

## ***Determination of Developments with Regional Impact - How to Make the Call***

**Rockingham Planning Commission  
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### **Introduction**

In New Hampshire communities, the local land use board (Planning Board, Zoning Board of Adjustment, Historic District Commission) is 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. The purpose of this statute is to establish the framework to be followed by a community 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 the abutting communities and the regional planning commission the status of abutter. 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, complex development proposals.

The Rockingham Planning Commission has developed this Guidance Document to aid our communities 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. Bear in mind that these factors are only recommendations and have no regulatory force. The statute says that if there is doubt about a project's regional effect the land use board involved should determine the project to have regional impact. Communities should seriously consider declaring projects to 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 planning board members and professional planners in abutting communities. The RPC has professional staff planners with specialized training in the fields of transportation, municipal land use and natural resource management. In addition, the Planning Commission has several years experience reviewing these kinds of developments (both large-scale retail and residential) and communities should not hesitate to incorporate this planning expertise in their local review.

The statutorily guided process for a local land use board to follow when making a determination of regional impact involves three steps and they are as outlined below:

- At the earliest point possible after a local land use board has accepted a proposal as complete for review, the board should determine if the project has the potential to create impacts beyond the municipality's boundaries. **If such impacts are possible, the statute says that a local board shall formally determine the project to be one of regional significance.** This vote should include a determination of the communities that are found to be affected by the proposal.
- Within 144 hours of a local land use board making this determination the affected communities 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 appropriate 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.

- All affected municipalities and the appropriate 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.

The Planning Commission recommends the following language be included in your community's subdivision and site plan review regulations as a way of ensuring that the potential for an application to result in regional impacts gets addressed with each development proposal:

Subdivision Regulations:

In accordance with state law any proposed subdivisions which are likely to have impacts beyond the boundaries of the town of \_\_\_\_\_ shall be processed by the planning board according to the procedures established in **RSA 36:54-58, *Review of Developments of Regional Impact***.

Site Plan Review Regulations:

In accordance with state law any proposed multi-family or non-residential developments which are likely to have impacts beyond the boundaries of the town of \_\_\_\_\_ shall be processed by the planning board according to the procedures established in **RSA 36:54-58, *Review of Developments of Regional Impact***.

The Rockingham Planning Commission recommends that a project shall be determined to have a substantial regional impact when it meets one or more of the following criteria:

1. It may affect the economic structure of neighboring communities by:
  - a. increasing the cost of providing energy or other utility services to other towns;
  - b. adversely affecting the availability of affordable housing in adjacent towns; or
  - c. increasing the need for housing in an adjacent community or region.
  - d. the construction of 50 or more residential units where any portion of the development is within 1,000 feet of a municipal boundary
  - e. the construction of a non-residential development that exceeds 50,000 square feet where the proposed development is within 1,000 feet of a municipal boundary.
2. It may affect the infrastructure capacity of neighboring communities by:
  - a. substantially affecting the traffic-carrying capacity of regionally significant highways and other transportation facilities within other towns;
  - b. producing excessive solid waste;
  - c. generating student populations that will adversely affect school capacities in one or more neighboring communities; or
  - d. requiring capital outlay beyond town borders for the expansion or development of additional utility transmission lines or other public services.
  - e. generating demand for emergency response personnel.

3. It may affect the settlement patterns or regionally significant features of the Region by:
  - a. requiring the alteration, degradation or destruction of designated regionally significant historic, cultural, natural or scenic features;
  - b. being located in geographic areas that have not supported that type of proposed development in the past; or
  - c. being incompatible with the architectural or design features of nearby existing structures.
  
4. It may affect the natural resources of the Region by:
  - a. producing excessive pollutants or substantially degrading air quality or water quality or quantity beyond town borders or within the watershed (for purposes of quantity the trigger could be either 20,000 gallons per day or 57,600 gallons per day);
  - b. altering, degrading or destroying the habitat and natural communities of plants and animals that have been identified as worthy of protection;
  - c. substantially reducing the area or productive capacity of regionally significant forested and agricultural lands;( impact to contiguous conservation areas and greenways would be trigger thresholds).
  
5. If a project is proposed on land that directly abuts a municipal boundary the local land use board should consider making a determination of regional impact.

The Rockingham Planning Commission advocates early communication between abutting communities' planning departments whenever regional impacts may occur. The more abutting communities utilize this process the easier it will become to address projects across municipal boundaries.

The Planning Commission recommends that planning offices amend their development checklists by adding an item that calls out the potential regional impact of a proposed development.

## Projects of Regional Impact Checklist

**Statutory authority: refer to RSA 36:54-58.**

*Findings of YES on one or more of the items below indicates the need for a local land use board to make a determination that the development proposal results in regional impact assessment.*

1. **Economic impacts:** does the development propose the creation of business or industry that would impact regional economic development?  YES  NO
2. **School impacts:** does the development create significant new student populations? Should the local or regional school district be notified?  YES  No
3. **Traffic generation:** will the project generate traffic above the threshold level of 500 trips per day?  YES  NO
4. **Road networks:** does the development provide the opportunity to create a more efficient road network for the regional area?  YES  NO
5. **Building size:** is the proposed building greater than 50,000 square feet?  YES  NO
6. **Visual impacts:** will the development create visual impacts to neighboring municipalities such as light pollution, glare, or structures visible from neighboring municipalities?  YES  NO
7. **Pollution:** does the development propose the operation of a facility or business which would generate air pollution, excessive noise or hazardous waste transport?  YES  NO
8. **Water supply impacts:** will the development impact wetlands? Will negative impacts to known aquifers occur? Does the project involve permitting for a large ground water withdrawal? Will the development cause negative impacts to any municipal water supply?  YES  NO
9. **Conservation lands:** does the development abut existing conservation lands, greenways, or existing farmland such that coordination between municipalities could lead to the creation or preservation of greenways or wildlife habitat areas or prevent fragmentation of forests, farms, or other conservation lands?  YES  NO
10. **Proximity:** is the development at or crossing or within one thousand feet of the border of two municipalities?  YES  NO
11. **Emergency response:** does the proposal create demand for emergency services response from abutting communities.
12. **Other:** does the development create other regional impacts not listed in items 1-10 above?  YES  NO