



## REGIONAL IMPACT GUIDELINES

### WHY CONSIDER REGIONAL IMPACTS?

In New Hampshire, local land use boards (Planning Board, Zoning Board of Adjustment, Historic District Commission) are charged with determining when a local development project may have the potential for creating regional impacts as outlined in N.H. RSA 36:54-58. This statute establishes the framework to be followed by a municipality that is reviewing a development proposal with potential impacts beyond its municipal boundaries. As RSA 36:54-58 explains, a determination of regional impact affords abutting communities and the regional planning commission the status of abutter during land use board hearings. It is also an opportunity to broaden the scope of review, and in doing so, gain additional input and technical support in the review of large or complex development proposals.

The Lakes Region Planning Commission has developed this guidance document to aid our 30-member municipalities in evaluating whether or not a development should be determined to have regional impact. The document summarizes the statutory process that must be followed under New Hampshire state law and suggests a number of triggering factors that should be considered for making this determination.

The criteria suggested here are recommendations: they have no regulatory force. Municipalities should consider finding that projects have regional impact as a way of maximizing the thoroughness of municipal project review. In doing so, a community can gain insight from the professional planning staff of the regional planning agency as well as from land use board members and professional planners in abutting towns or cities. The LRPC has professional staff planners with training in the fields of transportation, municipal land use and natural resource management. This process should be helpful to a host municipality's local review and not a hindrance to it. Neither the LRPC nor the neighboring municipalities have any authority under the regional impact statute to interfere with the decision-making power held by the land use board of the host town or city.

### PURPOSE OF REGIONAL IMPACT STATUTES

The New Hampshire legislature cited three reasons for enacting the DRI statutes:

1. It wanted municipalities that are potentially affected by a proposed development in a neighboring town or city to receive timely notice of the land use board's meetings and public hearings involving the proposed development.

2. It wanted the RPCs and the potentially affected neighboring municipalities to furnish “timely input” to the municipal land use boards with jurisdiction over the proposed development.
3. It wanted to “encourage” the land use boards with jurisdiction over the development proposal “to consider the interests of other potentially affected municipalities.” In other words, the legislature wanted towns and cities to think regionally when land use development has impacts beyond their own municipal borders. When a proposal is determined to have the potential for regional impact, the result is that the neighboring municipality (or municipalities) and the RPC have the status of abutters during the board’s consideration of the project. In this case, abutter status is limited to a right to receive notice of the board’s meetings and public hearings and a right to give testimony.

According to NH RSA 36:54, the purpose of the regional impact statute 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.

## REGIONAL IMPACT PROCESS

The process for a local land use board to follow when making a regional impact determination involves three steps:

- At the earliest point possible after a local land use board has received an application or proposal for review, the board should determine if the project has the potential to create impacts beyond the municipality’s boundaries. **If such impacts are reasonably expected, the statute directs that a local land use board shall formally determine the project to be one of regional significance.** Note that the statute directs that if the land use board isn’t sure whether or not the development will have regional impact, doubt shall be resolved with a determination that it does have regional impact. This vote should name the municipalities that are believed to be potentially affected by the proposal.
- Not more than five (5) business days after a local land use board makes this determination the affected municipalities and the appropriate regional planning

commission shall, by certified mail, be made aware of this decision. At this same time the local land use board shall send to each affected municipality and the regional planning commission a copy of the minutes of the meeting at which the determination was made as well as one copy of the initial development plan set (the cost of which shall be borne by the applicant).

- All affected municipalities and the regional planning commission shall be notified by certified mail at least 14 days prior to the public hearing for which public comment will be taken that they are afforded the right to testify as an abutter to the subject development proposal.

## LOCAL LAND USE BOARDS

The regional impact statutes apply to all local land use boards, defined in RSA 672:7, not just to the planning board. Local land use boards in the context of RSA 36:54-58 include planning board, zoning board of adjustment, historic district commission, building code board of appeals or building inspectors.

## THE ROLE OF THE BUILDING INSPECTOR

By definition, the Building Inspector is considered a local land use board for the purposes of the DRI determination. When the Building Inspector determines that a use or structure proposed in a building permit application has the potential for regional impact **and no other local land use board has previously made such a determination**, the Building Inspector shall notify the governing body (Board of Selectmen, City Council). The Building Inspector must also notify the RPC and affected municipalities by certified mail. The RPC and the affected municipalities must be given 30 days to submit comments to the governing body and the Building Inspector prior to the issuance of the building permit.

## DETERMINING THE POTENTIAL FOR REGIONAL IMPACT

A local land use board determines the potential for regional impact. (RSA 36:56)

According to RSA 36:55, 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.

## RULES OF PROCEDURE AND CHECKLIST

The Lakes Region Planning Commission recommends including consideration of Developments of Regional Impact in each land use board's Rules of Procedure to help insure that the potential for regional impact is reviewed with each application received by the board. Rules of Procedure can be amended by each land use board by following the process outlined in RSA 676:1.

LRPC also recommends that each land use board utilize a checklist to assist the board in making determinations about developments of regional impact. A suggested checklist is provided below:

### Checklist for Determining Developments of Regional Impact

**Statutory Authority: refer to RSA 36:54-58**

*Findings of **YES** on **one or more** of the items below indicate the need for a local land use board to determine that the development proposal results in possible regional impacts.*

1. **School Impacts:** Will the development create significant new student population affecting a regional school district? Yes\_\_\_ No \_\_\_
2. **Traffic Generation:** Will the development cause an increase in traffic that will diminish the capacity or safety of the road system in the adjacent municipality or potentially affect regional traffic patterns? Yes \_\_\_No \_\_\_
3. **Building Size:** Will proposed buildings or number of dwelling units impact neighborhoods or areas in a neighboring municipality? Yes\_\_\_ No \_\_\_
4. **Visual Impacts:** Will the development create visual impacts to neighboring municipalities such as light pollution or glare, visibility of structures, adverse impacts on scenic vistas? Yes\_\_\_ No \_\_\_
5. **Pollution:** Does the development propose the operation of a facility or business that would generate excessive air pollution, wastewater discharge, noise or hazardous waste transport? Yes \_\_\_ No \_\_\_
6. **Surface or Groundwater Impacts:** Will the development occur on or adjacent to known aquifers or surface waters that transcend municipal boundaries?  
Yes \_\_\_ No \_\_\_\_\_

Will the development require a major impact wetland permit from NH DES?  
Yes \_\_\_ No \_\_\_

Does the project involve permitting for a large groundwater withdrawal?  
Yes \_\_\_ No \_\_\_

Will the development cause negative impacts to another municipality's municipal water supply? Yes \_\_\_ No \_\_\_

7. **Conservation Lands:** Does the development abut existing conservation lands or existing farmland such that coordination between municipalities could lead to the creation or preservation of greenways, wildlife habitat areas or prevent fragmentation of forests, farms or other conservation lands? Yes\_\_\_ No \_\_\_
8. **Economic Impacts:** Does the development propose the creation of business or industry that would significantly impact regional economic development?  
Yes \_\_\_ No \_\_\_
9. **Emergency Response:** Does the proposal create a significant increased demand for emergency services response (including mutual aid) from neighboring municipalities? Yes\_\_\_ No \_\_\_
10. **Historic or Cultural Resources:** Will the proposed development have negative impacts on historic or cultural resources that may have significance regionally?  
Yes\_\_\_ No \_\_\_
11. **Other:** Does the development create other regional impacts not listed above?  
Yes\_\_\_ No \_\_\_

Describe: \_\_\_\_\_  
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