

BARRINGTON  
BROOKFIELD  
DOVER  
DURHAM  
FARMINGTON  
LEE  
MADBURY  
MIDDLETON  
MILTON



NEW DURHAM  
NEWMARKET  
NORTHWOOD  
NOTTINGHAM  
ROCHESTER  
ROLLINSFORD  
SOMERSWORTH  
STRAFFORD  
WAKEFIELD

**PUBLIC REVIEW DRAFT  
OF REGIONAL IMPACT GUIDELINES FOR COMMUNITIES**

**Why consider regional impacts?**

Within the state of New Hampshire there are 234 municipalities as well as village districts, SAUs, sewer, water, and waste management districts, and nine regional planning commissions. Just within the 543 square miles of the Strafford Region there are eighteen municipalities ranging in size from over 30,000 to under 1000. Every day residents cross multiple municipal and district boundaries to commute to work, shop, attend medical appointments and personal services, move goods, dine out, attend functions and meetings, and take their children to school. On any day residents may get ready for work in one community, commute through three communities on their way to work, drive to offices, manufacturing plants, schools, shops, personal services, or other recreational activities in several other communities -and most of the time without thinking about municipal boundaries.

Given the complexity of modern life, it is not uncommon to have land use development and infrastructure projects that may influence land use, traffic patterns, air and water quality, noise levels, school attendance, and employment in adjoining municipalities. That is the core premise for regional impacts: the consideration of the needs, concerns, and priorities of people in abutting communities through an open and transparent process that considers the views and thoughts of abutting communities and the regional perspective, acknowledging that actions in one community may influence lives, environment and businesses in another.

**Legislative statutes - Purpose**

Per NH RSA 36:54, the purpose of this legislation 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.

**Define development of regional impact**

Per NH RSA 36:55, a 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.

### **Define process for determining potential regional impact**

Per RSA 36:56 a local land use board, as defined in RSA 672:7 determines the potential for regional impact. Please note that, per RSA 672:7, a local land use board includes a planning board, historic district commission, inspector of buildings, building code board of appeals, zoning board of adjustment, or other board or commission authorized under RSA 673 established by a local legislative body. Under RSA 673:1 II, a heritage commission, agricultural commission, and a housing commission are defined as local land use boards. That is important to remember; it is not just the planning board.

The process from RSA 36:56 states that:

- 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.

### **Define process for notifying abutters, including municipalities and regional planning commissions**

Per RSA 36:57 the following process is to be followed:

- 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

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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.

## **Standards to consider in a community within Strafford Region**

Because of the variability in community population, employment, housing, commercial development, the Strafford Regional Impact Committee thought it would be more respectful of our differences to provide a list of topic areas for communities to consider. These are the same considerations that the Strafford Regional Impact Committee considers during their review of projects. A member of the staff reviews the application materials received, maps of the project site, and any letters or minutes received. A response is prepared for each set of topic questions. These questions and responses, with supporting material, form the report that is made available for the Regional Impact Committee, applicant and their agents, abutters and the public.

## **Topic areas to consider for regional impacts**

### Traffic-Access-Parking

1. Will the development cause an increase in traffic that will diminish the capacity or safety of the street system in the adjacent municipality?
2. Will the development exceed, either individually or cumulatively, a level of service standard established by the adjacent municipality for designated roads or highways?
3. Will the development substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., construction, gravel operation equipment)?
4. Will the development result in inadequate emergency access?
5. Will the development result in inadequate parking capacity?
6. Will the development conflict with adopted policies, plans, or programs supporting alternative transportation?

### Conflicts with Policies, Plans and Programs

### Noise

1. Will the development expose persons to or generate noise levels in excess of standards established in the local general plan, noise ordinance, or applicable standards of other agencies?
2. Will the development increase exposure of persons to or generate excessive ground borne vibration or ground borne noise levels?
3. Will the development substantially and permanently increase ambient noise levels in the project vicinity above existing levels?
4. Will the development substantially increase temporary or periodic ambient noise levels in the project vicinity above existing levels?
5. Is the development located within an airport zone or within two miles of an airport or airfield, where the project would expose residents or employees in the project area to excessive noise levels?

### Hazardous Materials or Substances

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1. Will the development create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?
2. Will the development create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?
3. Will the development produce hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?
4. Will the development be located on a site that is included on a list of hazardous materials sites compiled by the NH Department of Environmental Services and, as a result, would it create a significant hazard to the public or the environment?

### Ecology and Resources

1. Will the development have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the U.S. Fish and Wildlife Service?
2. Will the development have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the NH Department of Fish and Game or US Fish and Wildlife Service?
3. Will the development have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?
4. Will the development interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?
5. Will the development conflict with any local policies or ordinances protecting biological resources, such as a conservation easement, tree preservation policy or ordinance?
6. Will the development conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?
7. Will the development have a substantial adverse effect on Groundwater Quality?
8. Will the development have a substantial adverse effect on Air Quality?

### Hazards-Public Health and Safety

1. Will the development expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides or flooding?
2. Will the development result in substantial soil erosion or the loss of topsoil?
3. Will the development be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?
4. Will the development be located on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

### Facilities

1. Will the development require new or expanded public facilities or services in the adjacent municipality in order to maintain acceptable service ratios, response times or other performance standards for any of the following public services?
  - a. Fire protection

- b. Police protection
  - c. Schools
  - d. Parks
  - e. Solid Waste
  - f. Other public facilities
2. Will the development cause an increase in new or expanded utilities, treatment facilities, storm water, water supplies, etc., that would result in a negative financial or environmental impact to the adjacent municipality?

### Scenic and Visual Character

1. Will the transmitter tower or equipment have a substantial adverse effect on a scenic vista impact to the adjacent municipality?
2. Will the transmitter tower or equipment substantially degrade the existing visual character or quality of the site and its surroundings to the adjacent municipality?
3. Will the transmitter tower or equipment create a new source of substantial light or glare, which would adversely affect day or nighttime views to the adjacent municipality?
4. Will the development convert Prime Farmland to non-agricultural use?
5. Will the development conflict with existing zoning for agricultural use?
6. Will the development involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?
7. Will the development have a substantial adverse effect on a scenic vista?
8. Will the development have substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?
9. Will the development substantially degrade the existing visual character or quality of the site and its surroundings?
10. Will the development create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?
11. Will the development conflict with any applicable land use plan, policy, or regulation including, but not limited to the master plan or zoning ordinance?
12. Will the development conflict with any applicable habitat conservation plan or natural community conservation plan?

### Housing and Population Growth

1. Will the development induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?
2. Will the development displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?
3. Will the development displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?
4. Is the development compatible with existing or planned cross border development?

## Strafford Regional Planning Commission Practices and Bylaws

### A. Municipal project general inquiries and procedures

1. All communications with project applicants, municipal staff, abutters, developers agents and consultants are treated in an objective, open and transparent manner.
2. Everyone receives the same information in regard to Commission Bylaws, standards, practices, processes, and meeting dates.
3. Everyone receives the same access to meeting minutes, applications and studies, and meetings to the limit that the Commission has received the documents or created the documents.
4. Most documents because of their size (maps, plans, applications, and studies) will be available only at the Commission office during normal office hours. Those in digital format will be uploaded to the Commission website.
5. The Regional Impact Committee meetings are public, and are therefore open to the applicant and their agents, abutters, town officials and staff, Commissioners, and the general public.

### B. Regional Impact Committee procedures

The Regional Impact Committee adopted Bylaws on July 17, 2007. These Bylaws include the following information regarding receipt of materials and notification.

#### Regional Impact Committee BYLAWS, Adopted 7/17/2007 SECTION I - AUTHORITY

These By-Laws are designed to assist the Strafford Regional Planning Commission (SRPC) Regional Impact Committee (RIC) fulfill the statutory requirements of RSA 36:54 – 36:58, as amended.

#### SECTION II - MEMBERS

- A. The RIC shall consist of three (3) SRPC members appointed by the Executive Committee (EC) and up to three (3) SRPC members as alternates. Membership on the RIC shall run concurrent with a member's Commission term. At no time, shall there be two regular members on the RIC representing the same community.
- B. Filling of vacant positions and removal of RIC members shall be by vote of the EC.
- C. A RIC member may participate in any discussion before the RIC even if the project is taking place within the RIC member's Town/City. RIC members shall follow the standard for conflict of interest that guides land use board members in RSA 673:14, as amended.
- D. SRPC Commissioners are welcome to attend and participate in any RIC meeting. Only RIC members and/or alternates shall vote upon RIC findings.

#### SECTION III - ORGANIZATION

The RIC shall elect a Chair from among its membership at the first meeting called in any given fiscal year. In the event the Chair is unavailable for a meeting of the RIC, the members in attendance for that meeting shall appoint an Acting Chair from their ranks to oversee the RIC's actions. An alternate may be an Acting Chair.

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SECTION IV - MEETINGS

Meetings shall be held at the call of the Chair after notification has been received by SRPC that a community has determined an application reasonably may be construed as having the potential for regional impact in accordance with RSA 36:54 - 36:58.

SECTION V - APPLICATION PROCEDURES AND NOTICES

- A. Upon notification that SRPC has been granted abutter status, staff shall contact the appropriate municipal officials to secure copies of the proposal in order to facilitate RIC's discussions.
- B. Staff shall notice the date and time of the RIC meeting as follows:
  - 1. Notification to members of the RIC.
  - 2. Notification to SRPC Commissioners.
  - 3. Notification to the Planning Board Designee where the project is located.
  - 4. Notification to abutter status municipality's and/or other potentially affected municipality:
    - (a) Planning Board Chair
    - (b) Board of Selectmen/Council
    - (c) Town/City Clerk
  - 5. Notification to the property owner and/or applicant's agent.
  - 6. Any other affected party as determined by SRPC staff.

SECTION VI - PUBLIC MEETING PROCEDURES

- A. Public meetings shall be governed by the following rules:
  - 1. The Chair shall call the meeting to order.
  - 2. RIC Business:
    - (a) Quorum Call - For the RIC a quorum shall consist of two RIC members and/or alternates in attendance.
    - (b) Brief overview of the process by the Chair to detail RIC's statutory authority and responsibilities for review of projects of regional impact under RSA 36:54 – 36:58.
    - (c) Agenda items, as prepared by SRPC staff for the meeting.
  - 3. SRPC staff may present the findings to the RIC. In the event that representatives of the applicant are in attendance, the Chair may grant such representatives time to present an overview of the application to the RIC.
  - 4. After questions from the RIC members have been answered, the Chair may ask for comments from abutters and other interested members of the public in attendance.
  - 5. Written testimony received by the RIC shall be read by the Chair into the public record or made a part of the public record.

SECTION VII – RIC RECOMMENDATIONS AND FINDINGS

- A. The RIC shall discuss its position relative to its statutory authority and responsibilities (RSA 36:54 - 36:58, as amended) as these relate to the application. At the conclusion of the RIC meeting, the RIC shall restate its authority and statutory responsibilities under RSA 36:54 - 36:58. The RIC shall summarize its findings and recommendations relative to the application and request SRPC staff to draft such summary and forward it to those

- B. SRPC staff shall prepare a letter detailing the findings of the RIC with respect to the application pending and forward this correspondence under signature of the RIC Chair to the municipality originally making the determination of potential regional impact, and to other municipalities with abutter status for the application.
- C. RIC minutes shall be made available for public inspection at the SRPC Office during office hours. Copies of the minutes shall be supplied to those parties noted under Section V - B. The Approved RIC minutes shall be posted on the SRPC website.

SECTION VIII- AMENDMENT

These By-Laws may be amended by a majority vote at a regular meeting of the RIC provided it is in writing and presented before the meeting.

Adopted: July 19<sup>th</sup> 2007

**CONCLUSION**

This is a public review draft of the Strafford Regional Planning Commission Regional Impact Guidelines for Communities. It contains the Regional Impact Committee adopted Bylaws, practices and standards, and NH RSAs regarding regional impact development.

This document is made available for review on June 30, 2011 and will continue through August 31, 2011. The Regional Impact Guidelines for Communities will be considered at the Strafford Regional Planning Commission Quarterly meeting on the fourth Thursday of September 2011 at the SRPC office, 150 Wakefield Street, Conference Room 1A, Rochester, NH 03867.

Comments and questions can be addressed to:  
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