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Department of Housing and Community Development
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*Agency of Commerce and
Community Development*

MEMORANDUM

To: Faith Ingulsrud
From: Dale Azaria, General Counsel, DHCD *DAZ*
Re: Municipal Plan Amendments and Regional Reviews
Date: May 12, 2015

The regional planning commissions are required to review the planning processes of their member municipalities at least twice every eight years pursuant to 24 VSA § 4350(a). When the RPCs make that review they “confirm” the municipal planning process. On a separate but related track, municipal plans must be re-adopted every five years. 24 VSA § 4387. When that occurs, the RPC reviews and “approves” the plan pursuant to 24 VSA §4350(b).

I understand that you’ve been asked whether the a planning process can remain confirmed, and/or whether a plan can remain “approved,” if the plan is amended but the amended plan does not include all of the required plan elements in 24 VSA § 4382. This question comes up most often when there is a need to determine whether a municipality is eligible for certain benefits that are only available to municipalities with a confirmed planning process. For example, the plan may have been amended to add maps but not a flood resilience plan.

In my view, the planning process remains confirmed until the next regular review of the municipal planning process, and the plan remains approved for the full five-year cycle, even if the plan is amended without adding all new required elements. If a plan is amended mid-cycle, the confirmation and approval do not need to be re-visited. The RPC may be asked to review the amendment, or may review the amendment of their own volition. They can review the amendment without reviewing the entire plan or planning process. If they do so, the full review should still occur on the regular schedule – i.e. the “clock” is not “re-set” on the review. If the amendment is so drastic that it raises concerns about whether the plan is still acceptable, the RPC may choose to review the entire plan (or planning process) at any time, but a simple amendment does not automatically trigger a complete review.

The RPC may use its discretion to determine whether regional review of an amendment warrants the public hearing notice required in 24 VSA §4350 (b)(1). For example, a minor change to a map to add a village center designation boundary may only require a memo to Vermont Downtown Board confirming that the amendment is in conformance with the municipal and regional plans. An amendment to add a new land use district may warrant public notice of regional review and approval. Note that at the municipal level, the procedures for amending a municipal plan are the same as the procedures for adopting the plan. See 24 V.S.A. §4385.

I hope this provides the guidance you were looking for. Please let me know if there are any other questions!

