

1 H.367

2 Introduced by Representative Ellis of Waterbury

3 Referred to Committee on

4 Date:

5 Subject: Land use; natural resources; municipal and regional planning and  
6 development; municipal plans; review, consultation, and amendments

7 Statement of purpose of bill as introduced: This bill proposes to change the  
8 requirement to adopt municipal land use plans from five to 10 years; allow  
9 plan amendments during this 10-year period without affecting the plan's  
10 expiration date; require a five-year interim review of the plan; require  
11 consultation with the regional planning commission at least twice during the  
12 10-year period; and to clarify requirements for municipal plan amendments,  
13 updates, and readoption.

14 An act relating to miscellaneous revisions to the municipal plan adoption,  
15 amendment, and update process

16 It is hereby enacted by the General Assembly of the State of Vermont:

1 Sec. 1. 24 V.S.A. § 4350 is amended to read:

2 § 4350. REVIEW AND CONSULTATION REGARDING MUNICIPAL  
3 PLANNING EFFORT

4 (a) A regional planning commission shall consult with its municipalities  
5 with respect to the municipalities' planning efforts, ascertaining the  
6 municipalities' needs as individual municipalities and as neighbors in a region,  
7 and identifying the assistance that ought to be provided by the regional  
8 planning commission. As a part of this consultation, the regional planning  
9 commission, after public notice, shall review the planning process of its  
10 member municipalities at least twice during ~~an eight-year~~ a 10-year period, or  
11 more frequently on request of the municipality, and shall so confirm when a  
12 municipality:

13 (1) is engaged in a continuing planning process that, within a reasonable  
14 time, will result in a plan ~~which~~ that is consistent with the goals contained in  
15 section 4302 of this title; ~~and~~

16 (2) is engaged in implementing its municipal plan, consistent with the  
17 program for implementation required under section 4382 of this title; and

18 (3) is maintaining its efforts to provide local funds for municipal and  
19 regional planning purposes.

20 (b)(1) As part of the consultation process, the commission shall consider  
21 whether a municipality has adopted a plan. In order to obtain or retain

1 confirmation of the planning process after January 1, 1996, a municipality  
2 must have an approved plan. A regional planning commission shall review  
3 and approve initial or readopted plans of its member municipalities, when  
4 approval is requested and warranted. Each review shall include a public  
5 hearing which is noticed at least 15 days in advance by posting in the office of  
6 the municipal clerk and at least one public place within the municipality and by  
7 publication in a newspaper or newspapers of general publication in the region  
8 affected. The commission shall approve a plan if it finds that the plan:

9 (A) is consistent with the goals established in section 4302 of  
10 this title;

11 (B) is compatible with its regional plan;

12 (C) is compatible with approved plans of other municipalities in the  
13 region; and

14 (D) contains all the elements included in subdivisions  
15 4382(a)(1)-(10)(12) of this title.

16 ~~(2) Prior to January 1, 1996, if a plan contains all the elements required~~  
17 ~~by subdivisions 4382(a)(1)-(10) and is submitted to the regional planning~~  
18 ~~commission for approval but is not approved, it shall be conditionally~~  
19 ~~approved.~~

20 ~~(e)(2)~~ A commission shall give approval or disapproval to a municipal  
21 plan or amendment within two months of its receipt following a final hearing

1 held pursuant to section 4385 of this title. The fact that the plan is approved  
2 after the deadline shall not invalidate the plan. If the commission disapproves  
3 the plan or amendment, it shall state its reasons in writing and, if appropriate,  
4 suggest acceptable modifications. Submissions for approval that follow a  
5 disapproval shall receive approval or disapproval within 45 days.

6 ~~(d)~~(3) The commission shall file any adopted plan or amendment with  
7 the Department of Housing and Community Development within two weeks of  
8 receipt from the municipality. Failure on the part of the commission to file the  
9 plan shall not invalidate the plan.

10 (c)(1) As part of the interim consultation process and review under section  
11 4386 of this title, the commission shall consider whether a municipality is  
12 implementing its adopted plan. In order to retain confirmation of the planning  
13 process, a municipality must document that it has reviewed and is actively  
14 engaged in implementing its adopted plan. A regional commission shall  
15 review the plan interim report submitted by the municipality under section  
16 4386 of this title and confirm the municipal planning process if it finds:

17 (A) the submitted report meets the requirements of section 4386 of  
18 this title; and

19 (B) the municipality is actively engaged in implementing plan  
20 objectives as recommended in the adopted plan.

1           (2) The interim consultation may include recommendations by the  
2           regional planning commission for plan amendments and for updating the plan  
3           prior to readoption under section 4387 of this title.

4           ~~(e)~~(d) During the period of time when a municipal planning process is  
5 confirmed:

6           (1) The municipality's plan will not be subject to review by the  
7 Commissioner of Housing and Community Development under section 4351  
8 of this title.

9           (2) State agency plans adopted under 3 V.S.A. chapter 67 shall be  
10 compatible with the municipality's approved plan. This provision shall not  
11 apply to plans that are conditionally approved under this chapter.

12           (3) The municipality may levy impact fees on new development within  
13 its borders, according to the provisions of chapter 131 of this title.

14           (4) The municipality shall be eligible to receive additional funds from  
15 the municipal and regional planning fund.

16           ~~(f)~~(e) Confirmation and approval decisions under this section shall be made  
17 by majority vote of the commissioners representing municipalities, in  
18 accordance with the bylaws of the regional planning commission.

1 Sec. 2. 24 V.S.A. § 4385 is amended to read:

2 § 4385. ADOPTION AND AMENDMENT OF PLANS; HEARING BY  
3 LEGISLATIVE BODY

4 \* \* \*

5 (d) Plans may be reviewed from time to time and may be amended in the  
6 light of new developments and changed conditions affecting the municipality.

7 An amendment to a plan does not affect or extend the plan's expiration date.

8 Sec. 3. 24 V.S.A. § 4386 is added to read:

9 § 4386. INTERIM REVIEW AND REPORT

10 (a) Five years after an initial adoption or re adoption of a plan, the planning  
11 commission shall conduct an interim review of the plan that shall focus on the  
12 status of the plan's recommended implementation program adopted under  
13 section 4382 of this title.

14 (b) As part of the interim review, the planning commission shall prepare a  
15 written report to be submitted to the municipality's legislative body and, on  
16 approval by that body, submitted to the regional planning commission for  
17 review under section 4350 of this title. The report shall include:

18 (1) a brief description of plan amendments proposed and enacted since  
19 the plan was last adopted or readopted;

1           (2) the status of the plan’s implementation program, including actions or  
2           programs undertaken or proposed to implement the plan and their associated  
3           outcomes; and

4           (3) for the next plan update, a proposed timeline and particular issues to  
5           be addressed.

6           Sec. 4. 24 V.S.A. § 4387 is amended to read:

7           § 4387. READOPTION OF PLANS

8           (a) All plans, including all prior amendments, shall expire every ~~five~~ 10  
9           years unless they are readopted according to the procedures in section 4385 of  
10          this title.

11          (b)(1) A municipality may readopt any plan that has expired or is about to  
12          expire. Prior to any readoption, the planning commission shall review and  
13          update the information on which the plan is based, and shall consider this  
14          information in evaluating the continuing applicability of the plan. In its  
15          review, the planning commission shall:

16                 (A) consider the interim report prepared under section 4386 of  
17                 this title;

18                 (B) engage in community outreach and involvement in updating  
19                 the plan;

20                 (C) consider consistency with the goals established in section 4302 of  
21                 this title;

1           (D) address the required plan elements under section 4382 of  
2 this title;

3           (E) evaluate the plan for internal consistency among plan elements,  
4 goals, objectives, and community standards;

5           (F) address compatibility with the regional plan and the approved  
6 plans of adjoining municipalities; and

7           (G) establish a program for implementing the plan, including its  
8 schedule.

9           (2) The readopted plan shall remain in effect for the ensuing ~~five~~ 10  
10 years unless earlier readopted.

11           (c) Upon the expiration of a plan, all bylaws and capital budgets and  
12 programs then in effect shall remain in effect, but shall not be amended until a  
13 plan is in effect.

14           (d) The fact that a plan has not been approved shall not make it  
15 inapplicable, except as specifically provided by this chapter. Bylaws, capital  
16 budgets, and programs shall remain in effect, even if the plan has not been  
17 approved.

18 Sec. 5. EFFECTIVE DATE

19           This act shall take effect on July 1, 2015.