

County Planning Boards
Nathan Kerstein
University at Buffalo Law Student



Does Erie County have a planning board?

No. The County has not had a planning board for a number of years, but recently the County Legislature passed a “Strategic Development Act” to establish one. The County Executive has indicated that he will veto it. Currently, the Department of Environment and Planning performs some of the functions of a planning board.

Where does the authority come from to have a Planning Board?

New York State gives authority to the counties through its general municipal law Article 12-B to establish planning boards.

Who will be on the proposed board?

The “Strategic Development Act,” aims at creating a diverse board that will possess a variety of views. The legislation has residency requirements for people from the city of Buffalo and throughout the rest of the county to guarantee such a balance.

The Act creates a nineteen member board, with thirteen voting members. Six non-voting members will also be on the board, including:

- 1.) Director or commissioner of the county Department of Environment and Planning or their designee;
- 2.) Director or commissioner of the County Department of Public Works or such person’s designee;
- 3.) The executive director of the Greater Buffalo Niagara Regional Transportation Council or such person’s designee;

- 4.) Executive director of the County Industrial Development Agency (IDA) or such persons designee;
- 5.) Chair of the Erie County Soil and Water Conservation District or such person's designee; and
- 6.) Director of the Erie County Agricultural and Farmland Protection Board or such person's designee.ⁱ

What will be the requirements for the voting members on the board?

Eight of the members, four chosen by the Legislature and four by the County Executive, will be chosen in part based on their residency in different regions of the county.

Two of the members shall be planners certified by the American Institute of Certified Planners: one appointed by a majority vote of the county legislature, and one appointed by the county executive.

One member shall be a municipal planner or a member of a municipal planning board and shall be appointed by majority vote by the County Legislature from up to three persons recommended by the Association of Erie County Governments.

One member appointed by the County Executive shall be affiliated with a for profit entity involved in real estate sales, development or construction.

One member appointed by a majority vote of the county legislature shall be affiliated with a not-for-profit organization with a mission that includes the improvement of land use, transportation, equitable public investment or preservation of the built or natural environment.ⁱⁱ

Do other counties in New York State have planning boards?

Yes, Fifty-eight of the Sixty-Two counties in New York State do have a planning board, and the "Strategic Development Act," points out that almost all other metropolitan areas in the United States have some form of regional planning body.

In New York State, Erie County is the only urban county that does not have a planning board.



What process do other counties use to fill their boards?

- Tioga County's board has 11 members, one from each of the 9 towns and 1 from the 2 largest villages. There are also 2 at large alternate members. All members are on the board for 3 years. Appointments are made in a two step process. First the municipality (town or village) nominates a candidate that is then approved by the legislature. At the end of a term the people are given the option to maintain their place on the board, but if they

choose to step down, their spot then becomes open for nomination from the town.

- Niagara County has 9 members on the board. One of the people on the board must be appointed to represent the agricultural community. Members are given their position by appointment from the Niagara County legislature, and they also serve 3 year terms.

How does Erie County's proposed board compare in terms of the appointment process?

The Erie County proposal is highly regulated and the fact that there are specific requirements for planners and other qualifications seems to be a unique aspect of the proposal. It will be a diverse group that is intentionally representative of all of the different viewpoints that make up Erie County.



What powers may a county planning board have?

New York General Municipal Law Article 12 section 239(c)(3) states the powers of a county planning board:

- a.) Review of certain municipal planning and zoning actions. The board can review planning and zoning actions by a city, town or village. They will look at proposals to make sure that they follow the municipal plan or prior decisions. They may enter into an agreement with a municipality to declare that a proposal is “local” and not a county wide issue. 239(m)
- b.) Creating a comprehensive plan for the county
- c.) Creating an official map of the county
- d.) Undertaking Studies relevant to the future growth, development, and protection of the county municipalities therein, including studies in support of a county comprehensive plan
- e.) May assist a city, town, or village in the study of ways to obtain economy, efficiency and quality in the planning and provision of municipal services.
- f.) May collect and distribute information relative to county or municipal planning and zoning in the county. Upon request from the county or a municipality, the board may recommend suitable areas for land uses, taking into consideration, but not limited to, such factors as existing and projected highways, parks, open spaces, parkways, public works, public utilities, public transportation, population trends, topography and geologic structure.

g.) May furnish technical service to a locality regarding land use functions, use of geographic information systems, infrastructure development, and inter municipal services.

h.) Before the final approval of any plan involving the construction or reconstruction of any state or county highway, the planning board shall be given an opportunity to examine the plans and give suggestions.ⁱⁱⁱ

What limits will there be on a county planning board's power?

The board will be limited through the article 12 of the New York Municipal Law, and by the legislation of Erie County. For example, the Strategic Development Act does not give authority to the board to review subdivision plats.



What issues should an Erie County Planning Board focus on?

The main focus of the board should be to implement the Framework for Regional Growth and to combat sprawl in the region. From 1980 to 2000 the developed area grew thirty-eight percent, even though population fell nearly six percent. It has been estimated by the county that better planned development could save \$800 million.^{iv}

ⁱ Proposed Legislation 2009 "Strategic Development Act"

ⁱⁱ All information regarding membership comes from the proposed Strategic Development Act

ⁱⁱⁱ New York State General Municipal Law Article 12

http://law.justia.com/newyork/codes/general-municipal/idx_gmu0a12-b.html

^{iv} Framework for Regional Growth