

This year the Vermont Legislature added a 13th planning goal to the Vermont Municipal and Regional Planning and Development Act (24 V.S.A. Chapter 117). How soon must town plans be amended to comply with this law?

July 1, 2003 was the effective date of the new statute (24 V.S.A. § 4302(c)(13)), enacted as part of Act 67, An Act Relating to Job Creation and Development. The text of the new planning goal reads:

(13) To ensure the availability of safe and affordable child care and to integrate child care issues into the planning process, including child care financing, infrastructure, business assistance for child care providers, and child care work force development.

According to law, municipal plans must be consistent with the goals established in § 4302 and compatible with approved plans of other municipalities in the region and with the regional plan. Municipal plans must be updated and readopted every five years. 24 V.S.A. §§ 4382, 4387.

Done correctly, the amendment process is generally lengthy and costly. As a result, many municipalities compete annually for state planning grants to fund this work. In order to be eligible for state planning grants, the regional planning commission (RPC) of which the municipality is a member must approve the municipal plan. As part of this approval process, the municipal plan is evaluated for consistency with each of the state planning goals as specified in § 4302. As of July 1, 2003, those goals now include the 13th planning goal on childcare.

As a result, questions have arisen as to how RPCs should review municipal plans, or revisions to municipal plans, that they are asked to confirm before the next Municipal Planning Grant round of funds. A July 30, 2003 memorandum, reprinted in part below, issued by John Hall, Commissioner, Department of Housing & Community Affairs, provides guidance as to how RPCs and municipalities should proceed:

Plans adopted prior to July 1st (2003) had no obligation to consider the new planning goal. As such, it is the Department's view that RPCs should not withhold confirmation because of failure of such plans to include the new planning goal.

Towns that have not adopted, but are too far into the adoption process to include § 4302(c)(13) in any meaningful way before they run out of time to apply for Municipal Planning Grants, should follow 24 V.S.A. § 4302(f)(1). This requires the planning body to make a determination on relevance or attainability of any planning goal not included, to provide an explanation as to why the determination was made, and to provide an explanation as to how future action might mitigate any adverse impact from failing to make substantial progress toward attainment of this new goal. The newness of this planning requirement should provide grounds for the relevance or attainability finding. It is the Department's view that RPCs should not withhold confirmation of plans adopted in this manner that are adequate in all other manner.

RPCs should continue with this process for plans submitted for confirmation until the end of 2003, after which municipalities should be in a position to submit plans that have incorporated the child care planning goal.

We thank the Department for clarifying this question.

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