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# THE GRANITE STATE PLANNER

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[www.nhplanners.org](http://www.nhplanners.org)

## PRESIDENT'S MESSAGE

Dear Colleagues:

Another year has come and gone and the NHPA Executive Committee continues to be busy working to improve the organization. We've been actively working to provide numerous professional development opportunities, become more active in the legislature, and green the organization. The executive committee has continued to seek out opportunities to collaborate with other professional associations in the state. This year, we partnered with the Surveyors and Registrars to develop a fact sheet on the Plat Law and Recording. Thank you for your support and all the hard work you do to make New Hampshire such a great state.

Once again it is time for the NHPA Annual Meeting and Professional Development Workshop. Enclosed you will find a registration form, agenda, and many bits of information for your consideration at the meeting. The Annual Meeting will be held on Friday, **November 13, 2009** at Fratello's and PSNH Energy Park in Manchester. The day's events will begin at noon with lunch and the

annual meeting at Fratello's, followed by a tour and the professional development workshop at PSNH Energy Park and a reception back at Fratello's.

Professional development has been key to the association's work this year. Based on your feedback, the format for the annual spring conference was modified to concentrate sessions into a one-day conference - however, we kept the second day as a half day with mobile workshops. This year's annual meeting's professional development topic is designed to meet members' educational needs expressed at the spring conference - Ethics CM Credits! Additionally, NHPA has partnered with the Association of Regional Planning Commissions and OEP to provide the APA Audio Webinars free of charge.

Christa Koehler, Sustainability Coordinator, has been busy identifying new ways to reduce the association's carbon footprint. She'll be presenting recent efforts at greening conferences and board actions at the meeting. Check out the new sustainability page on the NHPA website.

NHPA had a rather successful year in the legislative process thanks to member direction provided through the 2008 survey and the help of our lobbyist. We plan to hire Nancy Johnson for a third year of lobbying and use this summer's survey and feedback from you at the annual meeting to establish new priorities.

Lastly, it is time to vote for new Executive Committee members. We have three three-year terms open. Also, on the ballot is one position for a one-year term, to complete the three years that Clay Mitchell had been elected to. Please return your ballots to the NHPA and **vote by November 2, 2008**.

## EXECUTIVE COMMITTEE

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**JULIE LEBRANCHE**  
NNECAPA Ex-Officio

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## CONGRATULATIONS TO NH'S NNECAPA AWARD WINNERS

The Department of Environmental Services Innovative Land Use Planning Techniques: A Handbook for Sustainable Development was awarded the 2009 Northern New England Chapter of the American Planning Association (NNECAPA ) Project of the Year, on September 24 at the annual NNECAPA conference. The handbook, released in October 2008, was a collaborative effort with the NH Association of Regional Planning Commissions, the NH Office of Energy and Planning, and the NH Local Government Center.

The Innovative Land Use handbook includes sections dealing with development density, environmental characteristics, and site level design. Each of the 23 chapters includes model ordinances and regulations for use by municipalities interested in implementing the innovative land use techniques.

Limited copies of the printed manual are available from DES. The entire handbook is available for free download on the DES website at [www.des.nh.gov/organization/divisions/water/wmb/repp](http://www.des.nh.gov/organization/divisions/water/wmb/repp).

The 2009 NNECAPA Plan of the Year was awarded to the City of Keene's "Moving Forward Together: Keene Community Vision 2008." The Keene City Council and

Planning Board began its comprehensive Master Plan update through a community-wide visioning process devised by the people that know Keene best – its citizens. The result was a community-owned, city-supported initiative, with extensive community participation.

A diverse group of over 100 participants engaged in the planning process gathered in a series of 16 small group discussions, called "Visioning Conversations," comprised generally of eight to ten people and based upon the study circles method. Ultimately the process engaged over 1,200 members of the greater Keene community (about 5% of the population) and generated nearly 1,000 pages of notes and information, indicating common ideas, themes, and concepts shared by participants, were reviewed and summarized in the creation of the vision

The draft vision underwent extensive public review by both the steering committee and the general public, several open houses and public hearings were scheduled, and people were able to directly submit comments through a variety of means. The development of the comprehensive master plan, based upon this vision, is currently underway. View the City's progress online at: <http://www.ci.keene.nh.us/departments/planning/master-plan-process>.

## OF PLANS AND PLANNERS

**Pat Crocker** and **Nate Miller** of the Upper Valley Lake Sunapee Regional Planning Commission have been recognized by the United Valley Interfaith Project for their outstanding work in creating the Regional Coordinating Councils in New Hampshire's Sullivan, Grafton, and Coos Counties. The UVIP said of Pat's and Nate's work, "Your commitment to enhancing transportation across our region is well-known. Your tireless efforts to help more people get to more places with greater ease at lower cost have been greatly appreciated by UVIP and of course many others." Congratulations to Pat and Nate!

Also at UVLSRPC, **Mike McCrory** will be filling the position of Senior Planner, as **Peter Dzewaltowski** has left the Commission for sunny southern California. Mike will fill many of the same roles as Peter did and will bring his background in civil engineering to the Commission. Mike lives with his family in Wilder, Vermont.

## NH CLIMATE ACTION PLAN – NHPA

The *New Hampshire Climate Action Plan* was released in March 2009 by Governor Lynch and the 29-member Climate Change Policy Task Force following a year-long process that involved over 125 stakeholders and input from over 200 citizens.

The Plan sets a long-term goal of reducing New Hampshire's greenhouse gas emissions by 80-percent below 1990 levels by the year 2050. The Plan also identifies 67 specific recommended actions to achieve this goal while providing the greatest possible long-term economic benefits to the citizens of New Hampshire. The recommendations can be distilled into 5 essential strategies that focus on energy efficiency, renewable energy, natural resources protection, comprehensive and coordinated education and outreach, and adaptation to climate change impacts.

A core focus of the Plan is the reduction of greenhouse gas emissions from the transportation sector through the reduction of annual vehicle-miles traveled (VMT). The recommendations to address VMT target both the

state's land use patterns and as well as the availability of alternative transportation options.

In developing the Climate Action Plan, the Task Force benefited from the active engagement of NH planners who brought a vast array of experience and expertise to the process including:

Rhett Lamb, City of Keene  
 Mikaela Engert, City of Keene  
 Eric Steltzer, RPC/OEP  
 Roger Hawk, Planning Consultant  
 Cliff Sinnott, RPC  
 Carolyn Russell, NH DES  
 Christa Koehler AICP, Clean Air Cool Planet  
 Angie Vincent, City of Nashua/ICLEI  
 Clay Mitchell, SDES  
 David Preece, SNHPC  
 Steve Williams, NRPC

To learn more about the Climate Action Plan, visit <http://des.nh.gov/> and search for "climate action plan."

## AMERICAN RECOVERY AND REINVESTMENT ACT UPDATE – MONDAY, OCT. 19, 2009

**Appliance Rebate Program:** The New Hampshire Office of Energy and Planning today announced the agency has submitted a State Energy Efficient Appliance Rebate Program plan to the Department of Energy. The innovative proposal, developed in collaboration with a variety of stakeholders, will offer \$1.2 million in rebates to New Hampshire residents for the purchase and installation of solar-thermal hot-water systems and for upgrading heating systems, including boilers, furnaces and hot-water heaters to more energy-efficient models.

This plan is designed to:

- Save the greatest amount of energy;
- Complement existing programs;
- Result in a high rate of recycling older and less efficient appliances; and
- Assist and encourage market transformation of renewable energy.

By leveraging existing programs such as the Renewable Portfolio Standard-funded programs, System Benefits Charges and federal tax credits, OEP has developed a plan that will maximize the environmental and economic impacts of this rebate program, while ensuring the state meets the DOE's objectives of achieving the greatest possible energy savings, and stimulating economic activity and job creation.

New Hampshire expects to realize a significant level of energy savings with this plan. The rebate will be available to New Hampshire residents who are replacing an existing appliance listed under the program. Savings for residents, in some instances, could be as high as 50 percent for replacing a wasteful and inefficient hot-water heater, boiler or furnace. Also noteworthy is this program will be available to municipal utility ratepayers in addition to all New Hampshire residents.

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**AMERICAN RECOVERY AND REINVESTMENT ACT UPDATE** *(continued from page 3)*

Rebates on air conditioners, clothes washers and other home appliances will continue to be offered through the electric utilities NH Saves Program.

OEP anticipates a decision on its proposal from DOE by the end of the year. If approved, rebates are expected to be available in early 2010 through late 2012 or until funding is depleted, whichever comes first and the rebate will not be available to prior purchases.

For more detailed information on this rebate program, please visit OEP's Web site at <http://www.nh.gov/oep/recovery/seearp.htm>. For more details on OEP's Appliance Rebate plan, please visit our Web site at <http://www.nh.gov/oep/> or contact Kate Vattes at 271-0598 or [Kathleen.vattes@nh.gov](mailto:Kathleen.vattes@nh.gov).

**Administrator for SEP EE/RE Loans and Grants for Business:** The selection process is underway and we anticipate the programs to be running in the early part of 2010. Funding will be available for energy efficiency measures to buildings and/or processes and for renewable energy systems to be installed on or at business-owned buildings. The selection committee has had several meetings in recent weeks to select the administrator(s). Upon selection, contracting, and approval by the Governor and Executive Council, OEP will alert the listserv of the selected administrator(s) for the program. Until then, we will not release information pertaining to the bidders.

**Full Funding for New Hampshire State Energy Program:** U.S. Secretary of Energy Steven Chu today announced that New Hampshire has received all of the State Energy Program funding allocated to the state under the American Recovery and Reinvestment Act. The Department of Energy delivered an additional \$12 million to the state, which has now received a total of \$25 million through the State Energy Program to support energy efficiency and renewable energy projects across the state, while creating jobs and reducing carbon pollution. "States are the engines of our economy and the laboratories of innovation," said Secretary Chu. "This funding will allow states to put in place innovative energy efficiency and renewable energy projects that will create jobs in communities across the country while reducing carbon pollution and helping to shift how America uses energy."

The Department of Energy had previously awarded the first 50 percent of New Hampshire's State Energy Program (SEP) funding. The remaining 50 percent announced today was delivered to the state after aggressive oversight, reporting, and accountability measures were put in place.

New Hampshire will implement several energy efficiency and renewable energy initiatives with funding from the Recovery Act. New Hampshire plans to include programs that will increase building efficiency for businesses, commercial enterprises, institutions and non-profits through building codes and competitive loan and grant programs.

The state will provide technical and financial assistance to these businesses and institutions as they seek to reduce their energy use and costs through a variety of measures, including more energy efficient processes. The New Hampshire SEP will also support energy efficiency upgrades to 75 state-owned buildings and 13 college and university campuses, saving taxpayers money and reducing energy use across the state.

The Recovery Act appropriated \$3.1 billion to the State Energy Program to help promote energy efficiency and clean energy deployment, as well as to support local economic recovery. States use these grants at the state and local level to create green jobs and address state energy priorities. Activities eligible for State Energy Program funding include energy audits, building retrofits, education and training efforts, transportation programs to increase the use of alternative fuels and hybrid vehicles, and new financing mechanisms to promote energy efficiency and renewable energy investments.

Transparency and accountability are important priorities for SEP and all Recovery Act projects. Throughout the program's implementation, DOE will provide strong oversight at the local, state, and national level, while emphasizing with states the need to quickly award funds to help create new jobs and stimulate local economies. For more information on our State Energy Program, please visit our Web site at <http://www.nh.gov/oep/recovery/sep.htm>.

## 2009 LEGISLATIVE RECAP

By Rick Sawyer, AICP, Legislative Liaison

Given the time constraints that we are all faced with it is challenging to stay on top of all of the decisions going on in Concord and the following is intended not to provide you with everything you need to know about a piece of legislation but rather a listing of changes that have occurred so that you can seek out additional information as needed.

### **HB043 (Chapter 292) – relative to subdivision and site plan regulation waivers**

*Effective September 29, 2009*

Authorizes Planning Boards to allow for the waiver of any portion of a regulation where specific circumstances relative to the application or conditions of the land indicate that the waiver will properly carry out the spirit and intent of the regulations. The basis of the decision must be recorded within its minutes.

### **HB044 (Chapter 114) – relative to the use of alternates by planning boards.**

*Effective August 21, 2009*

Where the statutes had previously been silent, a new paragraph in RSA 673:12 now states that the chairperson of the local land use board may designate one of the board's alternate members to fill a vacancy within the board, temporarily, until the vacancy may be permanently filled.

### **HB106 (Chapter 173) – relative to penalties for land use violations.**

*Effective September 11, 2009*

This bill amends RSA 676:17, I to clarify that each day a land use violation exists it constitutes a **separate** offense. Violations continue to be subject to a civil penalty of \$275 for the first offense, and \$550 for subsequent offenses. The new law also ensures that an ongoing violation (treated as a series of individual fines) can be prosecuted in district court as their jurisdictional limit of \$25,000 for any one offence will not be exceeded.

### **HB156 (Chapter 73) – relative to the procedures of planning boards in third party review and inspection.**

*Effective August 9, 2009*

Planning boards already have the authority (RSA 676:4(g)) to charge "Reasonable fees...to cover its administrative expenses and the cost of special investigative studies, review of documents..." The new provisions add specificity and transparency to the board's authority to both require third party review and inspection and to require applicants to obtain or pay for third party review.

### **HB206 (Chapter 299) – relative to retention of governmental records under the right-to-know law.**

*Effective September 29, 2009*

This bill follows up on significant revisions to RSA 91-A that occurred during the 2008 legislative session ([HB1408 relative to the right-to-know law](#)) and simply cleans up the language relative to the required retention period for electronic governmental records. The one new provision created states that "Governmental records in electronic form kept and maintained beyond the applicable retention or archival period shall remain accessible and available in accordance with RSA 91-A:4, III."

### **HB210 (Chapter 49) – relative to public access to minutes of local land use boards.**

*Effective January 1, 2010*

This bill follows up on significant revisions to RSA 91-A that occurred during the 2008 legislative session ([HB1408 relative to the right-to-know law](#)) and applies the requirement that minutes be available to the public not more than 5 business days after the meeting rather than within 144 hours of the meeting. This change was carried through and applied to RSA 36:57, II and RSA 676:3, II.

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**2009 LEGISLATIVE RECAP** (continued from page 5)***HB290 (Chapter 181) –  
authorizing fluvial erosion  
hazard ordinances.****Effective July 13, 2009*

These new provisions were established in conjunction with the creation of a new fluvial erosion program at the Department of Environmental Services (DES) in response to the recent and frequently severe riverine flood events in New Hampshire. Communities that adopt a fluvial erosion hazard zoning ordinance are required to utilize protocols established through DES and seek DES review of the community's fluvial erosion hazard map.

***HB321 (Chapter 157) –  
delaying the effective date of  
2008 SB 342-FN-LOCAL,  
relative to workforce housing...****Effective July 8, 2009*

This bill extends the effective date of [2008's workforce housing legislation](#) from July 1, 2009 to January 1, 2010. What this means is communities that needed additional time to develop ordinances and regulations to be in compliance with [RSAs 674:58 to 61](#) will be afforded one more town meeting cycle to do so.

***HB384 (Chapter 185) –  
relative to forest management  
permitting in and near prime  
wetlands, waivers for work near  
prime wetlands, and utility  
maintenance work in any wetland.****Effective September 11, 2009*

This bill amends the statutes relative to prime wetlands to facilitate utility maintenance and forest management and to allow waivers for work near prime wetlands. Utility maintenance can be exempted from the permit process provided that the proposed work is to maintain and repair existing utility services within existing rights of way using Best Management Practices and notice is provided to DES. So long as there is no significant loss of net wetland values, forestry management is

eligible to request a permit waiver for projects in the forested portion of a prime wetland or its 100-foot buffer.

***HB534 (Chapter 286) –  
relative to the selection  
of members of ZBA's.****Effective January 1, 2010*

This bill clarifies that a municipality's decision to change from elected to appointed ZBA members or vice versa may be accomplished by a regular vote at any meeting of the legislative body without amending the zoning ordinance.

***SB029 (Chapter 194) –  
relative to review of developments  
of regional impact.****Effective September 11, 2009*

This bill formalizes the regional planning commissions authority to work with their member communities to develop guidelines to assist the local land use boards within the region to determine what may constitute a development of regional impact. By not setting definitive statewide thresholds, the legislated language recognizes that what may be of regional impact in one part of the state may differ in another.

***SB093 (Chapter 93) –  
relative to the exemption from  
subsequent local land use regulation  
where substantial development has  
begun on an approved plan.****Effective June 12, 2009*

Giving credence to the economic downturn, SB 93 temporarily extends the time limits for vesting and exemption from subsequent land use regulation. For subdivisions and site plans approved between January 1, 2007 and July 1, 2009, applicants will be allowed 36 months from approval to achieve "active and substantial development" rather than one year specified for all others in [RSA 674:39, I\(a\)](#). Additionally, subdivisions and site plans approved between July 1, 2005 and July 1, 2009 will be granted an extra two years of exemption from subsequent land use regulation to achieve "substantial completion," giving applicants six years rather than four as required in [RSA 674:39, I](#).

**SB134 (Chapter 218) –  
relative to the comprehensive  
shoreland protection act.**

*Effective September 13, 2009*

This bill makes many amendments the Comprehensive Shoreland Protection Act based upon lessons learned since the comprehensive overhaul made to the act in 2007 (Chapter Laws [267](#) and [269](#)) and 2008 (Chapter Law [171](#)), which should be reviewed for full details, however there are a two provisions worth noting such as a definition of “Urbanization,” and the density requirements of RSA 483-B:9, V(e)(2), relative to minimum lots and residential development have been repealed.

**SB147 (Chapter 307) –  
relative to...defining  
“unnecessary hardship” for  
purposes of zoning variances.**

*Effective January 1, 2010*

Without question this is the most significant single piece of land use legislation enacted this past year. This bill defined “unnecessary hardship” and eliminated the distinction

between “use” and “area” variances. I would encourage you to read the article by attorney Cordell A. Johnston of LGC in the September 2009 addition of Town and City who provides an excellent summary of changes to the variance process. (<http://www.nhlgc.org/LGCWebSite/InfoForOfficials/townandcityarticles.asp?TCArticleID=181>) The LGC is also providing training on the new law through its Municipal Law Lecture Series.

**SB189 (Chapter 266) –  
relative to decisions of  
local land use boards**

*Effective September 14, 2009*

While this may not have a significant impact on most board’s existing procedures, it now formalizes what has traditionally been considered good practice. New provisions are added to [RSA 676:3](#) to clarify that local land use boards are to make copies of their written decisions available to applicants and detail any conditions that may have been placed upon an approval. If a plat is recorded then the written decision must be recorded with or on the plat. Additionally, further timing requirements are amended to be consistent with the [2008 changes to RSA 91-A](#); rather than minutes being available within 144 hours, the revised time frame is corrected to within 5 business days. This change has been made within RSA’s [677:2](#); [677:4](#); and [677:15, I](#).

“Rochester, New Hampshire may be better known for its industrial history than for its architecture, but look closely and the city’s hidden gems reveal themselves. In his new book [TITLE BELOW] Rochester city planner Michael Behrendt urges readers to “slow down, look around,” and appreciate the beauty of the human habitat. Drawing from his series in the Rochester Times, Behrendt explores a wide range of architectural styles and elements, from the Italianate and Foursquare styles to barns, churches, and stone walls to the exquisite Rochester Opera House. Through his unique perspective as a city planner, Behrendt celebrates Rochester’s history as written in wood, brick, and limestone, and imparts lessons applicable to any community.” The book is available on Amazon.com and at various venues in the Seacoast.

