

Developments of Regional Impact *Summary of Sample Regulations*

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Where are there established comprehensive development of regional impact review programs?

Statewide Programs:

Vermont
Florida
Georgia

Regional Programs:

Cape Cod Commission
Martha's Vineyard Commission
Atlanta Regional Commission

What is a Development of Regional Impact?

NH RSA 36:54 through 36:58

Developments of regional impact are proposals that could be expected to impact a neighboring community due to, but not limited to, the following factors:

- Relative size or number of dwelling units as compared with existing stock.
- Proximity to the borders of a neighboring community.
- Transportation networks.
- Anticipated emissions such as light, noise, smoke, odors, or particles.
- Proximity to aquifers or surface waters which transcend municipal boundaries.
- Shared facilities such as schools and solid waste disposal facilities.

Town of Pembroke Site Plan Review

"A development shall be considered to have a regional impact if it meets any one of the following criteria" within 5 years or less a total of:

- 60 or more dwelling units would be constructed.
- 30,000 SF of commercial gross floor area would be constructed.
- 70,000 SF of office or medical gross floor area would be constructed.
- 120,000 SF of industrial gross floor area would be constructed.
- 8 or more lots or dwelling units would be constructed within 1,000 feet of a municipal boundary.
- 4 or more lots or dwelling units would be constructed, which abut or involve rivers or perennial (year-round) streams which, within 1/2 river miles downstream, flow across a municipal boundary.
- 4 or more lots or dwelling units would be constructed, which abut or involve lakes or great ponds, the high water mark of which lies within 1,000 feet of a municipal boundary.

Or:

- Proposals before the Planning Board which may reasonably be expected to contribute substantially to air or water pollution, school enrollment, solid waste disposal, demand

for water supply or wastewater treatment, street deterioration, traffic safety, or otherwise substantially affect another municipality.

- Proposals before the Planning Board which, in the sole discretion of the Planning Board, are reasonably likely to have a substantial effect on another municipality.

Town of Pembroke Subdivision Regulations

The Subdivision Regulations includes all of the same criteria as the Site Plan Review and one additional item:

- Proposed subdivisions of 100 acres or more, which result in 4 or more lots or a new street or roads.

Vermont's Act 250

"Vermont's Land Use and Development Law prohibits the commencement of certain kinds of development without first obtaining a Land Use Permit." The following are general descriptions outlining what proposals of regional impact are and will require a permit.

- Any construction of improvements for any purpose above the elevation of 2500 feet.
- The construction of improvements for any commercial or industrial purpose (including not-for-profit developments but excepting farming, logging, or forestry) on more than 10 acres of land; or on more than one acre of land if the municipality does not have both permanent zoning and subdivision bylaws.
- The construction of 10 or more housing units within a radius of 5 miles, or the construction or maintenance of mobile homes or trailer parks with 10 or more units. (In "designated downtowns" the 10 unit threshold may be higher for some projects – see the District Coordinator for more information.)
- The subdivision of land into 10 or more lots of any size within a 5 mile radius or within the jurisdictional limits of a District Commission within a continuous period of 5 years.
- Within a town that does not have both permanent zoning and subdivision regulations, the subdivision of land into 6 or more lots of any size within a continuous period of five years.
- The construction of improvements for a governmental purpose if the project involves more than 10 acres or is part of a larger project that will involve more than 10 acres of land.
- Any construction of improvements for a commercial, industrial or governmental purpose which will be a substantial change or addition to or expansion of an existing pre-1970 development of the type which would require a permit if built today.
- The construction of a support structure 20 feet or more in height which is primarily for communication or broadcast purposes.
- The exploration for fissionable source materials beyond the reconnaissance phase or the extraction or processing of fissionable source material.
- The drilling of an oil or gas well.
- The sale, by public auction, of any interest in a tract or tracts of land, owned or controlled by a person, which have been partitioned or divided for the purpose of resale into five or more lots within a radius of five miles and within any period of ten years.

Cape Cod Commission

The following is a generalized list of projects subject to mandatory review by the Cape Cod Commission:

- Subdivisions of 30 acres or more.
- Development of 30 or more residential lots or dwelling units.
- Development of 10 or more business, office, or industrial lots.
- Commercial or industrial development for buildings greater than 10,000 square feet.
- Transportation facilities for passage to or from Barnstable County.
- Demolition or major changes to some national- or state-recognized historic structures.
- Bridge, ramp, or road construction providing access to several types of water bodies and wetlands.
- Change of use or demolition of an existing commercial building greater than 40,000 square feet or industrial building greater than 50,000 square feet
- Construction of any wireless communication tower exceeding 35 feet in height..
- Site alterations or site disturbance greater than two acres without a valid local permit.
- Mixed use residential and non-residential developments with a floor area greater than 20,000 square feet or greater than 10,000 sq. ft. of commercial space.

What is a proposal reviewed for?

NH RSA 36:54 through 36:58

There are no specific items that must be reviewed. Guidelines are only established to provide notice and opportunity to comment to the RPC and affected communities. Summarized these state:

- The RPC and affected municipalities are afforded the status of abutters as defined in RSA 672:3 for the limited purpose of providing notice and giving testimony.
- Within 144 hours* of reaching a DRI decision, the local land use board must send the RPC and affected municipalities copies of the meeting minutes and, at the same time, submit an initial set of plans to the RPC.
- At least 14 days prior to public hearing, the affected municipalities and the RPC must be notified of the date, time, and place of the hearing and their right to testify concerning the development.

*2009's House Bill 210 changes the 144 hour requirement to within 5 days.

Town of Pembroke Site Plan Review and Subdivision Regulations

The Town of Pembroke regulations reiterate the same items listed above as established by State Statute.

Vermont's Act 250

Before granting a permit, the District Commission must ensure that the development or subdivision meets the following criteria:

- Will not result in undue water or air pollution.
- Has sufficient water available for the needs of the subdivision or development.

- Will not unreasonably burden any existing water supply.
- Will not cause unreasonable soil erosion or affect the capacity of the land to hold water.
- Will not cause unreasonably dangerous or congested conditions with respect to highways or other means of transportation.
- Will not create an unreasonable burden on the educational facilities of the municipality.
- Will not create an unreasonable burden on the municipality in providing governmental services.
- Will not have an undue adverse effect on aesthetics, scenic beauty, historic sites or natural areas, and will not imperil necessary wildlife habitat or endangered species in the immediate area.
- Conforms with the Capability and Development Plan which includes the following considerations:
 - The impact the project will have on the growth of the town or region;
 - Primary agricultural soils;
 - Forest and secondary agricultural soils;
 - Earth resources;
 - Extraction of earth resources;
 - Energy conservation;
 - Private utility services;
 - Costs of scattered developments;
 - Public utility services;
 - Development affecting public investments; and
 - Rural growth areas.
- Is in conformance with any local or regional plan or capital facilities program.

Cape Cod Commission

Projects are review to assure consistency with the:

- The Cape Cod Regional Policy Plan including:
 - Land use growth management;
 - Natural Resources;
 - Economic Development;
 - Commercial Facilities and Services;
 - Affordable Housing; and
 - Heritage preservation and community character.
- The local comprehensive plan.
- Local development bylaws
- Designated Districts of Critical Planning Concern (areas that have been designated for special protection of important resources).

"A project must also show that its benefits to Cape Cod outweigh its detriments. The DRI review process incorporates local concerns as much as possible.

To be approved, a project may be required to meet certain conditions, such as contributing a fair share of funds towards traffic improvements or providing affordable housing in new residential developments."

Development of Regional Impact Links

Vermont Act 250 – <http://www.nrb.state.vt.us/lup/index.htm>

Florida – <http://www.dca.state.fl.us/fdcp/dcp/DRIFQD/index.cfm>

Georgia –
<http://www.dca.state.ga.us/development/planningqualitygrowth/programs/regionalimpact.asp>

Cape Cod Commission – <http://www.capecodcommission.org/regulatory/home.htm>

Martha's Vineyard Commission – <http://www.mvcommission.org/dris/index.html>

Atlanta Regional Commission – <http://www.atlantaregional.com/html/332.aspx>

Note: The research contained in this report was compiled during 2005 for the Southern NH Planning Commission as part of its effort to develop its Developments of Regional Impact Guidelines.