

TITLE LXIV PLANNING AND ZONING

See VI.

Timber Harvesting

CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

Master Plan

Section 674:1

674:1 Duties of the Planning Board. –

I. It shall be the duty of every planning board established under RSA 673:1 to prepare and amend from time to time a master plan to guide the development of the municipality. A master plan may include consideration of any areas outside the boundaries of the municipality which in the judgment of the planning board bear a relation to or have an impact on the planning of the municipality. Every planning board shall from time to time update and amend the adopted master plan with funds appropriated for that purpose by the local legislative body. In preparing, amending, and updating the master plan:

(a) The planning board shall have responsibility for promoting interest in, and understanding of, the master plan of the municipality. In order to promote this interest and understanding, the planning board may publish and distribute copies of the master plan, or copies of any report relating to the master plan, and may employ such other means of publicity and education as it may deem advisable.

(b) The planning board shall also have authority to make any investigations, maps and reports, and recommendations which relate to the planning and development of the municipality.

II. The planning board may from time to time report and recommend to the appropriate public officials and public agencies programs for the development of the municipality, programs for the erection of public structures, and programs for municipal improvements. Each program shall include recommendations for its financing. It shall be part of the planning board's duties to consult with and advise public officials and agencies, public utility companies, civic, educational, professional, research and other organizations, and to consult with citizens, for the purposes of protecting or carrying out of the master plan as well as for making recommendations relating to the development of the municipality.

III. Members of the planning board, when duly authorized by the board as a whole, may attend municipal planning conferences or meetings, or hearings upon pending municipal planning legislation. The planning board may by majority vote authorize the payment of reasonable expenses incident to such attendance.

IV. The planning board, and its members, officers, and employees, in the performance of their functions may, by ordinance, be authorized to enter upon any land and make such examinations and surveys as are reasonably necessary and place and maintain necessary monuments and marks and, in the event consent for such entry is denied or not reasonably obtainable, to obtain an administrative inspection warrant under RSA 595-B.

V. The planning board may, from time to time, recommend to the local legislative body amendments of the zoning ordinance or zoning map or additions thereto.

* VI. In general, the planning board may be given such powers by the municipality as may be necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes of this title. **Such 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.**

Source. 1983, 447:1. 1991, 231:12, eff. Aug. 9, 1991. 2011, 85:3, eff. July 15, 2011.

Lucy St. John

From: Ben Frost <bfrost@nhhfa.org>
Sent: Friday, August 07, 2015 9:18 PM
To: Lucy St. John; plan-link@maillist2.nh.gov
Subject: RE: [Plan-link] clearing land prior to subdivision approval

Hi Lucy:

Other than what Sally has cited, I think what you're looking for does not exist. Rather the contrary is the case. **In 2011, the Legislature clarified this issue with the following amendment to RSA 674:1, VI (new language emphasized):**

VI. In general, the planning board may be given such powers by the municipality as may be necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes of this title. **Such 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.**

This amendment was adopted to prevent planning boards from trying to regulate timber harvesting on property before they had an application before them. So a planning board can't reach back in time and compel a property owner to restore forest or to pay a fine for timber harvesting that occurred before an application was filed. **Absent an application, the board has no jurisdiction.**

Ben

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**Benjamin D. Frost, Esq., AICP**

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New Hampshire Housing  
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~~~~~

From: plan-link-bounces@maillist2.nh.gov [mailto:plan-link-bounces@maillist2.nh.gov] **On Behalf Of** Lucy St. John
Sent: Friday, August 07, 2015 12:05 PM
To: plan-link@maillist2.nh.gov
Subject: [Plan-link] clearing land prior to subdivision approval

PlanLink,

I am looking for the RSA which says something about not clearing land prior to local subdivision or site plan approval. If you know the RSA can you let me know. Lucy

Lucy A. St. John, AICP
Planning and Zoning Administrator
Town of New London
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New London, NH 03257
(603) 526-4821, ext 16
(603) 526- 9494 (fax)
zoning@nl-nh.com

Lucy St. John

From: plan-link-bounces@maillist2.nh.gov on behalf of plan-link-request@maillist2.nh.gov
Sent: Friday, August 07, 2015 9:54 PM
To: plan-link@maillist2.nh.gov
Subject: Plan-link Digest, Vol 125, Issue 6

Send Plan-link mailing list submissions to
plan-link@maillist2.nh.gov

To subscribe or unsubscribe via the World Wide Web, visit
<http://maillist2.nh.gov/mailman/listinfo/plan-link>
or, via email, send a message with subject or body 'help' to
plan-link-request@maillist2.nh.gov

You can reach the person managing the list at
plan-link-owner@maillist2.nh.gov

When replying, please edit your Subject line so it is more specific than "Re: Contents of Plan-link digest..."

Today's Topics:

1. Re: clearing land prior to subdivision approval (Tim Dziechowski)
2. Re: clearing land prior to subdivision approval (Ben Frost)
3. Re: clearing land prior to subdivision approval
(SEDWilkins@aol.com)

Message: 1

Date: Fri, 07 Aug 2015 20:50:30 -0400
From: Tim Dziechowski <timd@winsurfer.net>
To: SEDWilkins@aol.com, plan-link@maillist2.nh.gov
Subject: Re: [Plan-link] clearing land prior to subdivision approval
Message-ID: <mailman.443.1438998820.17537.plan-link@maillist2.nh.gov>
Content-Type: text/plain; charset="us-ascii"

The basal area law and other forestry buffer laws are enforced by your district forest ranger, who is part of DRED and has some limited police powers. When we have had developers do clear cuts near roads and wetlands, there have been cooperative investigations involving local code enforcement, DES, and DRED.

One thing you have to realize is that forestry is a permitted and encouraged use, and a landowner can cut 50% of the standing timber _per year_ even near wetlands. A developer can do nearly anything under cover of forestry operations. Except, of course, trigger land use change tax.

Regards,
timd@winsurfer.net (Tim Dziechowski)
Chair, Atkinson Conservation Commission

Message: 3
Date: Fri, 7 Aug 2015 21:53:35 -0400
From: SEDWilkins@aol.com
To: plan-link@maillist2.nh.gov
Subject: Re: [Plan-link] clearing land prior to subdivision approval
Message-ID: <1c933.52e65fa4.42f6bb1f@aol.com>
Content-Type: text/plain; charset="us-ascii"

Actually, I believe the intent is that one can clear cut for agriculture or forestry/wildlife habitat but otherwise permits have to be in hand first.

Sally
~If you think you know all the answers . . .
maybe you're not asking all the questions.

In a message dated 8/7/2015 7:40:12 P.M. Eastern Daylight Time, segedy@gsinet.net writes:

I would see the saving clause to be "conversion" - If one is simply cutting to convert from "forested land" to "cleared land". I could be wrong, but that is other than timber growing and forest uses, requires no local permits and occurs within 180 days - (happens immediately upon the trees being removed). Law would only kick in if actually stating intention to manage for forestry purposes, conservation, subdivision, etc.

John Segedy

On 8/7/2015 6:10 PM, _SEDWilkins@aol.com_ (mailto:SEDWilkins@aol.com) wrote:

Lucy -

I think the law you're looking for is the "Basal Area Law" (RSA 227-J:9)

>From the Guide to NH Timber Harvesting Laws:



The basal area law requires that forested buffers be left along town and state roads, streams, and bodies of water, following a timber harvest (Figure 5). These buffer zones can prevent erosion, provide wildlife habitat, protect stream temperature and aquatic life, and preserve the aesthetics of the landscape. This law also applies to land conversion and clearing unrelated to forest management unless all state and local permits necessary for the conversion have been secured. (RSA 227-J:9, IV).

What we have found on the couple of occasions that we tried to invoke this is that there is apparently no enforcement process.

Sally Wilkins
Amherst

TITLE XIX-A FORESTRY

CHAPTER 227-J TIMBER HARVESTING

Section 227-J:9

227-J:9 Cutting of Timber Near Certain Waters and Public Highways of the State; Penalty. –

I. Within a 12-month period, no more than 50 percent of the basal area of trees shall be cut or otherwise felled, leaving a well distributed stand of healthy, growing trees:

(a) Within 150 feet of:

- (1) Any great pond;
- (2) Any standing body of water 10 acres or more in area;
- (3) Any fourth order or higher stream; or
- (4) Any public highway; or

(b) Within 50 feet of:

- (1) Any stream, river, or brook not included in subparagraph (a)(3) which normally flows throughout the year; or
- (2) Any standing body of water less than 10 acres in area associated with a stream, river, or brook which normally flows throughout the year.

This paragraph shall not apply if the person who pushes over, cuts, saws, or operates upon, or causes to be pushed, cut, sawed, or operated upon, any trees described in subparagraphs (a) or (b), obtains the prior written consent of the director, or of the director's agents in accordance with paragraph V.

II. Timber cutting for land conversion purposes, other than timber growing and forest uses, shall be exempt from this section if those persons intending to convert the use of the land have secured all required local permits including, but not limited to, building, subdivision or zoning permits, excavation permits, or site plan approval necessary for the use to which the land will be converted, and are able to furnish proof of such permits.

III. No person shall clear land of natural vegetation on a given lot, tract, or parcel proposed for subdivision pursuant to RSA 485-A:32, unless such subdivision plan has been submitted and approved in accordance with the requirements of RSA 485-A.

IV. Timber cutting for land conversion purposes, other than timber growing and forest uses, that does not require any local permits shall be exempt from this section if conversion occurs within 180 days of exceeding the provisions in paragraph I, or there has been prior written consent to extend the 180-day period from the director or the director's agents in accordance with paragraph V.

V. (a) Before the director grants a request to exceed the limits established in this section, the landowner or authorized agent shall demonstrate that it is necessary to exceed such limits and that any and all actions are consistent with the purposes of this chapter. The director shall provide a standard request form for this purpose. This form shall be submitted to the director or the director's agents at least 30 days prior to commencing the timber cutting operation.

(b) Failure of the division to act upon the request within 30 days shall serve as automatic approval.

VI. (a) Any person who violates the provisions of this section shall be guilty of a misdemeanor.

(b) Each 200 linear feet or fraction thereof of frontage on the affected great pond, any standing body of water 10 acres or more in area, fourth order stream or higher, or public highway, or any other stream, river or brook which normally flows throughout the year or standing body of water less than 10 acres in size associated with a stream, river or brook which normally flows throughout the year, from which trees are cut in excess of limits prescribed in this section shall constitute a separate offense.

VII. This section shall be enforceable by the municipality in which the land is situated; provided, however, that before initiating any enforcement action, the municipality shall notify the director, who shall take action to the extent the director deems necessary to ensure uniform statewide enforcement. If, within 10 days of notification to the director, no enforcement action has been taken by the director or the director's agent, the municipality may proceed with actions necessary to ensure compliance with the law.

VIII. Forest management not associated with shoreland development nor land conversion and conducted in compliance with the provisions of this section shall be exempt from the provisions of RSA 483-B.

Source. 1995, 299:1. 1996, 86:1, eff. Jan. 1, 1997.

TITLE L

WATER MANAGEMENT AND PROTECTION

CHAPTER 485-A

WATER POLLUTION AND WASTE DISPOSAL

Sewage Disposal Systems

Section 485-A:32

485-A:32 Prior Approval; Permits. –

I. No person shall construct any building from which sewage or other wastes will discharge or construct a sewage or waste disposal system without prior approval of the plans and specifications of the sewage or waste disposal system by the department. Nothing herein shall be construed to modify or lessen the powers conferred upon local authorities by other statutes; provided, however, that in all instances the requirements contained in this chapter shall be considered as minimum.

II. Any person submitting an application and plans for construction approval shall also certify in writing that he has complied with all local government requirements as relate to water supply and sewage disposal which must be complied with prior to application to the department of environmental services in those municipalities where regulations require prior local approval; and, at the same time, a copy of the certification shall be sent to the board of selectmen of the town or the city council of the city.

III. No person required to submit subdivision plans pursuant to paragraph I shall commence the construction of roads within the lot, tract, or parcel proposed to be subdivided, by clearing the land thereof of natural vegetation, placing any artificial fill thereon, or otherwise altering the land, nor shall he do any other act or acts which will alter the natural state of the land or environment, unless the subdivision plan relating thereto has been submitted and approved in accordance with the requirements of this chapter. Nothing in this paragraph shall be construed to prevent the taking of test borings, the digging of test pits, or any other preliminary testing and inspection necessary to comply with the requirements of the department of environmental services relative to information necessary for review and approval of the subdivision plans.

Source. 1989, 339:1. 1996, 228:106, 108, eff. July 1, 1996.

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TOWN OF
NEW LONDON, NEW HAMPSHIRE

375 MAIN STREET • NEW LONDON, NH 03257 • WWW.NL-NH.COM

**INTENT TO CUT
PUBLIC NOTICE**

**PROVISIONS OF THE SUBDIVISION REGULATIONS
And
ZONING ORDINANCE**

Please be advised of the following provisions of the New London Subdivision Control Regulations, July 28, 2009.

Subdivision Regulations: Section II- Administration and Enforcement

Q. TREE CUTTING FOR SUBDIVISION LAYOUT

Tree cutting for the purpose of laying out a subdivision including roads, utility lines, drainage facilities, views for lots, and/or building sites is prohibited prior to final subdivision approval by the Planning Board and subsequent issuance of an Intent to Cut by the Board of Selectmen. Minor tree cutting for the purpose of conducting soil test pits for proposed on-site septic systems is permitted.

If a landowner makes application to the Planning Board for a subdivision and it appears to the Planning Board that the landowner has already cut trees for the layout of a subdivision including road, utility lines, drainage facilities, views of lots, and/or building sites, then the Planning Board shall request the Board of Selectmen to pursue this as a violation of the Land Subdivision Control Regulations and the Planning Board shall suspend further consideration of the subdivision application pending resolution of the enforcement action.

A Notice of this regulation shall be attached to the Intent to Cut signed by the Board of Selectmen.

Zoning Ordinance- Refer to tree cutting provisions in the Town of New London Zoning Ordinance, relative to wetlands and streams that places greater restrictions on the removal of trees within the 100' of certain wetlands and streams.

Questions regarding the Intent to Cut can be directed to Amy Rankins, at 526-4821, ext. 20.