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The Municipal Plan

A Plan is a vision, a vision tempered by reality and a course of action.
—Darby Bradley, President, Vermont Land Trust

2.1 Definition of the Plan

2.1.1 General Description

The municipal plan is both a thorough research document of the community's present condition and a guide for accomplishing community aspirations and intentions through public investments, land use regulations and other implementation programs. Plans are based upon surveys of existing conditions and probable future trends in the municipality, the regions, and the state. Based on these surveys and trends, plans should identify residential, commercial, and industrial uses, forests and agriculture, and public facilities that are needed. Sufficient space and appropriate locations for these uses should be provided. The implications of planned uses on adjoining communities and the region must be considered as well.

When planning land uses, the following factors should be considered:

- the capability of the land to support the uses
- the availability of community facilities and services necessary to accommodate the uses
- the need to prevent overcrowding of land and buildings
- the interrelationship and compatibility of proposed land uses with existing ones
- the need to ameliorate undesirable conditions
- the consistency with other policies of the community.

A municipality is not *required* to plan, but is *enabled* by statute to develop and adopt a municipal plan. If a community chooses to do so, Chapter 117 sets forth the elements that are required as part of a municipal plan. **24 V.S.A. §4382.**

2.1.2 The Elements of a Municipal Plan

In order to adequately analyze the current condition of the community and establish a course of action for achieving a desired vision, the municipal plan must contain ten specific sections, or "elements," which cover various aspects of land use issues. These elements, required by statute, should describe in detail how identified needs and opportunities are to be addressed. The information in all the elements should also indicate how each of the 12 state planning goals listed in **24 V.S.A. §4302** will be reached. The ten required elements are: (See **24 V.S.A. §4382(a)** for full text.)

1. a statement of objectives and policies to guide the future growth and development of land, public services and facilities, and to protect the environment
2. a land use plan consisting of a **map** and statement of present and prospective land uses
3. a transportation plan (**map** and statement) showing existing and proposed highways and streets, and other transportation facilities, including parking, public transit, terminals, bike paths, and scenic roads
4. a utility and facility plan (**map** and statement) showing existing and proposed educational, recreational, and other public sites and facilities, including hospitals, libraries, power generating plants and lines, water supply, sewage disposal, refuse disposal, storm drainage, and recommendations to meet future needs for community services
5. a statement on the preservation of rare and irreplaceable natural areas, scenic and historic features and resources
6. an educational facilities plan (**map** and statement) of present and projected uses and needs
7. a recommended program for the implementation of the plan
8. a statement of how the plan relates to plans and development trends of neighboring communities and the region
9. an energy plan, including an analysis of energy resources, needs, scarcities, costs, and problems; a statement on conservation of energy; a statement on development of renewable energy resources; and a statement on patterns and densities of land use likely to result in conservation of energy
10. a housing element, including a recommended program for addressing the housing needs of low and moderate income persons.

Remember, all ten elements must be included for the plan to meet the requirements of Chapter 117. Otherwise, there is a chance that the plan, if challenged, might not be considered a legal plan. If this determination were made in court, the municipality would not be able to use their plan in Act 250 (see section 2.6.3 of this manual). It also could not be used as a basis for local zoning.

Likewise, a plan that does not include the four required maps has the chance of being considered incomplete and thus not a true plan. The four required maps are land use, transportation, utilities and facilities, and educational facilities. Other elements, such as natural and historic resources, may also include maps. (See Chapter 5 of this manual for a discussion on mapping.) The topics may be covered on separate maps or combined together on one or several maps. However they are done, the map or maps of the four required elements need to be included in copies of the plan for it to be complete.

The ten elements are the topics that *must* be covered in the plan. The community may opt to include additional topics, such as, a section on economic development or health and social services.

The elements of the plan, addressing various aspects of land use within the community and potential changes to that land use, must relate to each other. Goals, objectives or recommended courses of action covering one element should be consistent with those found in the other elements. For example, your plan may end up containing objectives from different sections that, when taken together, might need some reconciling:

- promote economic development by recruiting new businesses to town
- maintain, without expanding, existing roadway, water and sewer systems
- growth and development should not exceed capacities of local facilities and services
- restrict growth, other than detached single family homes, to the village center
- reduce the amount of traffic congestion in the village

Reconciliation should be done before the plan is adopted to avoid later confusion and aggravation when trying to implement it. How these inconsistencies are reconciled is a process of weighing priorities, based on the community's needs and desires. It should be an open process, involving the community, for these kinds of decisions involve politically sensitive judgments.

2.1.3 Relationship of the State Planning Goals to the Plan Elements

As each element is addressed in the plan, the appropriate statewide planning goals should be taken into consideration. For example, in drafting the transportation element, one would be guided by *Goal 1* (historic settlement patterns), *Goal 4* (safe, convenient and efficient transportation network), *Goal 5* (protecting natural and historic features), *Goal 6* (quality air and other resources), *Goal 7* (energy efficiency), *Goal 8* (public access to recreational opportunities) and *Goal 12* (efficiency of public facilities and services). Other elements will be guided by some of the same goals along with other planning goals. Using the same twelve standards should help the different parts of the municipal plan achieve consistency as well as compatibility with other municipal, regional and state agency plans using the same standards. Table 2.1 shows how the state planning goals can relate to the elements of the municipal plan.

2.2 Purpose of the Plan

The principal purpose of a municipal plan is to be a guide for the achievement of short-term and long-term community goals. To do that, a good plan will:

- define the community's vision for its future
- state and promote community values in its goals, objectives and programs
- establish a process for orderly growth and development
- balance competing interests and demands
- provide for coordination and coherence in the pattern of development
- provide for a balance between natural and built environment
- reflect regional conditions and consider regional impacts
- be consistent with statewide goals and policies
- address both current and long-term needs
- give specific guidance while retaining enough flexibility to be useful when faced with unforeseen circumstances

2.3 Using the Plan

An adopted plan has the potential for many uses. Each plan will define the way it is to be used in its implementation section. The plan will be used by municipal officials (including planning commissions, selectboards, town managers), municipal departments, regional planning commissions, state agencies, the

Table 2.1
 RELATIONSHIP OF STATE PLANNING GOALS TO
 ELEMENTS OF THE MUNICIPAL PLAN

<i>Plan Element⁽¹⁾</i>	<i>Goals that Relate⁽²⁾</i>
1. statement of objective, policies, and programs	ALL
2. land use plan	ALL
3. transportation plan	1,4,5,6,7,8,12
4. utility and facility plan	7,8,9,12
5. policies on preservation of resources	5,6,7,9,10
6. educational facilities plan	1,3,7,12
7. recommended implementation program	*** ⁽³⁾
8. statement of how plan relates to neighbors and region	1,2,4,9,11,12
9. energy plan	1,4,7
10. housing element	1,3,4,11,12

(1) The *Plan Elements* are those contained in 24 V.S.A. §4382 (a) (1-10).

(2) The numbers listed are the goals contained in 24 V.S.A. §4302 (c) (1-12). See Figure 1.2 of this manual. The goal numbers listed under each element are the ones that *primarily* relate to that element. In addition, there are 4 “process” goals, contained in 24 V.S.A. §4302 (b) (1-4), which apply to the plan in general and the process of its development. See Figure 1.2 of this manual. Thus they relate to all 10 elements.

(3) This element does not relate directly to specific goals, but rather indirectly to all the goals through the other elements.

Environmental Board, as well as by residents and businesses. Among the uses of the plan are the following:

A long-term guide: The plan is a long-term guide by which to measure and evaluate public and private proposals that affect the future physical, social, and economic environment of the community.

A basis for community programs and decision-making: The plan is a guide to help achieve community goals. Information in the plan is used for developing the recommendations contained in a capital budget and program or an impact fee program, for establishing a community development program, and for providing direction and content of other public and private local initiatives, such as, farmland protection, recreation development and housing.

A basis for municipal regulatory actions: The plan serves as a foundation for the provisions of zoning regulations, subdivision regulations, an official map, shoreland bylaws, and flood hazard area bylaws, and as a guide for the decisions made under these regulations.

A source of information: The plan is a valuable source of information for local boards, commissions, citizens and businesses, and other governmental organizations, such as, neighboring towns, state agencies and regional planning commissions.

A source for planning studies: Few plans can address every issue in sufficient detail. Therefore, many plans often recommend further studies to develop policies or strategies to meet a specific need.

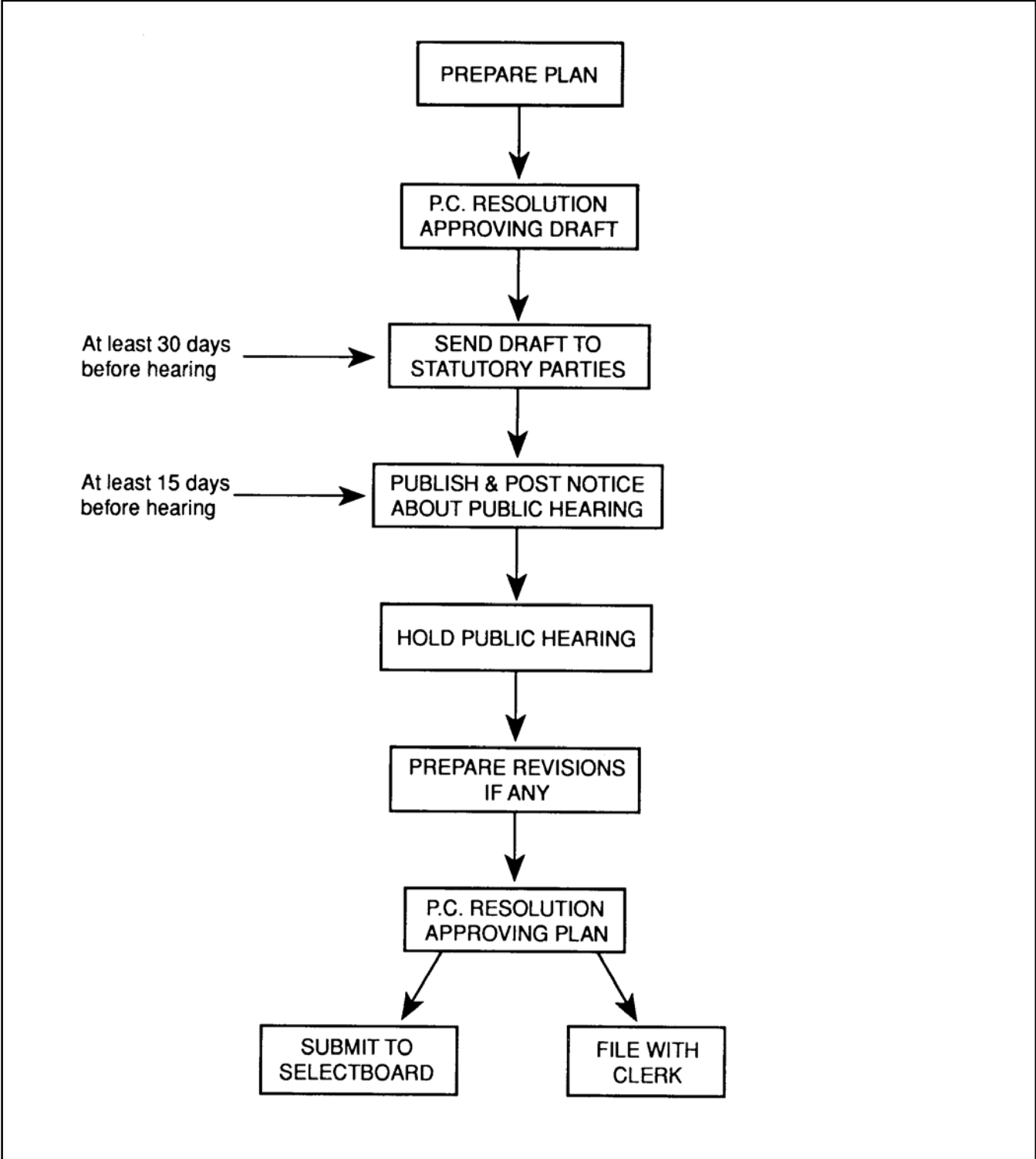
A standard for review at the state and regional levels: Act 250 and other state regulatory processes identify the municipal plan as a standard for review of applications. Municipal plans are important to the development of intermunicipal, regional and state agency plans and programs.

2.4 Preparation and Adoption of the Plan

2.4.1 Responsibility of the Planning Commission

The planning commission is responsible for preparing the plan, distributing the plan, holding public hearings on the plan, and submitting it to the legislative body for consideration. The planning commission must comment or prepare a report on any changes proposed by the legislative body. The planning commission must follow the specific requirements for preparation of the plan set forth in **24 V.S.A. §4384**. (See Figure 2.1 and Appendix A.)

Figure 2.1
PLAN ADOPTION
RESPONSIBILITIES OF THE PLANNING COMMISSION



2.4.2 Responsibility of the Legislative Body

Chapter 117 spells out the official role of the legislative body in developing and adopting the plan. According to the statute, the legislative body is responsible for reviewing the plan, holding public hearings on the plan, and adopting the plan. The legislative body may make changes to the plan in accordance with provisions of Chapter 117. (See Figure 2.2 and Appendix A.) **24 V.S.A. §4385.**

2.4.3 Adoption by Australian Ballot

If the voters of a municipality choose, either at a regular meeting, such as Town Meeting, or at a specially warned meeting, the municipality may adopt or amend its plan by Australian ballot. Once the town has decided to use this method of adoption, it must be used every time unless it is rescinded by the voters. Again, the meeting to rescind, either at a regular meeting or at a special one, must be properly warned according to **17 V.S.A. chapter 55.**

In order for adoption by Australian ballot to be effective, the selectboard and planning commission should take some precaution. Particular care must be made to include the public throughout the planning process so that the voters are informed of all the issues and impacts of the plan. In addition, remember that adoption by Australian ballot is a two-step process: the voters cannot vote on whether to adopt the plan until they have first chosen, by Australian ballot, to use this method of adoption.

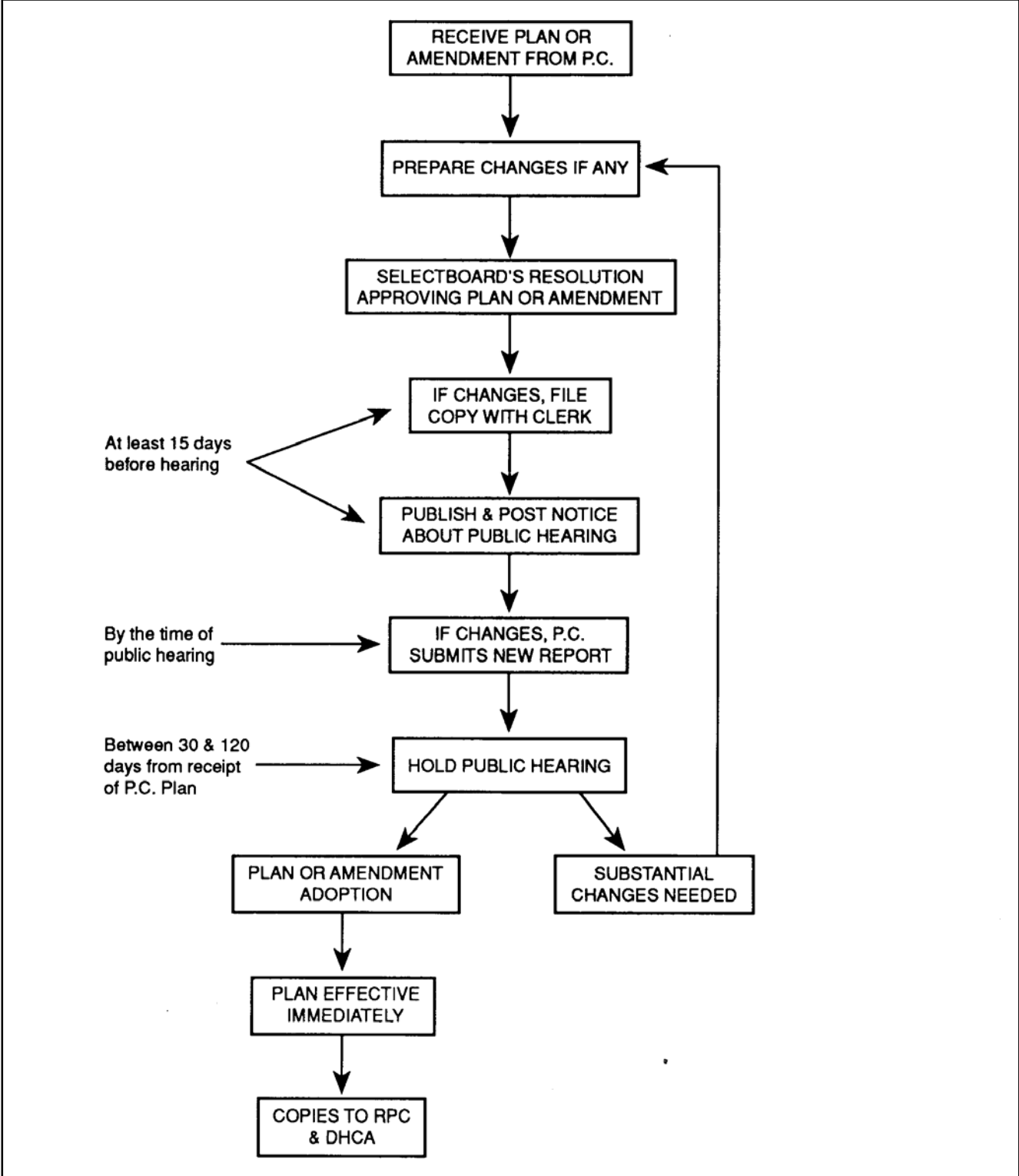
2.4.4 Public Participation

Vermont law requires that at least two public hearings (a planning commission hearing and a legislative body hearing) be held to ensure public involvement in developing plans before they are adopted. Larger municipalities must hold at least three hearings. In addition, to generate support and understanding throughout the planning process, more active community participation is essential.

Chapter 117 discusses citizen participation in two places. In **24 V.S.A. §4302(b)(2)**, citizen participation is encouraged at all levels of the planning process. **Section 4384(a)** directs the planning commission to solicit participation of local citizens and organizations at the outset of the planning process, as well as throughout the process, by holding informal working sessions.

Citizen participation is vital for assisting planning commission decisions concerning the plan and for promoting community

Figure 2.2
PLAN OR AMENDMENT ADOPTION
RESPONSIBILITIES OF THE LEGISLATIVE BODY



understanding of planning needs and issues. Citizens who are not well informed can present obstacles to the implementation of the plan through bylaw rejection and non-support of local programs. Developing a good plan requires a well-thought-out process for public participation. Chapter 4 of this manual contains a discussion on ways to involve the public in developing the plan.

2.4.5 Effective Date

The plan becomes effective immediately upon adoption by the legislative body or voters. **24 V.S.A. §4385.**

2.4.6 Adoption of Regional Plan by Municipality

Chapter 117 enables a municipality to adopt a regional plan or a portion of a regional plan as its municipal plan. The regional plan must have been prepared and adopted by the regional planning commission before it can be adopted by a municipality. The adoption procedures are the same as for a plan prepared by a local planning commission. **24 V.S.A. §4349.**

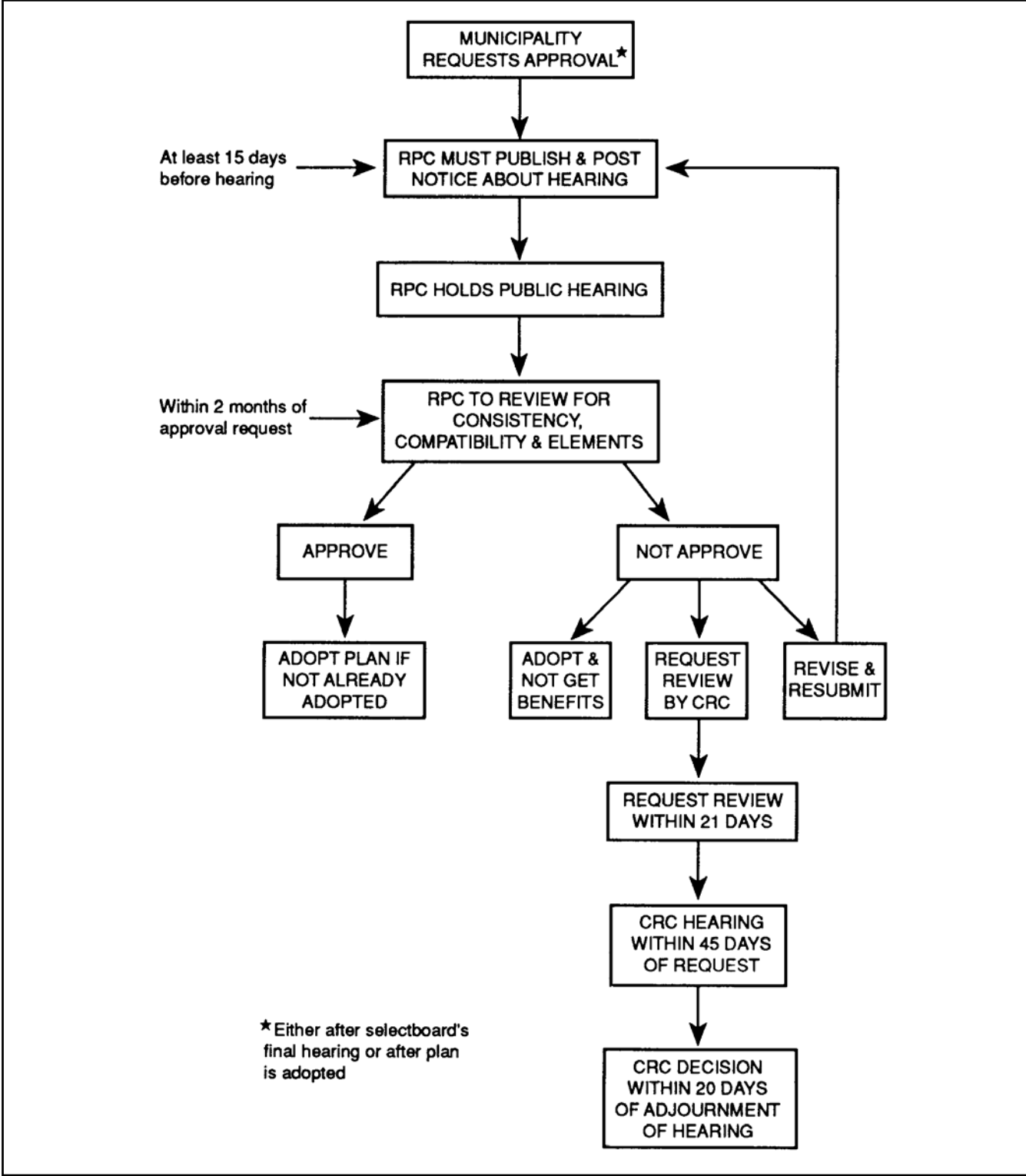
2.4.7 Municipal Plan Approval

If a municipality wishes to have its plan reviewed by the regional planning commission for consistency with the statewide goals and compatibility with the regional plan and approved municipal plans within the region, it may submit the plan to the regional planning commission after the last hearing by the legislative body, either before or after it is adopted. Review for approval is NOT required, but there are certain benefits a municipality can receive if its plan has been approved.

A town must have an approved plan to be confirmed. Confirmation is required for a town to receive state planning funds or levy impact fees. A town with an approved plan can request a review by the Council of Regional Commissions of a state agency plan for compatibility with its plan. However, even if a town does not request such a review, state agency plans must by law be compatible with approved municipal plans. **24 V.S.A. §4350.**

The law spells out the criteria under which the regional planning commission will conduct the review, and a time frame for its completion. The regional planning commission must hold a public hearing before rendering its decision. (See Figure 2.3 and Appendix A.)

Figure 2.3
MUNICIPAL PLAN APPROVAL
OPTIONAL



If the plan is approved or disapproved, the municipality's legislative body has three choices:

- They can modify the plan, based on recommendations, and resubmit it to the regional planning commission for review. If the plan was already adopted, it would have to go through the complete amendment process described in **24 V.S.A. §§4384 and 4385**; if it had not been adopted, it would need to go through only the stage described in **§4385**, OR
- They can ignore the decision and adopt the plan anyway, if not already adopted, OR
- They can request a formal review by the Council of Regional Commissions. Chapter 117 outlines the process of formal review in **24 V.S.A. §4476**.

An adopted plan that has not been approved by the regional planning commission is still a valid plan. It can be used as a basis for bylaw development or amendment; it can be used to guide municipal decisions, and it has standing in an Act 250 hearing, unless the project has significant regional impact (see Section 2.6.3 of this manual).

2.5 Maintenance and Amendment of the Plan

2.5.1 Responsibility of the Planning Commission

The planning commission is responsible for the maintenance and amendment of the plan. The plan automatically expires five years after the date of adoption. Before the plan expires, the planning commission must review and update the information on which the plan is based. Using this information, the planning commission must then decide whether the plan is still applicable or is in need of major change. If the plan is still applicable, the municipality may wish to readopt it rather than develop a new one. The readopted plan needs to include the updated data and must go through the same adoption procedures as a new plan. **24 V.S.A. §4387**.

During the five years that the plan is in effect, the planning commission may decide to make adjustments to the plan in its findings, base data, and implementation strategies. These adjustments are called amendments. Usually, overall policies guiding the future direction of growth in the community should not require amendment during this time. When a plan is amended, the planning commission holds a public hearing on the proposed amendment, not the whole plan. Whether the amendment is

adopted or not, the plan as a whole remains in effect. The expiration date of the plan is not extended with the adoption of an amendment, and the amendment expires with the plan; it does not have its own five-year lifespan. The expiration date is extended another five years only when the whole plan is readopted or a new one is adopted.

Municipal planners should keep in mind that an expired plan cannot be amended. It must either be readopted or a new plan developed and adopted. Although the municipal bylaws continue in effect after the plan expires, they cannot be amended until the plan is readopted or a new one is adopted. **24 V.S.A. §4387.**

2.5.2 Amendments Proposed by Other Parties

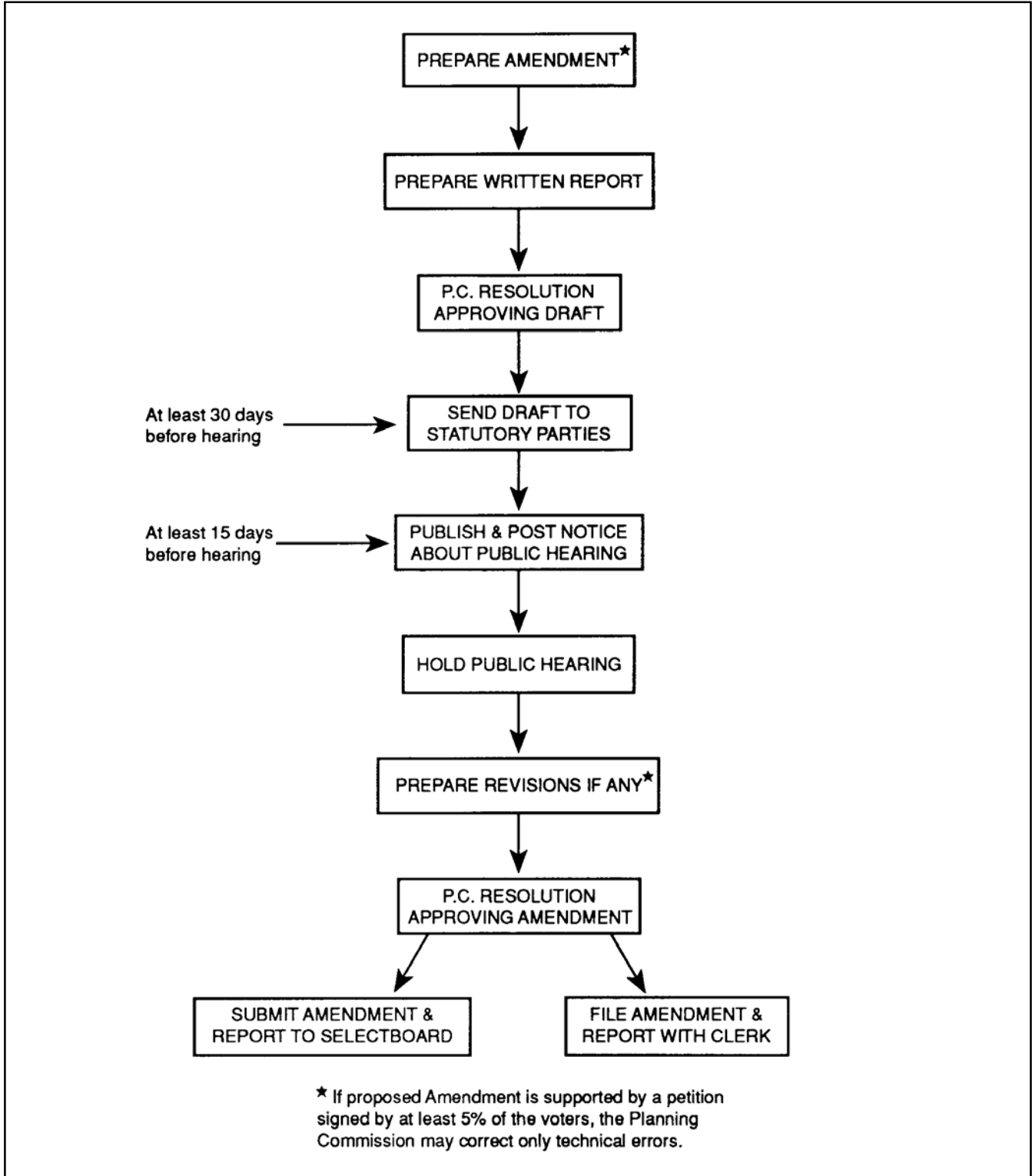
Persons or bodies other than the planning commission may propose amendments to the plan. The planning commission has the option to decide whether to hold a hearing on an amendment and can make changes to the amendment—except when the amendment is supported by a petition signed by 5 percent or more of the registered voters.

In cases where the amendment is supported by such a petition, the planning commission must proceed promptly to hold a hearing on the amendment, to prepare a report on the amendment, to distribute copies of the amendment, and to submit the amendment to the legislative body in accordance with Chapter 117. The planning commission may not alter the amendment except to correct technical deficiencies, such as, grammar, spelling and punctuation. The legislative body must also hold a hearing on the amendment but is under no obligation to adopt the amendment. **24 V.S.A. §§4384, 4385.**

2.5.3 Written Reports on Amendments

Chapter 117 requires the planning commission to prepare a written report on any proposed amendment. This report must address how consistent the amended plan is with the statewide goals found in **24 V.S.A. §4302.** (See figures 1.1 and 1.2 for a copy of the goals.) When a land use change is involved, the report must cover probable impact of the change on the surrounding area, long-term cost or benefit, amount of vacant land available for the proposed purpose, suitability of the area in question, and appropriateness of the size and boundaries of the proposed area. Chapter 117 describes the details of each point the report must cover. **24 V.S.A. §4384.**

Figure 2.4
AMENDMENT ADOPTION
RESPONSIBILITIES OF THE PLANNING COMMISSION



2.5.4 Readoption and Amendment Procedures

To readopt or amend a plan, the municipality follows the procedures already outlined in Section 2.4 of this manual for adoption of the plan. (See Figures 2.4, 2.1 and 2.2 and Appendix A.)

2.6.1 Proper Adoption Procedures

If the plan is to remain in effect and withstand legal challenges, the municipality must follow the adoption procedures for the plan set forth in Chapter 117. Plans have been invalidated by courts because municipalities have failed to follow these procedures. To avoid such challenges, municipalities should carefully review the provisions of **24 V.S.A. §§4384, 4385, and 4387**. To determine how time is to be computed, refer to **§4303a**. Municipalities should utilize the clerk's certification of adoption or amendment in Appendix A to record the steps taken. A good record of adoption actions, including careful minutes of resolutions adopted and actions taken, will minimize the threat of legal challenges.

2.6.2 Foundation for Municipal Regulations and Programs

To adopt or amend zoning regulations, subdivision regulations, an official map, a capital budget and program, and impact fees, Vermont municipalities must adopt and have in effect a municipal plan. According to Vermont law, the bylaws must be consistent with the plan and must have the purpose of implementing the plan. **24 V.S.A. §4401(a)**.

Because of this requirement, it is important that the plan contain a good foundation for the specific provisions the municipality wants to include in its bylaws. The data in the plan, the analysis of the issues, and the plan goals, objectives, and policies must provide a clear and logical basis for regulatory steps the community will take.

For a community to adopt a capital budget and program, the utilities and facilities element of the plan must describe current facilities, expected needs, and recommendations for meeting future needs. **24 V.S.A. §4404a**.

If a municipality does not have a solid basis in the plan for the regulations it puts into effect, these regulations can be challenged in court. The municipality must be able to demonstrate how its actions relate to an integrated, coordinated, and coherent plan for the community's future.

2.6 Legal Considerations

2.6.3 Use of the Plan in Act 250

Developments and subdivisions required to obtain a permit under Act 250 must conform with a duly adopted municipal or regional plan. The goals and policies in the plan must, therefore, be clear and detailed enough for such conformance to be determined. Although the plan is not a regulatory document and therefore does not need the same level of detail as a zoning regulation, both recommendations and objectives need to be specific and measurable. Not only will specificity be helpful for Act 250, but it will also help ensure local implementation of municipal policies. Several recent environmental board decisions, such as in *re:Molgano*, have further clarified that, if the town plan is found to be confusing on a point in question, the commission or board will turn to the town's zoning regulations to see how the town's intent has been implemented.

To the extent the provisions of a regional and a municipal plan conflict, the regional plan shall be given effect in Act 250 proceedings *if* the project under consideration would have a substantial regional impact. Municipalities should be aware that if they do not have a duly adopted local plan in effect, the project must be found to conform to the regional plan by the district environmental commission.