

Legal Q AND A

By Stephen C. Buckley, Legal Services Counsel with the
New Hampshire Municipal Association

Planning New Hampshire's Future: The State Development Plan, Regional Master Plans, Local Master Plans, Capital Improvement Plans, and Community Services Master Plan

THE STATE COMPREHENSIVE PLAN

Q: Is there a State of New Hampshire Comprehensive Plan?

A: Yes. RSA 9-A:1 provides that “[t]here shall be a comprehensive state development plan which establishes state policy on development related issues and proposes new or expanded programs to implement such policies. The plan shall provide a basis for identifying critical issues facing the state, determining state priorities, allocating limited state resources, and taking into account the plans of various state, regional, and local governmental units.”

Q: What is the mandatory content of the State Comprehensive Plan?

A:

- (1) An overall vision section
- (2) A land use section
- (3) A transportation section
- (4) A public facilities section
- (5) A housing section
- (6) An economic development section
- (7) A natural resources section
- (8) A natural hazards section
- (9) A recreation section
- (10) A utility and public service section
- (11) A regional concerns section
- (12) A section which identifies state policies and actions necessary to protect cultural and historic resources
- (13) An implementation section.

Q: What is the current status of the State Comprehensive Plan?

A: The existing State Development Plan, entitled *New Hamp-*

shire in the New Economy: A Vision for Expanded Prosperity, was established in 2000. RSA 9-A:1 (V) mandates that the State Comprehensive Plan be renewed or revised every four years, commencing October 1, 2003. The most current version of the State Comprehensive Plan may be found at the NH Office of Energy and Planning website: <http://www.nh.gov/oep/planning/resources/state-development-plan.htm>.

REGIONAL MASTER PLANS

Q: What manner of regional comprehensive planning is required to be undertaken by the regional planning commissions?

A: Under RSA 36:47 (I), each of the nine regional planning commissions is required to prepare a comprehensive master plan for the development of the region within its jurisdiction. These regional development plans must be renewed and readopted every 5 years.

Q: What subjects must be covered in these regional comprehensive plans?

A: Each regional comprehensive plan must provide recommendations for the following subjects:

- The use of land within the region;
- The general location, extent, type of use, and character of highways, major streets, intersections, parking lots, railroads, aircraft landing areas, waterways and bridges, and other means of transportation, communication, and other purposes;
- The development, extent, and general location of parks, playgrounds, shore front developments, parkways, and other public reservations and recreation areas;

- The location, type, and character of public buildings, schools, community centers, and other public property;
- The improvement, redevelopment, rehabilitation, or conservation of residential, business, industrial and other areas;
- The development of programs for the modernization and coordination of buildings, housing, zoning and subdivision regulations of municipalities and their enforcement on a coordinated and unified basis.

Q: Are there any particular subjects that must be investigated and be reported upon by the regional planning commissions?

A: For the purpose of assisting municipalities in complying with duty to assess local housing conditions and consider future housing needs for all levels of income, each regional planning commission must compile a regional housing needs assessment, which shall include an assessment of the regional need for housing for persons and families of all levels of income. The regional housing needs assessment shall be updated every 5 years and made available to all municipalities in the planning region.

Q: What is the current status of the regional master plans for the nine regional planning commissions?

A: Lakes Region Planning Commission: *The Lakes Region Plan, 2015 to 2020*, <http://www.lakesrpc.org/Extra1.asp>.

Central New Hampshire Regional Planning Commission: *Central New Hampshire Regional Plan 2015*, <http://www.cnhrpc.org/wp-content/uploads/2013/03/CNHRPC-Cover-Acknowledgements-Table-of-Contents1.pdf>.

Nashua Regional Planning Commission: *Nashua Regional Plan*, http://www.nashuarpc.org/web-apps/documents/?data=7&ccm_order

[by=year_end&ccm_order_dir=desc](#).

Rockingham Planning Commission: *2015 Regional Master Plan for the Rockingham Planning Commission Region*, <http://rpc-nh.org/masterplan.pdf>.

Southern New Hampshire Planning Commission: *Regional Comprehensive Plan 2010 for the Southern NH Planning Commission Region*, http://www.snhpc.org/pdf/Final_Full_RCP.pdf.

Southwest Regional Planning Commission: *Monadnock Region Future: A Plan for Southwest New Hampshire 2015*, http://www.swrpc.org/files/MonadnockRegionFuture_RegionalPlan_FINAL.pdf.

Strafford Regional Planning Commission: *Local Solutions for the Strafford Region, Regional Master Plan, Adopted January 2015*, http://www.strafford.org/cmsAdmin/uploads/localsolutionsforthestraffordregion_1-30-15_final.pdf.

Upper Valley Lake Sunapee Regional Planning Commission: *UVLSRPC Regional Plan 2014 (Draft)*, <http://regionalplan.uvlsrc.org/>.

Q: How often should regional master plans be updated?

A: Regional master plans shall be renewed and updated every 5 years.

LOCAL MASTER PLANS

Q: When must a municipality have in place a master plan?

A: In order to adopt growth management under RSA 674:22, a community must have in place a master plan prepared and adopted by the planning board. Before a community may adopt a zoning ordinance, the planning board must first adopt the vision and land use section of its master plan as described in RSA 674:2, I and II. Before a community can have a capital improvements plan as provided in

RSA 674:5 – :8, the planning board must first adopt a master plan.

Q: What are the mandatory sections of a master plan?

A: (a) A vision section that shall contain a set of statements which articulate the desires of the citizens affected by the master plan, not only for their locality but for the region and the whole state. It shall contain a set of guiding principles and priorities to implement that vision.

(b) A land use section which shall translate the vision statements into physical terms. Based on a study of population, economic activity, and natural, historic, and cultural resources, it shall show existing conditions and the proposed location, extent, and intensity of future land use.

Q: What are the optional sections of a master plan?

- A:** (a) A transportation section.
 (b) A community facilities section
 (c) An economic development section.
 (d) A natural resources section
 (e) A natural hazards section
 (f) A recreation section
 (g) A utility and public service section
 (h) A cultural, archeological, and historic resources section
 (i) A regional concern section
 (j) A neighborhood plan section
 (k) A community design section
 (l) A housing section
 (m) An implementation section
 (n) An energy section
 (o) A coastal management section

Q: What local board is in charge of adopting and renewing a local master plan?

A: As provided in 674:1 (I), one of the principal duties of the planning board is to prepare and amend from a master plan to guide the development of the municipality.

Q: What procedures must the planning board follow when adopting or amending a master plan?

A: During the preparation of the master plan, the planning board shall inform the general public, the Office of Energy and Planning, and the regional planning commissions and solicit public comments regarding the future growth of the municipality in order to involve citizens in the preparation of the master plan in a way which is most appropriate for the municipality. RSA 674:3 (III). The planning board must hold a public hearing prior to adoption or amendment of the master plan with notice for the time and place of the hearing as provided in RSA 675:7. The planning board may adopt or amend the master plan upon completion of the public hearing by an affirmative vote of a majority of its members. No master plan shall be legal or have any force and effect until copies of it are certified by a majority of the planning board or commission and filed with the city clerk, town clerk, or clerk for the county commissioners.

Q: How often must a master plan be updated?

A: Revisions to the master plan are recommended every 5 to 10 years. Failure to update and keep a master plan current may put in jeopardy the legality of any ordinances that depend up a master plan. Stoney-Brook Development Corp. v. Town of Fremont, 124 N.H. 583 (1984).

CAPITAL IMPROVEMENTS PLANS

Q: What is the purpose of a Capital Improvements Plan (CIP)?

A: A CIP is a recommended program of municipal capital improvements proj-

ects projected over a period of at least 6 years. A CIP can address major projects being currently undertaken or future projects to be undertaken with federal, state, county, and other public funds. The sole purpose and effect of the CIP shall be to aid the mayor or select board and the budget committee in their consideration of the annual budget.

Q: How is a CIP authorized and who prepares the CIP?

A: The local legislative body (town meeting, town council, or city council) must authorize the development of a CIP. A CIP is prepared and adopted by the planning board. As an alternative, the legislative body may authorize the governing body to appoint a CIP committee, which shall include at least one member of the planning board and may include but not be limited to other members of the planning board, the budget committee, or the town or city governing body.

Q: What information must be contained in a CIP?

A: A CIP must classify projects according to the urgency and need and shall recommend a time sequence for their implementation. A CIP must be based on information submitted by the departments and agencies of the municipality and shall take into account public facility needs indicated by the prospective development shown in the master plan of the municipality or as permitted by other municipal land use controls.

Q: What municipal officials must be consulted and who must participate in the preparation of a CIP?

A: The planning board (or the CIP committee) shall confer with the mayor or the select board or the chief fiscal officer, the budget committee, other municipal officials and agencies, the school board or boards, and shall review the recommendations of the master plan

in relation to the proposed capital improvements program. Every municipal department, authority, or agency, and school district board shall, upon request of the planning board or the CIP committee, transmit a statement of all capital projects it proposes to undertake during the term of the program. The planning board or the CIP committee shall study each proposed capital project, and shall advise and make recommendations to the department, authority, agency, or school district board, department or agency, concerning the relation of its project to the capital improvements program being prepared.

COMMUNITY SERVICES MASTER PLAN

Q: What is a Community Services Master Plan (CSMP)?

A: RSA 678:3 permits municipalities to create a Community Services and Care Planning Board that is empowered to prepare and amend a CSMP to guide the development of community services and support systems and the provision of health and social services and community supports to residents.

Q: What Information is contained in a Community Services Master Plan (CSMP)?

A: A CSMP is an assessment of the availability, adequacy, and accessibility of the human services systems in each community and shall include the following elements:

- (a) A list and description of the specific community assets and programs in existence to serve and support citizens of all ages and abilities;
- (b) An analysis of specific improvements to community assets and programs, in priority order that the Community Services and Care Planning Board recommends be made over the next

- 5 years and the specific issues these improvements address;
- (c) The community assets available and needed to achieve each improvement, the most important barriers that must be overcome to achieve each improvement, and an assessment of the feasibility and cost of

- achieving each improvement;
- (d) An overall strategy and problem-solving approach and process for achieving the improvements and a description of the rationale for using these strategies; and
- (e) A 5-year plan of action with annual updates as required,

which follow the strategy to achieve the improvements.

Stephen Buckley is Legal Services Counsel with the New Hampshire Association. He may be contacted at 800.852.3358 ext. 3408 or at legal.inquiries@nhmunicipal.org.

Court UPDATE

By Stephen C. Buckley, Legal Services Counsel and Margaret M.L. Byrnes, Staff Attorney

Court Update, previously a regular column in *New Hampshire Town and City* magazine, has moved to the New Hampshire Municipal Association web site to provide more timely information to NHMA members. Opinions will be posted after they are released, and a reminder will be included here and sent in *Newslink*. To read previous Court Update columns, please visit www.nhmunicipal.org.

Now available online:

Fourth Amendment to Face a New Challenge

City of Los Angeles v. Patel, United States Supreme Court, No. 13-1175, 6/22/2015

Sign Code Violates First Amendment Due to Uneven Treatment of Religious Directional Sign

Reed, et al. v. Town of Gilbert, Arizona, United States Supreme Court, No. 13-502, 6/18/2015

Specialty Motor Vehicle License Plates are Government Speech That Can be Controlled

Walker v. Texas Div., Sons of Confederate Veterans, United States Supreme Court, No. 14-144, 6/18/2015

"Agritourism" is not "Agriculture"

Forster's Christmas Tree Farm v. Town of Henniker, New Hampshire Supreme Court, No. 2013-893, 6/12/2015

People Protesting Parking Regulations can be Enjoined from Harassing Parking Enforcement Officers

City of Keene v. James Cleaveland, et als, New Hampshire Supreme Court No. 2013-885, 6/9/2015

No Causal Nexus, No Liability

Christopher Crosby v. Strafford County Department of Corrections et al., U.S. District Court for New Hampshire, Opinion No. 2014 DNH 100, 6/2/2015

RMON
NETWORKS

Contact us today, to solve your IT issues finally and forever!

603-642-4010

Plaistow / Laconia

RMONnetworks.com/municipal

Why Choose RMON Networks as your technology partner?

- 100% retention rate with all of our municipal customers
- References from any of the municipalities we serve
- Local, friendly help desk that is here to support your staff, remotely or onsite
- We work with you and any of your technology vendors
- We own the problems, and never pass the buck
- Flat monthly fee that your municipality can BUDGET on!
- CJIS Certified, and knowledgeable of BMSI, Avatar, Clerkworks, Firehouse, Crimetrack, and more.