

**Draft - May 30, 2018**

## **Central NH Regional Planning Commission Developments of Regional Impact Review Guidelines**

### **Introduction**

New Hampshire RSA 36:54-58 provides state guidance on the determination of regional impacts (DRI) by a local land use board (Planning Board, Zoning Board of Adjustment, Historic District Commission). The purpose of this legislation is to provide opportunities for a regional planning commission and any affected municipalities to provide input to the municipality having jurisdiction over the proposed development. As RSA 36:57 states, the regional planning commission and any abutting community or communities is (are) afforded the status of abutters as defined in RSA 672:3 for the purposes of providing notice and giving testimony.

The Central NH Planning Commission (CNHRPC) has prepared the following guidance to assist its communities in determining whether a project has a potential regional impact. It should be noted that these are guidelines only and are intended to provide assistance to local land use boards in the evaluation process for regional impacts.

### **Process**

- √ Initial development application is received by the Planning Board or municipal department; application is reviewed for completeness (RSA 676:4.I.b).
- √ The Planning Board **MUST** vote on whether the project is of regional impact and should do so at the earliest opportunity after receipt of all applications (RSA 36:56.I).
- √ RSA 674:53.IV controls land affected by municipal borders. Under this RSA, the Merrimack County Register of Deeds requires that a plan showing another municipality on the plan must have signatures of both towns, or a surveyor certification that the proposal is not subdividing land in the abutting municipality. This means not only for properties that straddle the municipal boundary but also for properties that abut a municipal boundary (i.e. whole property is in one community but the plan shows a municipal border for another community). For this reason, proximity to neighboring municipality should be automatically deemed a DRI.
- √ Upon determination of regional impact, the CNHRPC and the affected municipalities shall be afforded the status of abutters (RSA 36:57.I).
- √ Within five business days of the board's decision, provide notice by certified mail to CNHRPC and affected communities. Copies of the meeting minutes documenting the decision and an initial set of plans should be included, the cost of which shall be borne by the applicant (RSA 36:57.II).

- √ Fourteen days prior to the public hearing, the planning board shall notify, by certified mail, the affected municipalities and CNHRPC of the hearing date, time and location and stating their right to testify (RSA 36:57.III).

### **Reaching a Decision on Regional Impacts**

The attached flow chart outlines a recommended process for determining regional impact. These are guidelines to assist in determining whether a proposed project is a development of regional impact. It is assumed a project may be a development of regional impact if it meets any one of the standards. Additionally, these standards are not absolute and are intended to initiate a closer review of projects that may potentially have regional impact. **It should be noted that the statute states that if there is doubt about a project's regional impact, the land use board should determine the project to have regional impact.**

### **Additional Recommendations for Municipal Regulations**

Municipalities may wish to consider incorporating the following language into subdivision and site plan review regulations to ensure that a decision on an application's regional impacts is addressed for 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 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 that 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***.

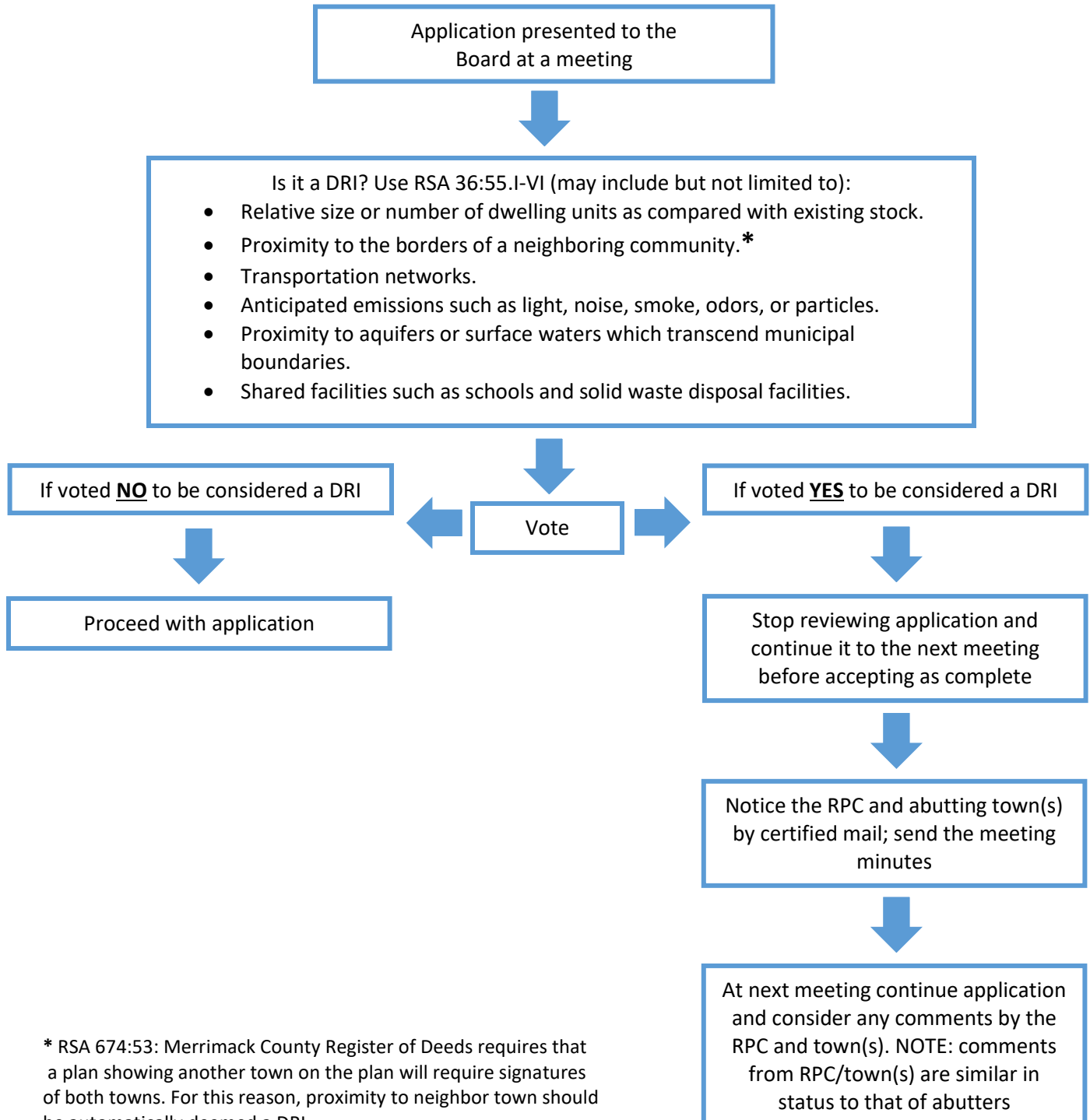
### **Building Inspector**

Also of note is the fact that the Building Inspector can make a ruling of regional impact during the building permit process (RSA 36:57.IV). The decision is made by the building inspector based upon their discretion. He or she must inform the local governing body and, by certified mail, notice the RPC and affected municipality/municipalities. This results in a 30 day review and comment period by the local governing body and building inspector in the affected municipality/municipalities.

## Outline of DRI Decision Process

- Why do DRI? As mentioned earlier, land use boards are required, by law, to vote on DRIs. Court does not typically look at what the decision was, only that the board voted.
- What is considered? To look at regional impact of the development, not the municipal impact or the how the development conforms to local regulations and ordinances.
- What to do? Vote if the project is a DRI; if yes, continue the application and notify the RPC and the abutting town(s).

### DECISION PROCESS



\* RSA 674:53: Merrimack County Register of Deeds requires that a plan showing another town on the plan will require signatures of both towns. For this reason, proximity to neighbor town should be automatically deemed a DRI.