

## Two Rivers-Ottauquechee Regional Commission Protocol for Designating Future Land Use Areas

The following criteria and data are used when staff and Commissioners make land use area designations in the TRORC Regional Plan, in both text and maps, and during the regional approval of town plans, when evaluating whether local future land use areas and their associated text in town plans are consistent and compatible with the regional future land use areas and policies.

These criteria are drawn from statutory requirements, and so cannot be changed by TRORC, even when they are difficult to use. Comments have been added, in parentheses and italics, to translate how various criteria will actually be interpreted or used by TRORC so we can best meet the spirit, if not the letter, of the law.

This protocol does not cover the entire requirements for regional plans or local plan review by TRORC. That review checklist is located in a separate document. This protocol is meant to focus on planning requirements that can be simplified to ‘what should go where’?

### **A. Land Use Area Designation Criteria (for use in the regional plan and in town plans, mainly in the future land use maps):**

#### **1. Is the area consistent with the state land use planning goals found in 24 V.S.A. §4302 (state planning goals)?**

Does the regional/local future land use area, and the purposes and uses proposed or prohibited in the area, in combination with other areas:

- a. Maintain the historic settlement pattern of compact village and urban centers separated by rural countryside? *(Do towns have nodes of development? Do village and town centers have edges, or simply blur or spread out?)*
- b. Concentrate intensive residential development primarily in areas related to community centers, and not as strip development along highways? *(Is most new housing going to occur in village and town centers? Even in towns with no sewer and water there needs to be differences in density.)*
- c. Have the effect of encouraging economic growth in local designated growth areas? *(Will commercial establishments largely occur in village and town centers, especially those that contribute to a village/town center and that are meant to have a lot of public traffic?)*
- d. Expand economic opportunities in areas with high unemployment or low per capita incomes? *(How we judge this is hard as we have low unemployment and rural areas are*

*not necessarily lower income than more urban areas. We take this to mean, does the land use pattern create areas of wealth and areas of poverty?)*

- e. Preserve important natural and historic features of the Vermont landscape, including: significant natural and fragile areas; outstanding water resources, including lakes, rivers, aquifers, shorelands, and wetlands; significant scenic roads, waterways, and views; important historic structures, sites, or districts, archaeological sites, and archaeologically sensitive areas? *(These areas are best preserved by avoiding development in them, and if not, then policies that limit scale and mitigate adverse effects.)*
- f. Use the transportation system and other infrastructure efficiently and reduce scattered transportation demand? *(Is most new trip generation (homes and services) along the larger highways, and in areas with sewer/water? Is the pattern of that land use conducive to transit, biking, walking? Is mobility maintained between hubs and access managed accordingly?)*
- g. Have the effect of maintaining and improving water quality? *(Will the location and manner of development degrade water quality, or actually improve water quality?)*
- h. Maintain recreation opportunities? *(Will the location and manner of development impact recreational uses by impeding them or removing access to areas?)*
- i. Have the effect of strengthening agriculture and protect agricultural lands with low overall density? *(Will the location and manner of development mostly avoid lands currently in agriculture or lands with prime or statewide agricultural soils?)*
- j. Strengthen forest industries and maintain and improve forest blocks and habitat connectors with low overall density? *(Will the location and manner of planned development fragment forest blocks or habitat connectors? Will subdivisions increase parcelization of forests? Will development impede land management for forest products?)*
- k. Further the purpose of enabling housing that meets the needs of a diversity of social and income groups in each Vermont community, particularly for those citizens of low and moderate income? *(Do policies promote housing of types and locations that will be affordable and have access to transit, enable multi-unit design, or is close to social and medical services?)*
- l. Ensure that housing is located conveniently to employment and commercial centers? *(See 1.b above.)*
- m. Avoid flood hazard and river corridor protection areas? *(Is development barred from these areas, and if not, is there an overriding public benefit why not? Where development is allowed in these areas do standards provide flood protection for the site and prevent off-site impacts?)*
- n. Take into account future trends and needs? *(Is enough land available to meet human and natural needs for the next 8 years? Are trends beyond the region taken into account?)*

**2. Does the regional land use area further the purpose of a regional plan as found in 24 V.S.A. §4347 (purposes of a regional plan)?**

Does the regional land use area, and the purposes and uses proposed or prohibited in the area, in combination with other areas, recommend a distribution of population and of the uses of the land for urbanization, trade, industry, habitation, recreation, agriculture, forestry, and other uses as will tend to:

- a. Create conditions favorable to transportation, health, safety, civic activities, and educational and cultural opportunities?
- b. Reduce the wastes of financial, energy, and human resources which result from either excessive congestion or excessive scattering of population? *(Will the pattern of location of new development use less time, money or energy than other patterns?)*
- c. Promote an efficient and economic utilization of drainage, energy, sanitary, and other facilities and resources? *(see 1.f above)*
- d. Promote the conservation of the supply of food, water, energy, and minerals? *(See 1.e above. Also, will the policies result in less energy use and the sustainable use of mineral (sand, gravel and stone) resources?)*
- e. Promote the production of food and fiber resources and the reasonable use of mineral, water, and renewable energy resources? *(See 1.i and 1.j above as they relate to preserving the land base for agriculture and forestry, and 1.g. above as it relates to water quality. This criterion also covers the desire to use these resources, and so is their responsible use promoted in policies or recommendations?)*
- f. Promote the development of housing suitable to the needs of the region and its communities. *(See 1.k and 1.n above.)*

**3. Does the regional land use area text and maps satisfy the requirements of a regional plan as found in 24 V.S.A., §4348a (elements of a regional plan)?**

Does the regional land use area, and the purposes and uses proposed or prohibited in the area, in combination with other areas:

- a. Indicate those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses, open spaces, areas reserved for flood plain, and areas identified by the State, regional planning commissions, or municipalities that require special consideration for aquifer protection; for wetland protection; for the maintenance of forest blocks, wildlife habitat, and habitat connectors; or for other conservation purposes. *(Does the regional future land use area map and text specify the areas, with accompanying policies, that reasonably cover these uses/areas so that enough lands are denoted to meet the purposes for which they are designated?)*
- b. Indicate those areas within the region that are likely candidates for designation under sections 2793 (downtown development districts), 2793a (village centers), 2793b (new

- town centers), and 2793c (growth centers) of this title. (Does the current or future land use map show existing or potential areas for such state designation?)
- c. Indicate locations proposed for developments with a potential for regional impact, as determined by the regional planning commission, including flood control projects, surface water supply projects, industrial parks, office parks, shopping centers and shopping malls, airports, tourist attractions, recreational facilities, private schools, public or private colleges, and residential developments or subdivisions. *(Does the future land use, current land use, utilities and facilities, or education map and polices show where these should go?)*
  - d. Set forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and services. *(Does the intensity of proposed uses in the proposed locations match the needed current infrastructure, or is there planned infrastructure to meet those needs?)*
  - e. Indicate those areas that have the potential to sustain agriculture and recommendations for maintaining them which may include transfer of development rights, acquisition of development rights, or farmer assistance programs. *(See 1.i and 3.a above as they relate to preserving the land base. Are additional management policies or recommendations present that would promote and sustain agriculture?)*
  - f. Indicate those areas that are important as forest blocks and habitat connectors and plans for land development in those areas to minimize forest fragmentation and promote the health, viability, and ecological function of forests? *(See 1.j above.)*

When drafting and preparing to adopt the Regional Plan, TRORC follows regional plan notification and adoption procedures articulated in 24 V.S.A., §4348. In addition, the following steps beyond current legal requirements are designed to enhance communication and feedback during the adoption process for towns where regional land use area changes are contemplated:

- review local plan future land use area maps for mismatches with proposed regional plan maps and reconcile within the bounds of statutory requirements, current regional policy, and available data;
- provide the local planning commission, selectboard and regional commissioner with written description of map changes within their town at least 30 days prior to first formal public hearing accompanied with an offer to meet;
- provide one town-wide map showing old versus new areas with call-out labels; and
- provide one enlarged map of each changed area per town.

## B. Town Plan Review

When reviewing a town plan for regional approval, TRORC must find that the town's plan 1) contains the required elements of town plans found in 24 V.S.A., §4382, 2) is consistent with the state planning goals found in 24 V.S.A., §4302 (these are listed under 1 above), and 3) that the town plan is consistent with the regional plan's maps and policies.

This protocol has to do with part of that review where TRORC checks whether the future land use areas in extent and policy conform to the regional plan. A difference in policy or map extent of future land use areas between the town and the regional plans is not simply sufficient to warrant a finding that the town plan is not compatible with the regional plan, as that test is laid out in 24 V.S.A., §4350.

Per the statute, the test is, would the town plan as implemented significantly reduce the desired effect of the implementation of the regional plan? In this review, it must be remembered that all policy statements that are not explicitly mandatory are advisory and permissive. Therefore, in instances where the regional plan has a policy statement that *prohibits* something, then it must be met with a similar policy at the town level, unless the town has adopted regulations so that the town plan *as implemented* does not reduce the effect of the regional plan. For example, when a town plan only *discourages* something in an area that is *prohibited* in the regional plan, it is still allowed by the town in that area. That creates a potential reason for regional disapproval, as the local plan would still allow development that the regional plan would not. However, if the town plan's discouragement has been followed up by town zoning that prohibits it, then the town plan *as implemented* matches the regional plan.

During staff review, answering in the affirmative to any of the following will result in a recommendation to the TRORC Board that the town plan is not compatible with the regional plan:

- a. The town plan text and map would allow a use that the regional plan would prohibit in that area, there is no adopted regulation based on the plan that is prohibitive of that use, and the effect of the plan in terms of potential incompatible land use would warrant TRORC involvement at the Act 250 level.
- b. The town plan text and map would allow a significantly greater intensity of development than the regional plan would in that area, and there is no adopted regulation based on the plan where the intensity is similar to that of the regional plan.
- c. The town plan text and map would allow a significantly different location of a use than the regional plan would, and there is no adopted regulation based on the plan such that uses in these locations would have an effect that is not significantly different than the regional plan.

If TRORC determines that the town plan includes the required elements of a town plan, and is consistent with the state planning goals, but would significantly reduce the desired effect of the regional plan under a-c above, the statute allows that a town plan may still be considered compatible by TRORC if the town provides:

- a statement that identifies the ways that its plan will significantly reduce the desired effect of the regional plan;
- an explanation of why any incompatible portion of the town plan in question is essential to the desired effect of the town plan as a whole;
- an explanation of why, with respect to any incompatible portion of the town plan in question, there is no reasonable alternative way to achieve the desired effect of the town plan; and
- an explanation of how any incompatible portion of the plan in question has been structured to mitigate its detrimental effects on the implementation of the other plan.