

Lamoille County Planning Commission's Role in Act 250 and State Permitting

Act 250, Vermont's land use regulation, requires that applicants obtain a Land Use Permit from the District Environmental Commission or (on appeal) the Vermont Environmental Court prior to commencing a major development or subdivision. Such a permit is in addition to any local zoning or subdivision permits needed. To see if a project would trigger Act 250 jurisdiction, applicants can obtain a Jurisdictional Opinion (JO). For more information on JOs, please go to the Natural Resources Board's [Frequently Asked Questions](#) website. Applicants can also ask Act 250 staff to prepare a "project review sheet" which lists state permits that may be necessary.

In addition to the District Commission/Environmental Court, parties that may be involved in the review of a project in Lamoille County include:

- **State Agencies;**
- Lamoille County Planning Commission (LCPC);
- The Selectboard, Trustees and Planning Commission in the community where the project is to be located;
- Abutters, and other potentially affected individuals or organizations.

Prior to granting an Act 250 permit, affirmative findings must be made with respect to ten criteria contained in the law ([10 VSA §6086](#)). Generally, these relate to the environmental, economic and social effects of the project on the community, region, and state. Included amongst these is a determination on whether the development or subdivision is in conformance with the local municipal plan and regional plan (Criterion 10).

We strongly encourage applicants to review the language in their local municipal plans and the regional plan prior to preparing an application. Many municipal plans can be found under the specific community (Use the links included on our [web page](#)). The Regional Plan is available for reference here as well.

State statute places the legal burden on applicants to demonstrate that the proposed project meets with the goals and policies expressed in the Regional Plan. Lamoille County Planning Commission staff can offer informal information about the regional plan when projects are being conceived, which may save much time and money during the permitting process.

Applicants are also encouraged to contact the District Environmental Commission staff and the ANR Permit Specialists early in project development to avoid costly and time-consuming delays. In addition to Act 250, there are other state permits that may be required depending on the type and scale of proposed development.

Per State Statute, regional planning commissions have a responsibility to "*appear before district environmental commissions to aid them in making a determination as to the conformance of developments and subdivisions with the criteria of [ACT250],*" and to "*appear before the public service board to aid the board in making determinations under 30 V.S.A. §248 [energy transmission/generation and telecommunications facilities].*" In general, LCPC's Plan, Project and Review (PPR) Committee reviews Act 250 applications that require a hearing (major

applications) and/or trigger one or more “Substantial Regional Impact” (SRI) thresholds. PPR reviews all projects that go before the Public Service Board, these include §248 (energy generation), or §248a (communications facility) permits.

Following initial staff review and determination, relevant information is brought to the Plan and Project Review Committee (PPR) for consideration and input. The purpose of the Plan and Project Review Committee (PPR) is to:

1. Review and comment on projects of regional significance, as defined in the LCPC Regional Plan;
2. Review and recommend Municipal Plans for approval to the Executive Committee;
3. Participate in any other duties as assigned by the Executive Committee.

The LCPC Plan and Project Review Committee reviews all relevant permit applications to determine whether the proposed project is in conformance with the Regional Plan and to determine if the proposed project will have a Substantial Regional Impact. The Committee is composed of designated members of the LCPC Board of Directors and meets the fourth Tuesday of every month.

If applicants have questions regarding the LCPC process, they are welcome to contact LCPC staff at 802-888-4548 or lcpc@lcpvt.org.

It is important to note that LCPC neither supports nor opposes applications or projects. The LCPC is instead tasked with supporting the duly adopted Lamoille County Regional Plan and its policies.

To that end, LCPC asks four questions when a permit application comes before us:

- 1) What does the plan say?
- 2) What will the project do, as proposed?
- 3) Is the answer to question 2 consistent with the answer to question 1?
- 4) Will the project have a substantial regional impact as defined by the Regional Plan?

Value judgment is reserved for the process through which we develop the Lamoille County Regional Plan. It is then and there that we ask what does the region value, and what goals, objectives and policies support those values. The value judgment has been made before any permit comes before us. The only judgment made when the LCPC receives a permit application is about plan compliance. How do we do this?

Lamoille County Planning Commission’s role in the state permitting processes is to represent the Lamoille County Regional Plan and its policies. This is also the role given us by statute. To that end, the commissioners who serve on our Plan and Project Review Committee first determine if a project is of regional significance in terms of the resources being impacted. This is defined by the Lamoille County Regional Plan. The Committee then evaluates the development proposal and its constituent parts on the basis of the extent to which it is consistent with the duly adopted plan for the region. Having evaluated the proposal against the plan, the committee provides

comments to all parties about whether the region's policies are supported by the project and to what extent.

The Lamoille County Planning Commission issues no permits and has no determining authority on any permit approval. We advise the permitting authority what the plan says and what we believe the project as proposed will do. Primary focus is on:

1. Information needs,
2. Issues and areas of conformance with the Lamoille County Regional Plan and relevant municipal plan(s);
3. Possible Substantial Regional Impact.

For projects scheduled for review by the Committee, staff reaches out to the host municipality to determine what perspective they have on the project. It is left to the town to present its own opinion about the extent to which a project is consistent with its own plan and/or bylaws. Host municipalities are invited to attend Committee meetings at which significant projects in their municipality are being discussed.

This process underscores why the development of a plan – whether a regional plan or a municipal plan – is so important. It is through the planning process that community needs and values, and related goals, objectives and policies, are established. When a plan is approved the decision by the region or municipality as to what can and should be developed has, for all intents and purposes, been decided.

All decisions and communications by the Plan and Project Review Committee are reviewed by the Lamoille County Planning Commission's Board of Directors. Those projects requiring a more detailed level of review are sent to the LCPC Executive Committee for further consideration. The Plan and Project Review Committee may request additional meetings between normally scheduled monthly meetings to review project proposals and gather additional information. These steps of the process provide an important, and appropriate level of oversight in the process.

Act 250

The District 5 Environmental Commission administers Act 250 for the Lamoille County region. Each District Commission has three members and up to four alternates, all of whom are district residents appointed by the governor. The District Commission reviews each complete application carefully, determines if it is a major or minor project, and either grants a permit (for minor projects and generally with conditions), schedules a hearing (for major projects), or denies the permit. The Commission can also make specific findings of fact and conclusions of law that explain its decision in detail.

The Commission must base its review and decision on Act 250's 10 criteria. Primarily, these focus on the development or subdivision's projected impacts on air and water quality, water supplies, traffic, educational and municipal services, and historic and natural resources, including scenic beauty and necessary wildlife habitat. Developments must also conform to local and regional land-use plans.

By law, parties to an Act 250 hearing include the applicant, the municipality and its planning commission, the regional planning commission, and affected state agencies. Adjoining property owners and other persons or organizations whose interests may be affected by the proposed project may also petition the District Commission for party status.

After a District Commission makes its decision, any party to the hearing may appeal the decision to the Vermont Environmental Court. Decisions of the Environmental Court may be appealed to the Vermont Supreme Court. Act 250 permits do not supersede or replace the requirements of other local and state permits.

For more information about Act 250 and to access the Act 250 database please visit the [Natural Resources Board Act 250 page](#). Please note that all District 5 Act 250 materials are distributed electronically and accessible through the [Act 250 database](#).

Section 248 and 248a

Section 248 of Title 30 requires companies to obtain approval from the Public Utilities Commission (PUC) before beginning site preparation or construction of electric transmission facilities, electric generation facilities and certain gas pipelines within Vermont. Section 248 also requires PUC approval for some long-term contracts for purchasing power from outside Vermont and for some investments in transmission and generation facilities outside Vermont.

The PUC has developed the [Citizens' Guide to the Public Utility Commission](#) to provide a general introduction to the process used by the Board to consider requests for approval pursuant to Section 248. It is not intended to provide all information necessary to participate in a Section 248 proceeding.

ACT 250 & OTHER PERMITTING RESOURCES

- [Act 250 Application Forms & Guide](#)
- [Act 250 Database \(Pending permits and issued decisions\)](#)
- [Act 250 Frequently Asked Questions \(FAQ\)](#)
- [Department of Economic Development: Resources](#)
- [District Environmental Commission Boundaries Map](#)
- [State of Vermont Permit Handbook](#)
- [State Statute – Vermont's Land Use and Development Law \(Act 250\)](#)
- [Vermont Environmental Court](#)