



ANNUAL TRAINING FOR PLANNING BOARD AND ZONING BOARD OF APPEALS MEMBERS

Planning board and zoning board of appeals members make decisions of major importance to their communities and to all New Yorkers. These decisions can affect the function and appearance of communities for decades to come, while impacting property interests important to individual New Yorkers. Until now, such decisions were made mostly by appointed officials whose only legally required qualifications for office were to be at least 18 years old, United States citizens, and residents of the municipality. While some municipalities have adopted mandatory training requirements and many planning and zoning officials voluntarily receive training, an amendment to state law¹ now requires planning and zoning board of appeals members to obtain four hours of training a year, beginning in 2007.

Members of planning boards, zoning boards of appeals, and county planning boards must receive at least four hours of training each year. The following information borrows liberally from a fact sheet explaining the new law which has been published by the Legislative Commission on Rural Resources in cooperation with the New York State Conference of Mayors and Municipal Officials, the Department of State, the New York Planning Federation, the Association of Towns, the New York State Builders Association and the New York Farm Bureau. This article will repeat some of the information in that pamphlet, as well as address additional questions being asked about the new law.

Who must receive training? City, village and town zoning board of appeals and planning board members, as well as county planning board members must receive training. People who are appointed as board alternates must also receive training.

Prior to 2007, wasn't training already required for planning and zoning board members? Whether or not to require training of planning board and zoning board of appeals members was the option of each municipality. Under the new statute, training is required whether or not the municipal governing board takes action. Municipalities that have already adopted training laws should modify them

to make sure they meet, at a minimum, the requirements of the new state law. Whether or not such laws are modified, the state requirements will apply.

Can a municipality “opt out” of the training requirements? The law allows the municipal governing board to waive or modify the training requirement if they feel it is in the best interest of the municipality to do so. The waiver or modification is accomplished by the adoption of a resolution. The resolution could waive training for all board members, and appears that it could be used to waive the requirements for individual board members. For example, a waiver may be appropriate in the case of a member who has extensive experience or professional qualifications. Another member may have a medical emergency that prevents them from attending a training session for which they were pre-registered. However, before choosing to opt out, governing boards should consider allowing the requirements to be met by self-study, such as on-line training provided by the New York Municipal Insurance Reciprocal (NYMIR), or allowing planning and zoning board members to “catch up” with deficiencies in a prior year by attending additional classes in the future. Governing board members should also remember that even experienced members can benefit from attending case law sessions or sessions dealing with new zoning techniques.

Must all the training be conducted in classroom setting? Traditional classroom-style training is just one method of training available. Training could also include distance learning, videos, on-site demonstrations, or even self study.

Who determines what kind of training board members must receive? The governing body of each city, village, town or county determines what courses, training providers, and training formats are acceptable. Acceptable training can even vary for individual board members.

Must training be from a state-certified provider? No. The state has no plans to certify providers or training programs. However, governing boards are encouraged to pass resolutions approving training from trusted providers, such as their municipal attorney; a regional planning council; a county planning office or county planning federation; a state agency; a state association like the Conference of Mayors, Association of Towns, Association of Counties, or New York Planning Federation; and a college or similar entity.

What topics are required? Because the types of courses offered and the issues that will be timely will vary, the law leaves the selection of topics up to the governing board. For that reason, governing boards may want to leave the list of topics general at this time and revisit the

issue in a few years if it finds that the members are not choosing relevant courses.

What if a person receives excess training in a particular year? Training received in excess of four hours in any one year may be carried over into succeeding years.

What if the municipality wants board members to receive more than four hours of training per year? The municipality may adopt training standards that exceed the state's minimum requirements. Municipalities may also require board members who serve on more than one planning or zoning board to receive more than four hours of training per year. The statute arguably allows the four hours received to count for both positions, though the legislation is not clear on this point.

Who keeps track of the amount of training each member receives? The law is silent on this question. Municipalities may want to require board members to submit to the municipal clerk the attendance slips for each course they attend, or they may require board members to file annual statements of compliance.

What happens if a board member doesn't meet the minimum training requirement? Under the new state law, board members who fail to meet the minimum training requirements are ineligible for reappointment to the board. In addition, municipal governing boards may adopt a rule that provides for removal of members, prior to the expiration of their terms, for failing to meet their training obligations. While this might be considered a "modification" which can be accomplished by resolution, the removal provisions in the planning and zoning board statutes indicate that such provisions must be established by local law or ordinance (cities only). Removal of a member from office should be preceded by a written notification of noncompliance and an offer of a hearing.

May a board's decision be thrown out because one of its members has failed to meet the minimum training requirements? No. The new statute states that no decision of a zoning board of appeals or planning board may be voided or declared invalid solely because one of its members fails to comply with training or attendance requirements.

What should local governments do in the next few months to comply with the law? While local governments do not have to take affirmative action, local planning and zoning board of appeals members will be well-served if the governing board decides who the board members may receive training from, what courses (if any) are required, and how the training hours will be tracked.

Where and from whom is training available? Training is available from numerous sources, including but not limited to the Department of State, the New York

Planning Federation, and the NYCOM. NYCOM will be offering several such training opportunities throughout the year. In addition to being a training provider, the Department of State provides links to many other providers from its website at www.dos.state.ny.us/lgss/training.htm. Municipal officials may also wish to contact their county planning departments or regional planning councils to arrange for training that can benefit planning and zoning officials from a large number of municipalities. The contact person for land use training at the Department of State is Lori Heithoff, AICP. She can be reached at (518)473-3355 or Lheithof@dos.state.ny.us. In addition, questions regarding the new training requirements may also be directed to NYCOM Counsels Riele Morgiewicz or Wade Beltramo by email at riele@nycom.org or wade@nycom.org or by calling at 518-463-1185.