provide a high quality of life for all New Hampshire citizens.

*Adopted on March 7, 2007*

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.



### **Accessory Dwelling Units**

In 2016 New Hampshire enacted an accessory dwelling unit (ADU) law (RSA 674:71 through 674:73), a bipartisan effort to encourage greater diversity in housing options to meet market demand for smaller and more affordable living units. Requiring municipalities to permit one attached ADU per single-family residence in all zoning districts that allow single-family homes will help to meet workforce demand for affordable housing as well as help to meet the needs of older citizens to live independently in their communities. ADUs also meet smart growth principles by increasing the availability of housing without the need for more land development and more infrastructure. The ADU law takes effect in June 2017.

### **Complete Streets**

Many New Hampshire municipalities, both large and small, are seeing the benefits of adopting Complete Streets policies, a shift in transportation planning that calls for design and operation of the entire roadway right-of-way to enable safe access for all – including pedestrians, bicyclists, motorists and public transit riders – rather than designing roads only with vehicles in mind.

Concord, Portsmouth, Keene, Dover, Swanzey, Wolfeboro and many other municipalities have adopted Complete Streets policies. There is no one standard policy – each is designed to reflect the unique circumstances and needs of individual municipalities. Complete Streets projects in New Hampshire have included sidewalks and trails, designated bike lanes (or wide paved shoulders), attractive and accessible public transportation stops, frequent and safe crossing opportunities, median islands, accessible pedestrian signals, curb extensions, narrower travel lanes, roundabouts, and more.

Complete Streets make it easier to walk or bike to work, school or downtown; provide connections to various parts of town; and improve safety for pedestrians, bicyclists and motorists. They can relieve traffic congestion, support community economic development, and enhance healthy community efforts.

In 2016, the New Hampshire legislature approved a study of the benefits of a Complete Streets policy for the NH Department of Transportation (DOT). According to Smart Growth America, 32 state governments have adopted Complete Streets policies. A state level Complete Streets policy would encourage planning cooperation between individual municipalities and DOT, particularly in towns and cities in which state highways are the main downtown streets.

### **Granite State Future Statewide Snapshot**

A three-year planning effort, spearheaded by New Hampshire's nine Regional Planning Commissions, culminated in 2015 in the publication of **The Statewide Snapshot** which focused on opportunities for future collaboration on transportation and land use issues, economic development, resource management, housing, public health, energy, and cultural, historic and natural resources preservation. The program also resulted in the development of regional plans for each of the nine Regional Planning Commissions, which in turn can be used to coordinate with municipal master plans.

The New Hampshire Livability Principles were developed as a common set of organizing ideas within the Regional Plans and The Statewide Snapshot. The Livability Principles combine the smart growth indicators found in RSA 9-B with the Federal Partnership Livability Principles of the U.S. Department of Housing and Urban Development (HUD), U.S. Department of Transportation and U.S. Environmental Protection Agency, as well as with the themes identified in municipal master plans.

The Livability Principles include:

- Traditional Settlement Patterns
- Housing Choice
- Transportation Choice
- Community and Economic Vitality
- Natural Resources Functions and Quality
- Climate Change and Energy Efficiency

#### **Community Challenge Grant and Municipal Technical Assistance Grant Programs**

In 2011, the New Hampshire Housing Finance Authority led a consortium of state agencies, institutions and organizations in developing the Community Challenge Planning Grant Program, funded with a \$1million, three-year grant from HUD. Other state agency partners included the OEP, DOT, the NH Department of Environmental Services (DES) and the Community Development Finance Authority. In addition, several leading New Hampshire nonprofits were participating partners, as was the University of New Hampshire Cooperative Extension.

The program provided 37 competitive matching grants to municipalities interested in changing land use regulations to fulfill the visions of their community master plans and to help enhance local economic, environmental and social sustainability. Projects funded included business corridor improvements, downtown form-based code initiatives, pedestrian and bicycling plan development, mixed-use zoning and low-impact development guidelines, workforce housing ordinance development, energy efficiency initiatives, village center visioning, and traditional neighborhood overlay zone initiatives.

Expanding upon the success of the Community Challenge Grant Program, New Hampshire Housing partnered in 2016 with Plan New Hampshire, several state agencies, nonprofits and business organizations on the **Municipal Technical Assistance Grant Program**, through which competitive matching grants will be awarded to municipalities to adapt land use regulations and policies to encourage a range of housing choices, mixed-use development, form-based codes, energy efficiency measures, and pedestrian and transit-oriented development projects.

#### **IV. SMART GROWTH: MUNICIPAL AND REGIONAL CONCERNS**

To prepare for this report, in September 2015 CORD sought the views of the state's municipal officials and Regional Planning Commissions relative to the performance of state agencies on smart growth matters. A survey was distributed electronically to all planning boards and Regional Planning Commissions in the state. The following are the questions asked (*italics*) followed by a summary of responses.

##### **A. STATE AGENCY IMPACT ON LAND USE PATTERNS**

*How do state agency policies, actions, rules and regulations affect the pattern of land use in your region?*

Municipal responses to the survey indicate that some state agency actions can have significant impacts on land use patterns in New Hampshire's towns and cities, particularly those of the DOT and DES. DOT decisions on state highway and intersection improvements, as well as driveway access permitting, have a direct effect on local development patterns. Environmental permitting by DES, especially shoreland, terrain alteration and wetland permitting, has an impact on the density of local development. Some municipalities express concern about scattered and premature development on the local level resulting from the issuance of these state permits, and highlight DES's lack of resources to adequately enforce state regulations. Other municipalities recognize the importance of designing local zoning regulation to complement state shoreland, terrain alteration and wetland rules. DES soil-based policies on septic system design have enabled increased housing density, according to some municipalities, which reduces the likelihood of scattered, dispersed development. However, lack of state funding assistance to municipalities for new wastewater treatment systems makes compact local development patterns more difficult for municipalities to achieve.

##### **B. STATE LAW CONFLICTS WITH SMART GROWTH PRINCIPLES**

*Do you know of state laws or policies that conflict with the smart growth principles in RSA 9-B?*

X Some municipalities expressed frustration with what they perceive as DOT's reluctance to establish or maintain sidewalks along state highways in municipal downtowns, or permit narrow roads in town centers, traffic calming, on-street parking, placement of street trees and other measures that are accepted smart growth methods. One municipality responded to the survey by describing its experience in receiving a Transportation Enhancement Grant to improve pedestrian connectivity and vehicular circulation in its town center, only to have DOT require it to remove from its plan elements for pedestrian sidewalks and crosswalks, and traffic circulation improvements (raised medians) because they would result in additional maintenance costs for DOT.

X Responses to the survey indicated that some municipalities believe DES wetland regulations permit development too close to sensitive natural resource areas, such as vernal pools, unless they fall within the jurisdiction of the Shoreland Water Quality Protection Act (RSA 483-B), or

\* unless municipalities take on the task of designating prime wetlands (RSA 482-A:15). They are concerned that such development has a direct impact on the quality of the state's surface waters and they advocate for scientifically defensible wetland buffer zones to aid municipalities in protecting these resources and promote smart growth development.

\* Some responses criticized the legislature's 2011 changes to the Shoreland Water Quality Protection Act (RSA 483-B), particularly provisions on shoreline clearing, as conflicting with RSA 9-B (smart growth), and said the provisions should be restored.

\* Other municipal concerns focused on state underfunding of water and sewer infrastructure projects, historic resource preservation and natural resource conservation, as well as reduced technical assistance funding for OEP and the Regional Planning Commissions, all of which undermine municipal smart growth efforts.

One municipal response suggested updating municipal record retention rules (RSA 33-A) to allow for more electronic storage, instead of requiring paper copies, which would result in more efficient use of resources.

#### C. STATE AGENCIES CONSISTENT WITH SMART GROWTH PRINCIPLES

##### *Do state agencies act in a manner that is consistent with the principles of smart growth in RSA 9-B?*

Most municipal survey responses indicated that state agencies generally act in a manner consistent with smart growth principles, given their funding and regulatory restraints. Enabling statutes permitting municipalities to utilize Innovative Land Use Controls (RSA 674:21) and enact historic preservation regulations were cited as helping towns and cities achieve smart growth principles. The state's Current Use Taxation program and shoreland protection laws were cited as aiding in wildlife habitat and water quality protection.

#### D. STATE LEVEL RECOMMENDATIONS TO ENCOURAGE SMART GROWTH

##### *What state-level changes to statute, administrative rules, policy, or procedure would you recommend to encourage smart growth?*

Municipalities responding to the survey suggested increased resources for additional technical assistance from OEP on smart growth techniques and model ordinances and expressed a need for guidance and education on "smart" zoning.

\* Some respondents also said state agencies should support Granite State Future's recommendations in The Statewide Snapshot, including:

- development of a state natural resource conservation plan as well as an agricultural preservation plan;
- support for energy efficiency programs, including building energy codes;

- increasing state resources for water infrastructure on a regional basis;
- providing funding to support updates to local master plans, zoning and land development regulations and land conservation efforts;
- strengthening DOT's authority to review land uses that create new traffic demand impacts on state highways and its ability to incorporate multimodal traffic mitigation strategies; and
- requiring that the use of state funds incorporate consideration of climate change impacts into development and redevelopment projects to insure that limited state funds are invested wisely and efficiently.

Other survey respondents suggested dedicating state funding for mass transit options, including rail, to reduce air pollution and vehicle miles traveled; and encouraging regional housing and transportation improvements initiatives.

## **V. CONCLUSIONS AND RECOMMENDATIONS**

Although population changes and development patterns have shifted since 2000, state agencies must continue to incorporate smart growth principles into agency decisions, policies and procedures, and facility siting. It is also important for the state agencies to lead by example and to strengthen the smart growth opportunities of regions and municipal entities through education and partnerships. Since the establishment of the state's smart growth policy, there have been many successes and progress by state agencies in incorporating smart growth principles into their decision-making. These successes need to continue and be built upon.

CORD encourages and supports the ongoing and future actions of individual state agencies, organizations, and municipalities that strive to implement smart growth actions and ideals into their siting decisions, policies, and programs. But it is also important for CORD to take a leadership role in addressing smart growth and developing new approaches to decision-making as well as seeking out additional partnership opportunities with regional and municipal entities.

### **A. RECOMMENDATIONS**

The following recommendations were developed to aid in the implementation of these planning efforts and collaboration.

- A. CORD should be a leader in promoting and coordinating the implementation of smart growth principles. CORD's tasks could include:
  - 1) Review annually how CORD is meeting its responsibilities regarding smart growth and to review the implementation status of these recommendations.