

# New Hampshire Statutes

ANNOTATED AND REVISED, EFFECTIVE 10/2/19

## Table of Contents

### CHAPTER 36: REGIONAL PLANNING COMMISSIONS

- Section: 36:1 Repealed by 1983, 447:5, IV, eff. Jan. 1, 1984.
- Section: 36:2 to 36:12 Repealed by 1983, 447:5, IV, eff. Jan. 1, 1984.
- Section: 36:13 to 36:15 Repealed by 1983, 447:5, IV, eff. Jan. 1, 1984.
- Section: 36:16 to 36:18 Repealed by 1983, 447:5, IV, eff. Jan. 1, 1984.
- Section: 36:19 to 36:29 Repealed by 1983, 447:5, IV, eff. Jan. 1, 1984.
- Section: 36:30 Repealed by 1983, 447:5, IV, eff. Jan. 1, 1984.
- Section: 36:31 to 36:34 Repealed by 1983, 447:5, IV, eff. Jan. 1, 1984.
- Section: 36:35, 36:36 Repealed by 1983, 447:5, IV, eff. Jan. 1, 1984.
- Section: 36:37 to 36:44 Repealed by 1969, 324:2, eff. Aug. 29, 1969.
- Section: 36:45 Purposes.
- Section: 36:46 Formation of Regional Planning Commissions.
- Section: 36:47 General Powers and Duties.
- Section: 36:48 Organization, Officers, and Bylaws.
- Section: 36:49 Finances.
- Section: 36:49-a Status as a Political Subdivision.
- Section: 36:50 Relationship to Local Planning Boards.
- Section: 36:51, 36:52 Repealed by 2000, 200:8, eff. July 29, 2000.
- Section: 36:53 Additional Powers and Duties of Regional Planning Commissions.
- Section: 36:53-a Coastal Resilience Fund; Climate Resilience Cooperative Agreements.
- Section: 36:54 Purpose.
- Section: 36:55 Definition.
- Section: 36:56 Review Required.
- Section: 36:57 Procedure.
- Section: 36:58 Applicability.

# TITLE III

## TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

### CHAPTER 36

#### REGIONAL PLANNING COMMISSIONS

##### Section 36:1

**36:1 Definitions.** – [Repealed 1983, 447:5, IV, eff. Jan. 1, 1984.]

##### Municipal Planning Boards

##### Section 36:2 to 36:12

**36:2 to 36:12 Repealed.** – [Repealed 1983, 447:5, IV, eff. Jan. 1, 1984.]

##### Master Plan of the Municipality

##### Section 36:13 to 36:15

**36:13 to 36:15 Repealed.** – [Repealed 1983, 447:5, IV, eff. Jan. 1, 1984.]

##### Official Map of the Municipality

##### Section 36:16 to 36:18

**36:16 to 36:18 Repealed.** – [Repealed 1983, 447:5, IV, eff. Jan. 1, 1984.]

##### Regulation of Subdivision of Land

##### Section 36:19 to 36:29

**36:19 to 36:29 Repealed.** – [Repealed 1983, 447:5, IV, eff. Jan. 1, 1984.]

##### Regulation of Buildings Within Bed of Mapped Streets

##### Section 36:30

**36:30 Refusal of Permit.** – [Repealed 1983, 447:5, IV, eff. Jan. 1, 1984.]

##### Appeals and Court Review

##### Section 36:31 to 36:34

**36:31 to 36:34 Repealed.** – [Repealed 1983, 447:5, IV, eff. Jan. 1, 1984.]

##### Miscellaneous Provisions

##### Section 36:35 to 35:36

**36:35, 36:36 Repealed.** – [Repealed 1983, 447:5, IV, eff. Jan. 1, 1984.]

##### Section 36:37 to 36.44

**36:37 to 36:44 Repealed.** – [Repealed 1969, 324:2, eff. Aug. 29, 1969.]

# Regional Planning Commissions

## Section 36:45

**36:45 Purposes.** – The purpose of this subdivision shall be to enable municipalities and counties to join in the formation of regional planning commissions **whose duty it shall be to prepare a coordinated plan for the development of a region, taking into account**

- present and future needs with a view toward encouraging the most appropriate use of land, such as for agriculture, forestry, industry, commerce, and housing;
- the facilitation of transportation and communication;
- the proper and economic location of public utilities and services;
- the development of adequate recreational areas;
- the promotion of good civic design; and
- the wise and efficient expenditure of public funds.

The aforesaid plan shall be made in order to promote the health, safety, morals and general welfare of the region and its inhabitants. To promote these purposes the *Office of Strategic Initiatives shall delineate planning regions* for the state so that each municipality of the state will fall within a delineated region and shall have the opportunity of forming or joining the regional planning commission for that planning region. *In determining these regions the Office shall consider such factors as*

- community of interest and homogeneity,
- existing metropolitan and regional planning agencies,
- patterns of communication and transportation,
- geographic features and natural boundaries, extent of urban development,
- relevancy of the region for provision of governmental services and functions and its use for administering state and federal programs,
- the existence of physical, social and economic problems of a regional character,
- and other related characteristics.

To accommodate changing conditions, the office may adjust the boundaries of the planning regions, after consultation with the respective regional planning commissions.

**Source.** 1969, 324:1, eff. Aug. 29, 1969. 2000, 200:2, eff. July 29, 2000. 2003, 319:9, eff. July 1, 2003. 2004, 257:44, eff. July 1, 2004. 2017, 156:64, eff. July 1, 2017.

## Section 36:46

**36:46 Formation of Regional Planning Commissions.** –

l. If no regional planning commission exists in any specific planning region as delineated by the office of strategic initiatives, then 2 or more municipalities in said planning region and having planning boards may, by ordinance or resolution adopted by the respective legislative bodies of said municipalities, form a regional planning commission.

II. If a regional planning commission already exists in any specific planning region as delineated by the office of strategic initiatives, then any municipality in said planning region and having a planning board may, by ordinance or resolution adopted by the respective legislative body of said municipality, become a member of the regional planning commission. A regional planning commission may also include municipalities located in an adjacent state.

III. Each municipality which shall become a **member** of a regional planning commission shall be **entitled to 2 representatives** on said commission. A municipality with a population of over 10,000 but less than 25,000 shall be entitled to have **3 representatives** on said commission and a municipality with a population of over 25,000 shall be entitled to have 4 representatives on said commission. Population as set forth in this section shall be deemed to be **determined by the last federal census**.

Representatives to a regional planning commission shall be **nominated by the planning board** of each municipality **from the residents thereof** and shall be **appointed by the municipal officers** of each municipality. Representatives *may be* elected or appointed officials of the municipality or county.

In any **county or counties** in which a regional planning commission has been formed, the **county may, by resolution** of its county commissioners, **become a member** of said regional planning commission and shall be *entitled to appoint 2 representatives* on said commission.

The **terms of office** of members of a regional planning commission shall be for **4 years, but initial appointments shall be for 2 and 4 years**. In municipalities entitled to 3 or more representatives, initial appointment shall be for 2, 3 and 4 years. **Vacancies** shall be filled for the **remainder of the unexpired term in the same manner as original appointments**. **Municipalities and counties** may also **appoint alternate representatives**. *A representative to a regional planning commission shall, when acting within the scope of his official duties and authority, be deemed to be acting as an agent of both* the regional planning commission and of the municipality or county which he represents. In addition, regional planning commissions are encouraged to consult, at their discretion, with agencies and institutions operating within the region whose activities influence planning and development in that region.

**Source.** 1969, 324:1. 1991, 72:4, eff. July 12, 1991. 2000, 200:3, eff. July 29, 2000. 2003, 319:9, eff. July 1, 2003. 2004, 257:44, eff. July 1, 2004. 2017, 156:64, eff. July 1, 2017.

## Section 36:47

### 36:47 General Powers and Duties. –

I. A regional planning commission's powers shall be

- advisory, and shall generally pertain to the development of the region within its jurisdiction as a whole.
- Nothing in this subdivision shall be deemed to reduce or limit any of the powers, duties or obligations of planning boards in individual municipalities.
- The area of jurisdiction of a regional planning commission shall include the areas of the respective municipalities within the delineated planning region.

- It shall be the **duty** of a regional planning commission to prepare a **comprehensive master plan** for the development of the region within its jurisdiction, including the commission's recommendations, among other things, for
  - the use of land within the region;
  - for 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;
  - for the development, extent, and general location of parks, playgrounds, shore front developments, parkways, and other public reservations and recreation areas;
  - for the location, type, and character of public buildings, schools, community centers, and other public property;
  - and for the improvement, redevelopment, rehabilitation, or conservation of residential, business, industrial and other areas; including 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.
- A regional planning commission may authorize its employees or consultants to render assistance on local planning problems to any municipality or county which is not a member of said regional planning commission.
  - The cost of such assistance shall be paid entirely by the municipality or county to which the service is rendered or partly by said municipality or county and partly by any gift, grant, or contribution which may be available for such work or by combination thereof.
  - Said commission shall keep a strict account of the cost of such assistance and shall provide such municipality or county with an itemized statement.

II. For the purpose of assisting municipalities in complying with RSA 674:2, III ( l ), each regional planning commission shall

- 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**.

III. In preparing a comprehensive plan for the development of the region within its jurisdiction, each regional planning commission **may use the framework for the state's comprehensive development plan** in RSA 9-A:1, III **as the basis for its plan**. Such plan shall be

- **updated every 5 years or sooner if desired** by the regional planning commission.
  - **Prior to its adoption, the plan shall be distributed to** every library, planning board, and board of selectmen/aldermen/city council in each of the communities within the region, and to the Office of Strategic Initiatives.
  - The regional planning **commission shall address in writing all comments received prior to the publication of a final draft**.
  - A public hearing shall be held by the regional planning commission with 30 days' notice published in all newspapers of general circulation in the region, and shall state where the

document can be viewed, the time and place of the public hearing, and shall allow for written comments. For each regional plan, the Office of Strategic Initiatives shall offer comments as to its consistency with the state plan. **The first regional development plans affected by this statute shall be adopted within 5 years of the effective date of this paragraph and renewed at least every 5 years thereafter.**

#### IV. Regional planning commissions shall make

- a good faith effort to inform and respond to their local communities regarding the purposes and progress of their work in developing the regional development plan.

**Source.** 1969, 324:1. 1988, 270:2, eff. July 1, 1988. 2002, 178:6, eff. July 14, 2002; 229:8, eff. July 1, 2002. 2003, 319:9, eff. July 1, 2003. 2004, 257:44, eff. July 1, 2004. 2017, 156:64, eff. July 1, 2017.

### Section 36:48

**36:48 Organization, Officers, and Bylaws.** – A regional planning **commission shall elect annually** from among its members a chairman, vice-chairman, and such other officers as it deems necessary. Meetings shall be held at the call of the chairman and at such other time as the commission may determine. A commission shall keep minutes of its proceedings and such minutes shall be filed in the office of the commission and shall be a public record. A commission **may adopt such bylaws as it deems necessary to the conduct of its business.**

**Source.** 1969, 324:1, eff. Aug. 29, 1969.

### Section 36:49

**36:49 Finances.** – A regional planning **commission shall determine on a reasonable and equitable basis the proportion of its costs to be borne respectively by each municipality or county which is a member** of said commission. A commission may accept and receive in furtherance of its functions, funds, grants, and services from the federal government or its agencies, from departments, agencies and instrumentalities of state, municipal or local government or from private and civic sources. Such funds may be used in conjunction with other funds from federal or state governments or from gifts, grants or contributions available for such work. **Municipalities or counties are hereby authorized to appropriate funds to the use of a regional planning commission and to furnish a regional planning commission legal or other services which it may deem reasonable. Failure** upon the part of any municipality or county **to pay its proportionate annual share** of the cost as determined by a regional planning commission **shall constitute a termination of** such municipality's or county's **vote** in the commission's affairs **until** such annual share is **paid**. Municipalities or counties are hereby authorized to enter into contracts with a regional planning commission for the furnishing of funds or services in connection with the preparation of a comprehensive regional master plan and any special planning work to be done by a regional planning commission for any member municipality or county. Within the amounts appropriated to it or placed at its disposal by gift, grant, or contribution, a regional planning commission may engage employees, contract with professional consultants, rent offices, and obtain such other goods, or services and incur short-term operating debt, not to exceed a term of one year and/or a line of credit secured by the assets of the commission, as are necessary to it in the carrying out of its proper function. Member municipalities and counties shall not be liable for any

debt or line of credit incurred by a regional planning commission. Any private gifts or funds when received shall be deemed a contribution to the regional planning commission for a public purpose within the meaning of any federal or state laws relative to tax exemptions.

**Source.** 1969, 324:1, eff. Aug. 29, 1969. 2000, 200:4, eff. July 29, 2000.

### **Section 36:49-a**

**36:49-a Status as a Political Subdivision.** – Regional planning commissions are political subdivisions of the state. However, regional planning commissions have only that power and authority expressly provided for in RSA 36.

**Source.** 2000, 200:6, eff. July 29, 2000.

### **Section 36:50**

**36:50 Relationship To Local Planning Boards.** – A regional planning commission may assist the planning board of any municipality within the delineated region to carry out any regional plan or plans developed by said commission. A regional planning commission may also render assistance on local planning problems. A regional planning commission may make recommendations on the basis of its plans and studies to any planning board, to the legislative body of any city and to the selectmen of any town within its region, to the county commissioners of the county or counties in which said region is located and to any state or federal authorities. **Upon completion of a comprehensive master plan** for the region **or any portion of** said comprehensive master plan, a regional planning **commission may file certified copies** of said comprehensive master plan or portion thereof **with the planning board of any member** municipality. Such **planning boards may adopt all or any part** of such comprehensive master plan which pertains to the areas within its jurisdiction as its own master plan, subject to the requirements of RSA 674:1-4.

**Source.** 1969, 324:1, eff. Aug. 29, 1969. 2000, 200:5, eff. July 29, 2000.

### **Section 36:51, 36:52**

**36:51, 36:52 Repealed.** – [Repealed by 2000, 200:8, eff. July 29, 2000.]

### **Section 36:53**

**36:53 Additional Powers and Duties of Regional Planning Commissions.** – In order to implement any of the provisions of a regional plan, *which has been adopted or is in preparation*, a regional planning commission

- **may**, in addition to its powers and duties under RSA 36:47 **undertake studies and make specific recommendations on** economic, industrial and commercial development within the region **and carry out**, with the cooperation of municipalities and/or counties within the region, **economic development programs for** the full development, improvement, protection and preservation of the region's physical and human resources.

**Source.** 1969, 324:1, eff. Aug. 29, 1969.

## Section 36:53-a

### 36:53-a Coastal Resilience Fund; Climate Resilience Cooperative Agreements. –

- I. The **Strafford** Regional Planning Commission and the **Rockingham** Planning Commission either separately or jointly **with participating municipalities** may create **climate resilience cooperative agreements** forming an authority **to plan for and address sea-level rise, storm surge, and flooding from extreme precipitation events or in anticipation of such events as projected by the Coastal Risk and Hazards Commission final report** "Preparing New Hampshire for Projected Storm Surge, Sea-Level Rise, and Extreme Precipitation," and subsequent science and technical advisory panel reports under RSA 483-B:22.
- II. Municipalities participating in a climate resilience cooperative agreement shall approve such agreement by a simple majority vote of the legislative body.
- III. An authority formed by a climate resilience cooperative agreement may establish a **coastal resilience fund**, to be funded by contributions from participating parties or by bonds, to plan for and address current and future regional needs for projects such as, but not limited to, road projects, shared municipal facilities including wastewater treatment and wastewater systems, and other coastal mitigation and protection projects. If solid waste systems are proposed, such projects shall be governed by the provisions of RSA 53-B. If wastewater and waste treatment systems are proposed, such projects shall be governed by the provisions of RSA 485. For the purposes of the coastal resilience fund, the agreement may establish a common bonding authority under RSA 33.
- IV. The climate resilience cooperative agreement shall establish a governing authority and process to oversee the coastal resilience fund.
  - (a) For an agreement formed by one regional planning commission, the governing authority shall be composed of the regional planning commission director, an elected official of a participating municipality selected by agreement of the governing bodies of the participating municipalities, and the chair of the county delegation for the county that has the largest number of municipalities in the regional planning commission's coverage area.
  - (b) For an agreement formed by both regional planning commissions, the governing authority shall be composed of both regional planning commission directors, an elected official of a participating municipality from both Rockingham and Strafford counties, each selected by agreement of the governing bodies of the participating municipalities in such county and the chairs of the Rockingham and Strafford county delegations.
- V. The business affairs and actions of a climate resilience cooperative agreement authority shall be conducted and governed pursuant to the terms, conditions, and provisions of its agreement. The agreement shall include, but not be limited to, the following:
  - (a) A list of municipalities included in the coastal resilience and historic reserve district.
  - (b) Except as provided otherwise by law, the powers, duties, and authorities of the climate resilience cooperative agreement authority.
  - (c) Provisions for the sharing of planning, construction, operating, maintenance, and closing costs of any facilities.
  - (d) A description of proposed activities and projects
  - (e) The terms by which other municipalities may be admitted to the agreement
  - (f) The terms by which a municipality may withdraw from the agreement before or after debt has been incurred

- (g) The method by which the agreement may be amended including conditions under which an amendment may be approved by the governing or legislative bodies of member municipalities.
- (h) The procedure for dissolution of the authority before or after debt has been incurred.
- (i) Provisions for varied levels of participation by member municipalities in multiple projects, if available.
- (j) The procedure for the preparation and adoption of the annual budget, including the apportionment of authority expenses and a schedule of payments and other procedures relative to governing the authority's fiscal affairs.
- (k) The remedies and penalties which the climate resilience cooperative agreement authority may assert against a member which defaults in its obligations to the authority, if any.
- (l) Procedures to receive and disburse funds for any climate resilience cooperative agreement authority purpose.
- (m) Procedures to incur temporary debt in anticipation of revenue to be received.
- (n) Procedures to assess member municipalities for expenses of the climate resilience cooperative agreement authority.
- (o) Power to receive any grants or gifts for the purposes of the climate resilience cooperative agreement authority.
- (p) Procedures to engage legal counsel, accountants, engineers, contractors, consultants, agents, and other advisors.
- (q) Procedures for entering into contracts with any person consistent with the climate resilience cooperative agreement authority.
- (r) Bylaws and regulations relative to project management.
- (s) Procedures for establishing payments to the authority from participating municipalities.
- (t) Procedures for funding the coastal resilience fund, including authorization of bonding or incurring any debt, by the participating municipalities.

VI. The one year limitation on regional planning commissions' debt obligations under RSA 36:49 shall not apply to the bonding authority under this section.

**Source.** 2019, 318:5, **eff. Oct. 2, 2019.**

## Review of Developments of Regional Impact

### Section 36:54

**36:54 Purpose.** – The purpose of this subdivision is to:

- I. Provide timely notice to potentially affected municipalities concerning proposed developments which are likely to have impacts beyond the boundaries of a single municipality.
- II. Provide opportunities for the regional planning commission and the potentially affected municipalities to furnish timely input to the municipality having jurisdiction.
- III. Encourage the municipality having jurisdiction to consider the interests of other potentially affected municipalities.

**Source.** 1991, 300:1, eff. Jan. 1, 1992.

## Section 36:55

**36:55 Definition.** – In this subdivision "development of regional impact" means any proposal before a local land use board which in the determination of such local land use board could reasonably be expected to impact on a neighboring municipality, because of factors such as, but not limited to, the following:

- I. Relative size or number of dwelling units as compared with existing stock.
- II. Proximity to the borders of a neighboring community.
- III. Transportation networks.
- IV. Anticipated emissions such as light, noise, smoke, odors, or particles.
- V. Proximity to aquifers or surface waters which transcend municipal boundaries.
- VI. Shared facilities such as schools and solid waste disposal facilities.

**Source.** 1991, 300:1, eff. Jan. 1, 1992.

## Section 36:56

**36:56 Review Required.** –

- I. A local land use board, as defined in RSA 672:7, upon receipt of an application for development, shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact.
- II. Each regional planning commission may, with public participation following the public posting of notice of the intent to develop guidelines, including notice published in a newspaper of general circulation in the planning region, develop guidelines to assist the local land use boards in its planning region in their determinations whether or not a development has a potential regional impact. The regional planning commission may update the guidelines as needed and provide them, as voted by the regional planning commissioners, to all municipalities in the planning region.

**Source.** 1991, 300:1, eff. Jan. 1, 1992. 2009, 194:1, eff. Sept. 11, 2009.

## Section 36:57

**36:57 Procedure.** –

- I. Upon determination that a proposed development has a potential regional impact, the local land use board having jurisdiction shall afford the regional planning commission and the affected municipalities the status of abutters as defined in RSA 672:3 for the limited purpose of providing notice and giving testimony.
- II. Not more than 5 business days after reaching a decision regarding a development of regional impact, the local land use board having jurisdiction shall, by certified mail, furnish the regional planning commission and the affected municipalities with copies of the minutes of the meeting at which the decision was made. The

local land use board shall, at the same time, submit an initial set of plans to the regional planning commission, the cost of which shall be borne by the applicant.

III. At least 14 days prior to public hearing, the local land use board shall notify, by certified mail, all affected municipalities and the regional planning commission of the date, time, and place of the hearing and their right to testify concerning the development.

IV. Notwithstanding the foregoing, when the building inspector determines that a use or structure proposed in a building permit application will have the potential for regional impact and no such determination has previously been made by another local land use board, he or she shall notify the local governing body. The building inspector shall also notify by certified mail the regional planning commission and the affected municipalities, who shall be provided 30 days to submit comment to the local governing body and the building inspector prior to the issuance of the building permit.

**Source.** 1991, 300:1, eff. Jan. 1, 1992. 2003, 220:1, eff. Aug. 30, 2003. 2005, 39:1, eff. July 16, 2005. 2008, 357:5, eff. July 11, 2008. 2009, 49:1, eff. Jan. 1, 2010.

### **Section 36:58**

**36:58 Applicability.** – The provisions of this subdivision shall supersede any contrary or inconsistent provisions of local land use regulations enacted under RSA 155-E and RSA 674.

**Source.** 1991, 300:1, eff. Jan. 1, 1992.