



**TOWN OF MORRISTOWN PLANNING COMMISSION
MEETING NOTICE & AGENDA
COMMUNITY MEETING ROOM
43 Portland St. Morrisville, VT 05661
5:00 PM Tuesday, July 8, 2025**

[Join Zoom Meeting](#) or by phone join via conference call (audio only): 1 (646) 558-8656 | Meeting ID: [810 342 4528](#) | Passcode 05661

The meetings will be live-streamed on the Town of Morrystown's website: <https://www.morrystownvt.gov/community/page/meetings-agendas-minutes>

I. CALL TO ORDER

II. AGENDA CHANGES/ADDITIONS

III. APPROVE PRIOR MEETING MINUTES

1. Approve Minutes of 6-26-25

IV. NEW BUSINESS

1. Review educational materials.
2. Discuss public hearing of 6/26/25.
 1. Comments about the meeting.
 2. Discuss timeline for Selectboard Review.
 3. Discuss any concerns with review process.
 4. Why other legal reviews.
3. Consider a timeline for revisions of the Zoning Bylaws.
4. Discussion of Lamoille County Planning Commission land use maps and how our zoning districts fit inside them.

V. OLD BUSINESS

VI. CORRESPONDENCE/NOTICES

VII. ADJOURN



**PLANNING COMMISSION MEETING MINUTES
OF JUNE 26, 2025**

Members: Etienne Hancock, John Meyer, James Morris,

Absent: Joshua Goldstein, Wally Reeve

ADMINISTRATION and STAFF: Tyler Machia, Zoning and Planning Administrator

PARTICIPANTS/GUESTS:

A POSSIBLE QUORUM OF PLANNING COMMISSION MEMBERS COULD BE PRESENT AT THE SELECTBOARD PUBLIC HEARING ON JUNE 26TH AT 5:30PM.

A quorum of commission members were present at the Selectboard public hearing. The following are the minutes from the Selectboard public hearing.

Etienne Hancock, chair of the Planning Commission, provided a summary of the proposed changes to the 2025 Zoning Bylaws, which included Ron Rodjenski's, summary of items for the meeting. It was noted that one of the main focuses of these proposed changes was to make sure that the 2025 Zoning Bylaws comply with the Town Plan. Etienne noted that the reasons for these proposed changes were mixed. Some changes were required to comply with new state laws. Others were intended to help grow more housing in areas where it is desirable. This was a broad-ranging discussion that encompassed a wide range of changes. One of the topics the board discussed was adding in cottage courts as a way of allowing denser development without having to put the units all in one building. There was also discussion around removing the old shelter definition from the use table in Section 204.5a of the Morristown Zoning and Subdivision Bylaws. It was noted that state law requires them to be permitted in all districts. The Board also discussed the parking requirements found in the regulations. Ron Rodjenski noted that the ITE specifications should be added to the zoning regulations to make it easier to assign parking requirements for different uses. Etienne also pointed out that the number of new lots that can be created through a Minor Subdivision went from 1 to 2. This means a minor subdivision would consist of up to three lots (2 new or fewer new lots and 1 original lot). Discussion ensued regarding item # 820 Private Roads, Brent Raymond asked if the language concerning town care for driveways versus roads needed clarification. Ron agreed that the change was legally defined as a minor change and, therefore, acceptable. There was a lot of discussion regarding public sewers and what it means to be served by water and sewer. It was noted that the SSA is smaller than SSMA, which private developers could use to justify denser development of a lot. The Board noted that they wanted legal counsel to weigh in on this issue. Brent Raymond noted that he would be contacting Scott Johnstone to address the topic of public sewers and density with the Trustees. Given the amount of outstanding legal questions, It was decided to recess the public hearing until legal counsel is available. Ron noted that this draft of the Zoning Bylaws are a final draft submitted to the Selectboard for minor changes, and it does not have to be re-warned provided the hearing is continued to a date certain. Any major changes would need to be returned to the Planning Commission for comment.

Motion made by Chris Palermo to recess the Public Hearing until September 2nd at 5:30 PM at the Morristown office at 43 Portland Street. Motion seconded by Richard Craig. Motion carried (5/0).

Please note all minutes are in Draft form and are subject to approval at the next Planning Commission meeting.



The Municipal Plan

State Planning Manual - Module 1
April 2017

Published in 2017 by the Vermont Department of Housing and Community Development.

Date of last update: April 1, 2017.

Content and design was created by DHCD Staff, and Sharon Murray AICP of Front Porch Community Planning and Design. Elements of the manual were inspired by and borrow from the Louisiana Land Use Toolkit developed by the very talented people at the Center for Planning Excellence and Code Studio.

This manual was developed in accordance with Section 4304 of Title 24, Vermont Statutes Annotated.

Acknowledgments

Thanks to our local and regional partners and our sister agencies for coming together to work as a team to rethink the municipal planning process and make the Planning Manual a nimbler and more useful resource for Vermont communities. Their support, guidance, feedback, and energy helped move this project across the finish line.

Special thanks to all the individuals who participated in our focus groups. Your insights, professionalism, and thoughtful feedback shaped both the process and final product.

Thanks to the more than 300 volunteers who participated in the community surveys, attended meetings, and offered their perspectives to refine this document.

We are grateful to Sharon Murray, Front Porch Community Planning Inc., for bringing her deep experience and knowledge of planning in Vermont to reviewing the manual and writing some of the more technically challenging sections. We want to recognize Julian Kelly, a Montpelier High School graduate, who designed and laid out the manual just prior to heading off to the Rhode Island School of Design. He astonished us with his keen design sensibilities, consummate technical skills, and professional demeanor.

A final thanks to John E. Adams for leading this project and the Department's Community Planning and Revitalization team for all their hard work building strong communities. I am amazed by your enthusiasm, innovation, and determination to make great places that residents and businesses want to call home.

The Department of Housing and Community Development looks forward to working with communities, regional planning commissions, and our state partners to use the Planning Manual to improve Vermont's quality of life. Anything new needs tuning and adjustment, and your experience working with the new Planning Manual is important to our Department. We welcome your comments, suggestions, and feedback on how we can improve the manual and better serve communities.

Noelle MacKay, Commissioner

Department of Housing and Community Development

March 2016

4 Introduction

- 5 Why Plan?
- 7 What Is A Municipal Plan?
- 10 Regional and Statewide Planning
- 12 Municipal Planning Process: Actors and Roles
- 14 Work Plans, Public Engagement and Budgets
- 20 Contents and Format of the Plan

21 The Five Steps

- 22 Step 1: Conduct a Community Assessment
- 42 Step 2: Develop a Shared Community Vision
- 51 Step 3: Identify Community Goals and Objectives
- 63 Step 4: Map Out the Future
- 75 Step 5: Make It Happen

80 Working with Existing Plans

- 81 Make Use of Existing Plans
- 83 Annual Status Updates
- 84 Plan Amendments and Readoptions
- 85 Five-Year Review

88 Appendix 1: Guidance and Information for Planning Commissions

- 89 Legal Framework
- 91 Roles
- 93 Municipal Boards, Commissions, and Committees
- 99 Preparation and Adoption of the Plan
- 105 Required Plan Elements
- 107 State Planning Goals
- 109 Checklist: Municipal Plan Adoption (Planning Commission)
- 111 Checklist: Municipal Plan Amendment (Planning Commission)
- 113 Checklist: Municipal Plan Amendment / Adoption (Selectboard / City Council)
- 115 Checklist for Regional Approval of Municipal Plan

117 Appendix 2: Use of the Municipal Plan in Permitting

- 117 Planning in Advance of Permitting
- 119 Act 250 Review
- 123 Section 248 Public Utilities and the Public Service Board

HYPERLINKS ARE EMBEDDED THROUGHOUT THIS MANUAL AND ARE ALL LISTED ON PAGE 128.



BETHEL

Introduction

This Edition of the Vermont Planning Manual

- Helps communities make plans that are user-friendly and concise;
- Presents a new approach to creating a vision that clearly identifies where and what communities want to maintain, evolve, or transform;
- Focuses on what matters most — identifying the actions that will turn that vision into reality.

WE ALREADY HAVE A PLAN...

86 percent of Vermont municipalities already have a plan and are not starting from scratch. This manual provides up-to-date information and guidance whether you are completely overhauling the plan or adopting a minor amendment. We've even included a chapter to help you evaluate your existing plan.

Why Plan?

Planning for economic development, housing needs, infrastructure, and environmental health are fundamental responsibilities of Vermont's municipalities. In many ways, local planning is like retirement planning — many of us avoid charting a roadmap for our retirement future because it's overwhelming and easy to postpone. However, shelving important decisions that radically influence our future doesn't solve the problem, it makes it worse.

Developing a picture for the future and setting clear goals helps communities and individuals connect many smaller actions and measure achievement toward the larger goal. A guiding plan allows decisions to be made by considering the future of the community as a whole. Without it, short-term, shortsighted decisions can erode a community's quality of life, reduce its property values, and lead to higher taxes or wasteful spending.

“Among material resources, the greatest, unquestionably, is the land. Study how a society uses its land, and you can come to pretty reliable conclusions as to what its future will be.”

E.F. Schumacher, Economist

While often not recognized, town plans play a significant role in whether or not communities are able to continue maintaining infrastructure, attract residents and businesses, or support vital institutions. In most communities, volunteer planning commissioners are tasked with the work that professional staff planners provide in larger communities. Developing a town plan can be a daunting task for volunteers, and this manual is devoted to making that effort a little easier and more worthwhile.

To update this Planning Manual, which was last overhauled in 1988, we conducted statewide surveys and focus groups with volunteer and professional planners. Responses indicated that communities wanted more practical guidance that focused on what matters most: creating a shared vision and identifying actions that will turn this vision into a reality. It was clear that if Vermonters want a vibrant, healthy, and dynamic place to live, work, and invest, communities need up-to-date guidance on developing clear, concise, and effective plans.

Challenging tasks are made easier when broken down into manageable pieces. For this reason, the 2016 Planning Manual creates a new, 5-step process to help communities create plans that are clear and that won't end up just sitting on a shelf. It describes how to create a shared vision of what the community would like to maintain or work to evolve or transform over time. The manual explains how to prioritize realistic and achievable implementation actions and link them to programs that support implementation. Finally, it provides guidance on how to evaluate existing plans and identify ways to make them better.

Four good reasons to plan that are important to everyone in your community:

1. Paints a Clear Picture of the Future

Residents, institutions, and businesses want to understand the key issues facing their community and the direction they are heading. They want to know if the community plans to stay predominately rural, or if the vision calls for building new neighborhoods around a vital town center, or some combination of both. Developing this shared vision allows people to come together, set goals, and evaluate progress over time.

2. Makes Great Places

Vermont is already rich in great places to live, work, and play, but to keep them that way, communities need to take deliberate steps to maintain, improve, and revitalize them. Modern technology allows more people to live and work anywhere, and many choose the location first and find work once they get there. They look for places that focus on providing a high quality of life through the built, cultural, and natural environments. They choose walkable neighborhoods and authentic places over “Anywhere, USA” development patterns typical of auto-oriented suburbs. Similarly, more individuals and families seek to live in complete, connected communities and not just a subdivision or a remote house lot. Your plan provides the key to making and maintaining great places.

3. Establishes Transparent, Consistent, and Predictable Public Policy

When businesses or residents want to expand, relocate, or invest in a Vermont community, they should be able to look at the community’s plan and corresponding policies and regulations and understand the ground rules. They should be able to quickly determine where and how much they can build, and when they do, it should come as no surprise to their neighbors. A clear vision and plan establishes the foundation for the local regulations that everyone can understand and align with their own expectations for change.

4. Promotes Wise Investments and Helps Manage Future Costs

Like all people, Vermonters want it all — good public services, a high quality of life, and low taxes. When a community lacks a vision and plan for development, it can produce the opposite — low-quality services and loss of amenities at high costs. Development that is spread out and unplanned may initially feel rural and low maintenance, but over time, if allowed to continue, it will require significant expenditures to extend and maintain services and facilities throughout sparsely settled areas of the community. Planning can help manage the costs of community services, concentrating them to serve people and businesses more efficiently; then, every investment, public and private, can produce multiple social and economic benefits for all.

There are many other good reasons to plan, some of which are also covered in the next section of the manual, “What Is a Municipal Plan?”

What Is A Municipal Plan?

“A plan is a vision, a vision tempered by reality and a course of action.”

Darby Bradley, former president, Vermont Land Trust, 1990–2006

Municipal Plans

The one document essential to defining and implementing a community’s vision is the comprehensive municipal plan. The plan provides a framework toward attaining community aspirations through public investments, land use regulations, and other implementation programs such as a state-designated downtown or village center, business improvement districts, or land conservation programs. It can also qualify the community for state grants to fund improvements or receive specialized technical assistance.

Municipal plans can be used as

A long-term guide: The plan can be used to measure and evaluate public and private initiatives that affect the future physical, social, and economic health of the community.

A basis for decision-making, community programs, and taxpayer investments: The plan can help a community identify priorities for funding, establishing a capital improvement program, and directing other public and private local initiatives, such as farmland protection, housing development, or recreational facilities creation or improvement.

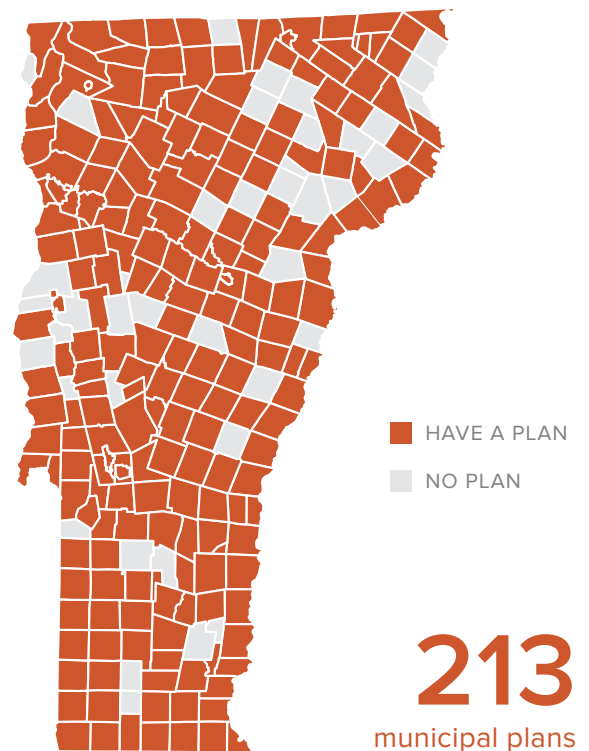
An action plan that identifies implementation steps: The plan details the programs and projects over the short term (one to two years), midterm (three to five years), and long term (six years or more) to achieve goals and objectives. Well-articulated implementation strategies can help leverage grant funding and other support for those actions.

A basis for municipal regulations: The plan serves as the foundation for zoning and subdivision regulations and bylaws to protect shorelands and flood-hazard areas from development. It underpins the official town map and guides local regulatory decisions.

HOW MANY MUNICIPAL PLANS ARE THERE IN VERMONT?

A municipality is political unit, such as a city, town, or village, incorporated for local self-governance.

*Based on data from September 2016.



84%
of municipalities have a plan



A source of information: The plan is a valuable source of facts and figures on things like population changes, economic trends, and future housing and infrastructure needs; it also locates and describes important historic and natural resources. Having this information well organized and easily accessible is quite valuable to numerous stakeholders: local boards, commissions, citizens and businesses, the press, and governmental organizations, including neighboring towns, state agencies, and regional planning commissions.

DID YOU KNOW THAT EVEN THE TOWN OF GLASTENBURY HAS A PLAN?

With two roads, eight houses, and a population ranging between four and 20 (depending on the day), even the tiny unincorporated Town of Glastenbury has a plan. If you are a small town debating whether or not you can undertake this process, take inspiration from this community that has had a plan since 1991. Being small has its advantages — like holding meetings on someone’s porch or hosting barbecues during your public hearings.

A source for strategic planning and studies: Few plans can address every issue in sufficient detail. Therefore, municipal plans often recommend further studies to develop policies or strategies to meet specific needs like creating more housing or managing stormwater.

A tool for coordination: Municipal plans are important in conveying a community’s vision for broader initiatives such as the development of intermunicipal, regional, and state agency plans and programs.

A source for community standards in state regulatory proceedings: Act 250, Vermont’s statewide land use law, the Section 248 permitting process for energy projects, and other state regulatory processes reference municipal plans as part of the permit process described in [Appendix 2](#).

EIGHT-YEAR PLAN, 20-YEAR VISION

Many municipal plans have thorough inventories describing the present but do not adequately address what the municipality strives to be in the future, nor do they state specific policies or programs to help residents make their desired future a reality. Imagine beyond the eight-year term and plan for what you want your community to be like in 20 years!

Municipal plans in Vermont are necessary to:



Empower local decisions by making it possible to adopt

- Zoning regulations
- Subdivision regulations
- Flood-hazard and other free-standing regulations
- A capital budget and program and charge impact fees



Influence state regulatory proceedings:

- Act 250 applications must conform to the municipal plan
- Applications for a Section 248 Certificate of Public Good must give due consideration to the municipal plan



Qualify and receive priority for certain state and federal programs, including

- Municipal planning grants*
- State designation programs*
- Downtown and village tax credits (and other benefits of designation)*
- Bicycle and pedestrian facilities funding
- Brownfield redevelopment funds
- Community development and affordable housing funds

*Requires a confirmed planning process that includes approval of the municipal plan by the regional planning commission.

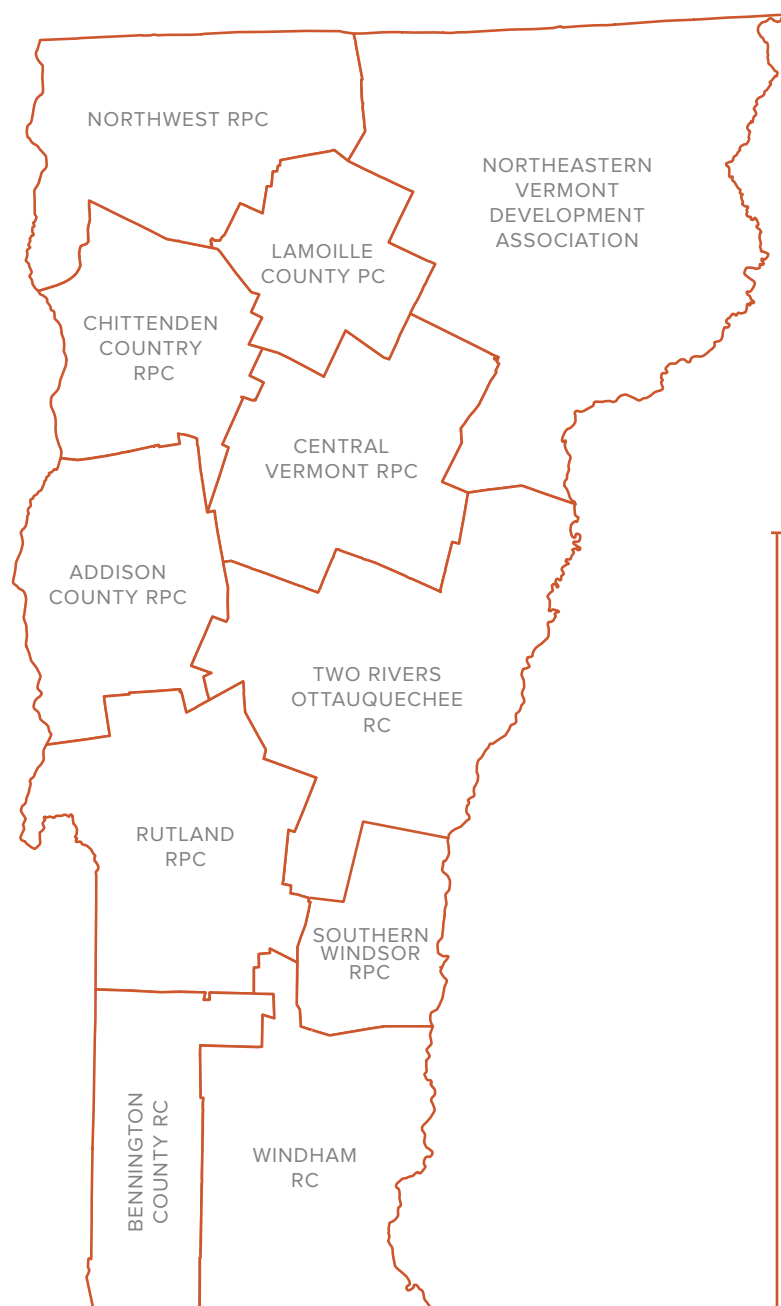


TOWNSHEND

Regional and Statewide Planning

Each of Vermont's 11 Regional Planning Commissions adopts a plan that in most respects parallels the content of municipal plans. According to Vermont law, a municipal plan is compatible with the regional plan and the plans of adjoining municipalities if the plan will not significantly reduce the desired effect of those other plans.

Vermont law enables a municipality to adopt a regional plan or a portion of a regional plan as the community's municipal plan. While this provision is currently rarely used, regional plans are sometimes structured to help simplify local plans. This allows municipalities to rely on the data, analysis, and recommendations in the regional plan for those elements that have a regional scope such as housing, energy, economic development, and transportation and allows the municipality to focus its plan on the vision, land use, and local priorities that matter most to the community.



COORDINATION ACROSS DIFFERENT SCALES OF PLANNING IN VERMONT



State Planning Goals

The state has 14 specific planning goals.



Regional Plans

Regional plans must be consistent with the state planning goals.



Municipal Plans

In order to have a regionally approved plan, municipal plans must be compatible with the regional plan and consistent with the state planning goals.

Statewide Planning Goals

Vermont statute includes 14 goals that municipal, regional, and state plans are to further. While the goals are discussed throughout Module 1 of the manual, [this checklist](#) provides all the goals in one place and can help you track whether the plan is compatible with the state planning goals.

To be approved by the regional planning commission, local plans must be consistent with the statewide planning goals, meaning, the local plan is making substantial progress toward attainment of its goals. Regional planning commissions evaluate local plans periodically and will consult with the municipalities to discuss the results. These consultations typically occur before a municipality begins its municipal plan update and give the local planning commission guidance on inconsistencies and opportunities to improve the plan and assure regional approval.

State Level Plans

While not directly linked to local plans, and often developed in response to federal agency requirements, some state agencies adopt plans that affect local and regional planning — especially by defining priorities for state funding, including various state transportation plans to improve the reliability of networks (Agency of Transportation), the Hazard Mitigation Plan to reduce threats to public safety (Division of Emergency Management and Homeland Security), the HUD Consolidated Plan to guide investments in housing and economic development (Department of Housing and Community Development), and Tactical Basin Plans that identify investments to improve water quality (Department of Environmental Conservation).

SMART GROWTH PRINCIPLES

One of the state planning goals is to have development undertaken in accordance with smart growth principles. The 10 smart growth principles are:

-  Mix land uses
-  Take advantage of compact building design
-  Create a range of housing opportunities and choices
-  Create walkable neighborhoods
-  Foster distinctive, attractive communities with a strong sense of place
-  Preserve open space, farmland, natural beauty, and critical environmental areas
-  Strengthen and direct development towards existing communities
-  Provide a variety of transportation choices
-  Make development decisions predictable, fair, and cost effective
-  Encourage community and stakeholder collaboration in development decisions

Municipal Planning Process: Actors and Roles

The Planning Commission

The planning commission is responsible for preparing, updating, and distributing the plan, holding public hearings on the plan, and submitting it to the legislative body for consideration. [Specific requirements for preparation and adoption are listed in Appendix 1.](#)

As part of the process, the planning commission must solicit public input, weigh options, and recommend policy decisions that will chart the future of the community and which may eventually have the force and effect of law. For these reasons, planning commission members must always act in the public interest and put the general welfare of the community above any personal interests.

The Legislative Body

According to the statute, the legislative body (either the selectboard, city council or board of trustees) 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 statutory provisions.](#)

ETHICAL PRINCIPLES IN PLANNING

The American Planning Association has produced [a guide outlining ethical principles to guide participants in the planning process.](#)

Planning Commissioners should:

- Recognize the rights of citizens to participate in planning decisions;
- Strive to give citizens (including those who lack formal organization or influence) full, clear, and accurate information on planning issues and the opportunity to have a meaningful role in the development of plans and programs;
- Strive to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of disadvantaged groups and persons;
- Assist in the clarification of community goals, objectives, and policies in plan-making;
- Ensure that reports, records and any other non-confidential information that is, or will be, available to decision-makers is made available to the public in a convenient format and sufficiently in advance of any decision;
- Strive to protect the integrity of the natural environment and the heritage of the built environment;
- Pay special attention to the interrelatedness of decisions and the long-range consequences of present actions.

“When it comes to planning, if you’re not doing it with people, they think you are doing it to them.”

Roger Millar, PE, AICP, deputy secretary, Agency of Transportation, State of Washington

The Community

The community’s involvement throughout the planning process is essential in creating a plan that will have support for implementation. All members of your community have the right to participate in planning decisions and the creation of a municipal plan. Planning commissions and local legislative bodies must strive to give community members (including those who lack formal organization or influence) full, clear and accurate information on planning issues and the opportunity to have a meaningful role in the development of the municipal plan.

Key Elements of a Successful Planning Process

Even when all the actors involved in the planning process play their parts, plans can fail to deliver the expected results. There are four critical factors that will ensure your municipal plan is successfully implemented.

1. Diversity on the Planning Commission

Much of the “heavy lifting” involved in developing a plan that reflects the community’s values rests on the shoulders of the planning commission. The best way to build this into the process is to assure the makeup of the planning commission mirrors the values, concerns, and interests of various constituencies within the community. Members should represent all walks of life, including those in planning-related professions such as architects, developers, attorneys, and engineers, as well as general community and neighborhood representatives. Members should come from different parts of the community and from different economic backgrounds. Diverse membership helps ensure that all areas and points of view within the community receive ample representation.

2. Community participation

Getting broad participation and “buy-in” is a challenge but is absolutely critical for the long-term success of any plan. Holding a few public meetings advertised in the local paper is not enough. Planning is a process and not an event: There must be a variety of different opportunities to involve individuals across the community and incorporate their ideas, thoughts, and concerns. When people feel like they are listened to and are part of the final product, their participation builds the consensus necessary to win political support for implementation. Be sure to involve municipal officials, such as those on conservation commissions, development review/zoning boards, and even the listers and town clerk. People representing local businesses and institutions like colleges, hospitals, and neighborhood and community groups may also be willing to offer assistance in reaching sectors of the community that generally don’t attend public meetings.

3. Communication and listening skills

There are many decisions that need to be made when mapping, customizing, and adopting the plan. The community will be asked to carefully balance what is in their best interest and what is in any given property owner’s best interest. Successfully striking the right balance between competing interests and building consensus around these often difficult decisions takes leaders who are good communicators and great listeners — sensitive to the moods, values, attitudes, and concerns of the community. They must communicate with clarity, value brevity, and understand the benefits of having open, frank discussions. They must be open-minded and trusted in the community, understand and acknowledge the concerns raised, and know how to adjust and align expectations.

4. Willingness to ask for help

If your community needs assistance in preparing the plan, your Regional Planning Commission (RPC) stands ready to help. RPCs have professional planning staff with experience in a variety of topics and understand what is required to get plans adopted and goals implemented in your community. They may be able to help you think through possible solutions or find the resources necessary to get started. Experienced private consultants are also available. The Department of Housing and Community Development (DHCD) [maintains a list of consultants](#) that have indicated an interest in working with Vermont municipalities on planning and planning-related projects. You may be able to obtain a [municipal planning grant from DHCD](#) to help pay for the work and should consider creating a local planning fund that can be used to hire the needed technical assistance or as a match for leveraging grant funds.

HOW CAN A PROFESSIONAL PLANNER HELP US?

Professional planners can:

- Provide technical expertise in mapping, data analysis, and modeling;
- Coordinate public outreach and communications;
- Support and organize the work of many groups and individuals;
- Draft goals, policies, and implementation strategies for local review;
- Research and help navigate through the more complicated areas of planning;
- Expedite implementation and enforcement.

Work Plans, Public Engagement and Budgets

As you have read, the process to develop a plan involves many participants, requires expertise, and often involves discussion of issues upon which not everyone agrees. A major plan overhaul can take a year or more to complete. To get the most out of the planning process — and not end up with a list of good ideas on a shelf — it is important that you give yourself time to prepare. “Planning to plan” is guaranteed to save you time, money, and other resources.

Getting Started

In Vermont, adopted plans have eight-year expiration dates, upon which your community needs to either adopt a new plan or readopt/amend the old plan. We recommend thinking about your game plan at least two years before a plan expires to make sure you have time to secure any necessary resources.

Begin by understanding what you already have: inventorying existing plans/ planning studies, reviewing the regional plan, and familiarizing yourself with the necessary plan requirements. Most communities are not starting from scratch and will build off existing work. Refer to the final chapter of this module, “Working with Existing Plans” to identify deficiencies or areas that need attention in your next plan. Remember that in most municipalities, your regional planning commission in its periodic consultations with your planning commission, has already reviewed the community’s plan and identified gaps and opportunities to improve the plan.

Your municipality should then determine the extent of the work ahead: Is this going to be a new plan or just a revision with some updates? With guidance from the regional planning commission, the local planning commission normally takes the lead in making this determination.

Outlining the Planning Process

Next, outline the process your community will follow to arrive at a plan. While this manual proposes 5 Steps, some communities may have good reasons to do things differently. For example, you may choose to launch an extensive public participation effort -- through public forums, community surveys, newspaper, and television -- at the beginning of the process, before collecting assessment data described in Step 1 of the manual.



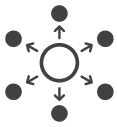
The Planning Process

The following outlines a 5-step planning process. The time each step takes will vary widely depending on the methods a community selects and on the hours being devoted to the work by volunteers and any staff or consultants.



Developing Strategies to Inform and Invite Engagement

As part-time volunteers, it's easy to short-change the importance of keeping community stakeholders informed. Devote some time to mapping out a communications strategy to engage the entire community in the planning process. The planning commission should use a variety of tools available to keep stakeholders informed. The following framework will help you consider what types of outreach may be needed to reach community stakeholders.



Inform

Keeping the town website up-to-date with meeting announcements and minutes is a basic requirement, but you must also provide the entire community with balanced and objective information to help them understand the challenges, opportunities, options, and costs. It's important to use a variety of other outlets and media formats to inform the community about your work. Examples: social media like Facebook and Front Porch Forum, newspaper articles and editorials, handouts, television/radio, and posters. Laying out the facts and options is especially important at the beginning, in Step 1, and end of the planning process, Step 5, and for special events.



Consult

Seek community feedback, inviting information and opinions from a wide range of groups, including nonprofit service providers, businesses, special interest groups, and other volunteer boards and town leaders. Examples: online or mail-out surveys, open houses, focus groups, participatory mapping, social gatherings, and walk-and-talk sessions. Use to obtain public input for Step 1 and Step 4.



Involve

Encourage a back-and-forth community conversation to identify concerns and issues where opinions are shared. Examples: workshops with stakeholder advisory groups, public forums, board meetings, neighborhood meetings, one-on-one meetings. This is especially important if the individual or group is likely to be affected by proposed changes. In most cases, this extra effort is appreciated and it can help avoid unnecessary opposition. Use for Step 3 and Step 5.



Collaborate

Identify preferred solutions and priorities and incorporate stakeholder recommendations into decisions as much as possible. Examples: scenario planning and charrettes — these are usually part of a multistage process that enables solutions to evolve while people discuss the issues and learn from each other. Use for Step 2.

Attracting busy community members to meetings is always a challenge, but providing food for all and activities for children helps remove barriers and creates a welcoming environment.

TOOLS TO GET THE WORD OUT AND GATHERING INPUT

A successful community participation process must go beyond hearing from “the usual suspects.” Get creative and reach out to all types of people.



Meeting notices

This traditional format works well in high-traffic, public places like schools, town offices, transfer stations, or stores.



Direct mail

Some people are overwhelmed by the amount of email they receive and may inadvertently overlook your message. Others don't check their email often or don't have Internet access. Thus, flyers and postcards are still a good way to get your message out. This is most effective when the message is clear and short — no more than a page. A low-cost approach that will work in some towns is to include your information in the utility bill.



Telephone

While it's easy to overlook an email, it's much harder to miss a phone call or message. The phone is a great tool to remind people about meetings, or to follow up on issues or concerns.



Partner with local restaurants

Print your educational materials on placemats or drink coasters.



Newspaper articles and editorials

Most Vermonters read print or online versions of their local newspaper, making them a terrific place to share your information.



Walk-and-talk sessions

Meeting around tables, seated in chairs, has its place, but walking and talking side by side is a good way to set people at ease and encourage a free exchange of ideas.



Front Porch Forum

Increasingly busy schedules mean that residents want convenient and quick ways to stay informed about your work and easily comment on your ideas. Front Porch Form, or another type of electronic bulletin board, is a quick and cost-effective way to distribute and gather information from the community.



Public forums

Providing food and refreshments — especially near mealtime — can help draw a bigger crowd to informal discussions. However, individuals who are more comfortable speaking in public can sometimes dominate these meetings.



Open houses

These gatherings are typically a more informal way to gather feedback using displays, handouts, a repeating slideshow, interactive maps, and other activities to educate or gather input.



Town websites

Post your meeting agendas, minutes, fact sheets, maps, reports, contact information, and other relevant information here. While websites are an excellent tool to share information, remember that not everyone in town has Internet access.

MORE TOOLS TO GET THE WORD OUT AND GATHERING INPUT



Social media

Platforms like Facebook and Twitter are all about engagement and participation. This makes it a particularly useful vehicle to both inform and gather feedback. However, beware: Social media done badly can work against you.



Photography contests

Invite residents to submit photos of special places in town and share the photos in a slideshow to help identify visual preferences shared by the community. Offering prizes can encourage participation and can help raise awareness for your planning effort.



Online surveys

These are a good way to gather citizen feedback and gauge public opinion. Questions should be simple and jargon-free. Online tools like SurveyMonkey or Zoomerang are easy to use and create attractive reports and graphics to share what you learned.



Focus groups

These small group meetings (usually from 6 to 10 people) are designed to gather the unique perspectives/opinions of a specific group. Participants often are selected based on their knowledge of a particular subject, but they can also involve a broader cross section of community members. The back-and-forth exchange of information can lead to creative ideas and solutions.



Webinars

These are a low-cost way to allow citizens to participate in meetings without leaving home.



Advisory committee

This option is usually used to provide input or recommendations on more challenging or controversial issues. The committee may represent a cross section of the community or may include special interests like local business owners, issue advocates, or residents of a neighborhood or village with knowledge or concerns about a particular issue.



Charrettes

This method helps expedite a planning process and focus community attention on a specific issue at hand rather than spreading the process out over a much longer period of time (see Step 1 for more details).



A Strengths, Weaknesses, Opportunities and Threats (“SWOT”) Analysis

This approach offers a simple but effective way to get a group working together and responding to the community assessment by articulating community values and shared concerns. Once opinions about current conditions have been listed and discussed, and the main points of agreement identified, you will be better prepared to think about a vision for the future.

To learn more, check out these useful resources:

- [Participation Tools for Better Community Planning](#), Local Government Commission, 2013. This guidebook updates the original guide with the incredible array of new tools that have emerged in the 21st century to inform and engage with the public during the local planning process.
- [Communication and Citizen Participation Techniques](#), Washington State Municipal Research and Service Center, 2015. A short, helpful, easy-to-read overview including tips on running an effective meeting.
- [Vermont Digital Economy Project Guides](#), Vermont Council on Rural Development. Information and examples on using digital communication tools with an emphasis on guidance for local governments.

Creating a Timeline and Assigning Responsibility

Once a general process is outlined, it is time to create a schedule and timeline that outlines how the steps in the process will be accomplished, specifies who is responsible for them (whole commission, individual commissioners, staff, consultants), and how much time they will take. Before assignments are made, contact the regional planning commission to discuss what assistance is available.

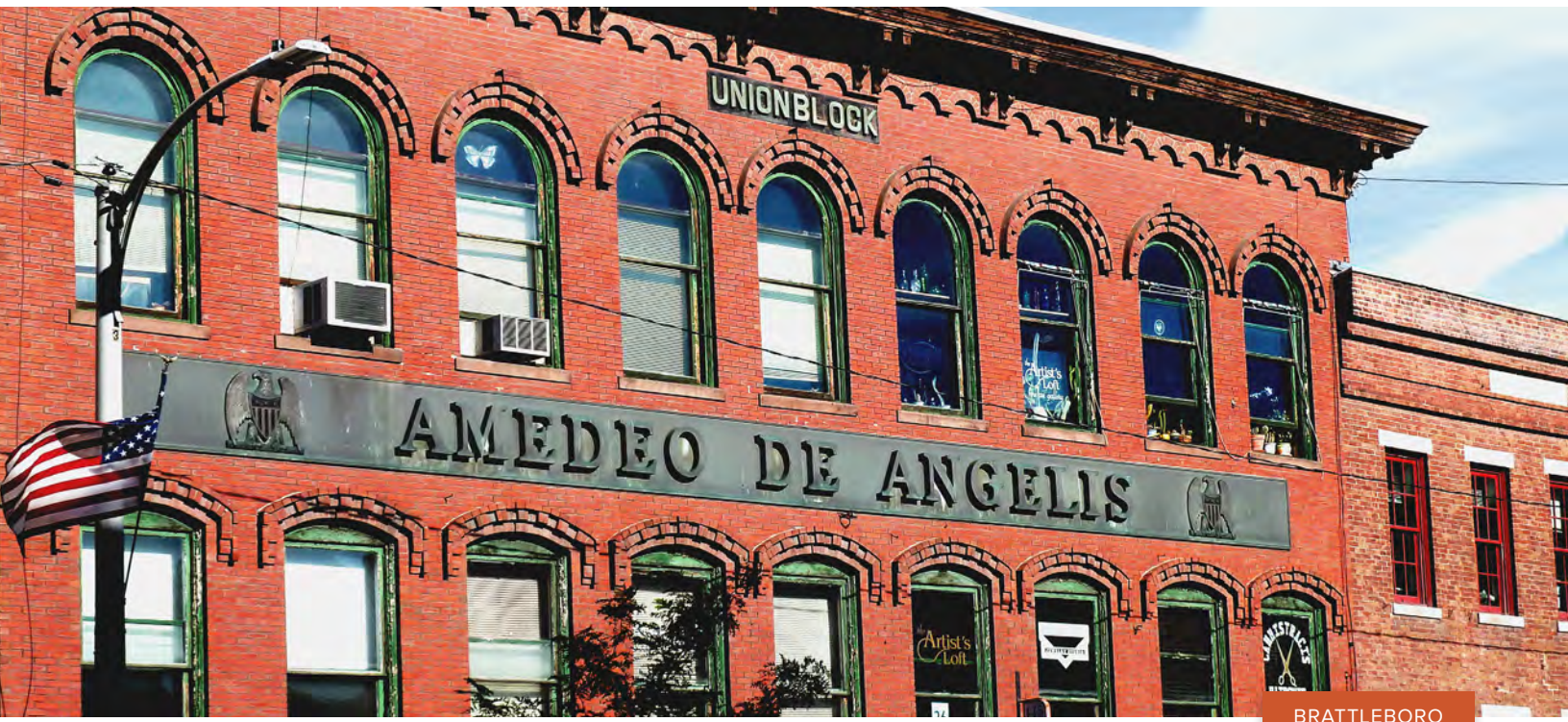
Creating a Budget

Establish a budget for the planning process that includes costs for all the items identified in the outline, including tasks and materials like mapping, hiring consultants, surveys, conducting workshops, and graphic design. Funding sources could include municipal budgets, contributions, or grant funds. Vermont's [municipal planning grant program](#) was specifically created to support municipal planning efforts. Additional technical assistance may be provided by RPCs, nonprofit organizations, and state agencies.

Anticipate planning expenses well in advance to accommodate municipal budgeting and state planning grant cycles. If seeking a grant, have a contingency plan in place in case the grant is not awarded. When you anticipate contracting for specific technical assistance, the planning commission should contact two or more consultants or contractors in the field and discuss the project with them for advice about how to structure the project and to obtain general cost estimates. In most cases, you will want to issue a more formal request for proposals or qualifications when the time comes to hire a consultant, but at the earlier budgeting stage you should reach out to likely consultants for their thoughts about the project, including the budget.

A WORKING GROUP TO STEER THE PLAN

Creating a plan steering committee made up of diverse members of local boards and commissions as well as other community leaders helps to keep various groups and citizens informed and engaged throughout the process. A separate steering committee can also be helpful if the planning commission has other pressing duties that draw attention away from the plan.



BRATTLEBORO

Contents and Format of the Plan

Vermont Law requires the inclusion of 12 elements in any adopted municipal plan. If these elements are missed, there is a chance that the plan, if challenged, might not be considered legally valid. If this determination were made in court, your municipality would not be able to use the plan to influence [Act 250](#) or [Public Service Board Section 248 Proceedings](#). It also could not be used as a basis for local zoning.

The required elements of the plan are all listed in a checklist provided in [Appendix 1](#), as well as outlined throughout the 5 steps of this manual. The elements have varying degrees of importance for different communities facing their own set of issues. Plans may cover issues beyond the required 12 elements (e.g., including a major topic like public health or climate change).

While a municipal plan must address all 12 required elements, the planning commission may decide how it will address each element. Most communities develop plans by the topic areas of the required elements such as “Land Use,” “Transportation,” “Housing,” or “Natural Resources.” Others may organize their plan around a few major goals. Review other plans to determine the layout most appropriate for your community. Strive to make your plan as clear and concise as possible so the plan will be used as a guide for the land owners, developers, investors, volunteers and officials in your community, most of whom have little time to read and understand lengthy, complex documents.

LOOK TO OTHER PLANS FOR INSPIRATION

No need to reinvent the wheel! Other communities have worked hard to make useful, attractive, informative action-oriented plans. You can search for examples of Vermont’s municipal plans [here](#), but don’t limit yourself to Vermont. Search the Web for “municipal plans,” “comprehensive plans” or “master plans,” or ask regional planning commission staff to recommended good examples. No matter how small your town, you can find bits and pieces of great ideas even in big city plans!

Recommendations for creating user-friendly plans include the following:

- **Focus on achieving the vision of the future, not documenting the past or the present.** A common fault of many plans is an overemphasis on documenting the current state of the community instead of providing a clear picture of the goals and vision for the future and implementation steps to realize that community vision. You should think of the community assessment outlined in [Step 1](#) as the documentation of facts and trends meant to help make informed decisions throughout the planning process. Consider keeping this information about the past and present in a “Fact Book” and including it as an appendix to your plan, while keeping the main body of the text focused on the vision and action steps.
- **Structure your plan around your big ideas.** Every plan has a few big ideas that are necessary to achieve the community vision. Make sure these ideas are highlighted and not buried or scattered in the document. Most of the required plan elements are likely to fit within these important themes and designing the plan content around the big ideas will help keep the plan concise.
- **Utilize maps, images, and graphics.** Information can be much more easily understood by relying on more than just the written word. Well thought out graphics can be effective communication tools that have the added benefit of being easily shared through social media. Many communities have artists, designers, and students who have graphic communication skills and may be willing to help.
- **Take out unnecessary information or unfeasible ideas.** Removing unnecessary information and actions that are too costly or politically impossible ensures the plan is user-friendly and credible.



SPRINGFIELD

The Five Steps

This manual outlines a 5-step method designed to help communities meet state planning requirements while focusing on the issues that matter most to them. Most of Vermont's cities and towns have an existing plan that just needs an update rather than a complete overhaul. If your municipality has a plan in place, you can start with the "Working with Existing Plans" section of the manual for guidance on how to assess your existing plan.



MIDDLEBURY

Step 1: Conduct a Community Assessment

A community assessment evaluates resources, conditions, and trends in your community, providing the information necessary to identify your assets, needs, challenges, and opportunities. Along with highlighting the legal requirements for the assessment portion of your plan, this chapter highlights key considerations regarding the information your community should analyze when developing or updating a plan.

WHERE TO GET DATA?

The Department of Housing and Community Development maintains a [web page](#) that outlines where you can find data by topic area.

Beginning your planning process with a community assessment helps you determine where you are now and where you are headed. The assessment assists you in making informed decisions throughout the planning process and keeps your vision grounded in reality. However, the assessment (unlike the vision and action items) should not be the focus of any final plan document. We recommend keeping the assessment separate from the other parts of the plan as a “Fact Book” in the plan appendix. This way you can make the plan shorter and more user-friendly and help assure that the shared community vision and the path to realize that vision aren’t lost in a sea of maps, facts, and figures.

MAPS AND “GIS”

Statute requires that plans include a number of maps (detailed in the corresponding sections) to display information about your municipality. Almost all maps are now created using Geographic Information Systems software, or “GIS.” GIS lets us see, question, analyze, and interpret large amounts of data to understand relationships, patterns, and trends. The [DHCD Planning Atlas](#) is preloaded with a lot of the planning information you need. You can easily make and analyze your own maps or request expert assistance from your Regional Planning Commission. The [Vermont Center for Geographic Information](#) is another indispensable map-making resource that maintains the state’s largest database of geospatial information.

Don’t be overwhelmed by Step 1. The vast majority of the information you need is readily available and there are many resources available to help you! Regional Planning Commission staff can be especially helpful during this step.

What do we need to know about our community?

An endless range of information and data can inform municipal plans. To avoid information overload and “analysis paralysis,” this section directs you to the information and assessments required by statute along with some key considerations under each topic. Depending on the issues your community faces, you may go more in-depth in any of the categories outlined below. If the picture of the town gets lost in a sea of data and tables, remember that the point of the assessment is to help you describe and better understand your town — where it has been, where it is now, and trends for the future. Data and information that does not provide insights should be left out.

Assessment involves both inventory — the collection and presentation of data and analysis — as well as an interpretation of the meaning of the data by looking for trends and asking what the data means for the community.

This manual proposes the following topics for assessment: (1) demographics; (2) economic conditions; (3) natural resources and physical conditions; (4) transportation; (5) utilities facilities and services; (6) energy; (7) historic and cultural resources; (8) housing; (9) flood resilience and hazard mitigation; (10) land use; and (11) regional context. Other ways to categorize the topics for assessment may be equally valid. Italicized items under each topic signify a statutory requirement of municipal plans from 24 V.S.A. §4382.

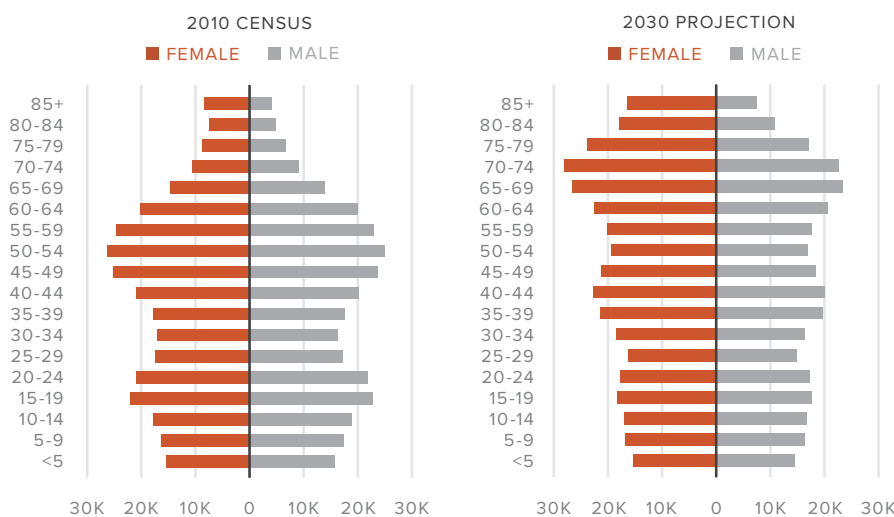
Demographics

While there is no explicit requirement to include demographic information in your plan, other plan requirements depend on a deep understanding of your community’s make up. Historic and current information on the size and characteristics of your community’s population enable you to understand the trends in the municipality and the region such as the future demand for services, facilities, and economic improvements, including schools, housing, recreation facilities, land use, economic development, transportation, police and fire protection, and public utilities.

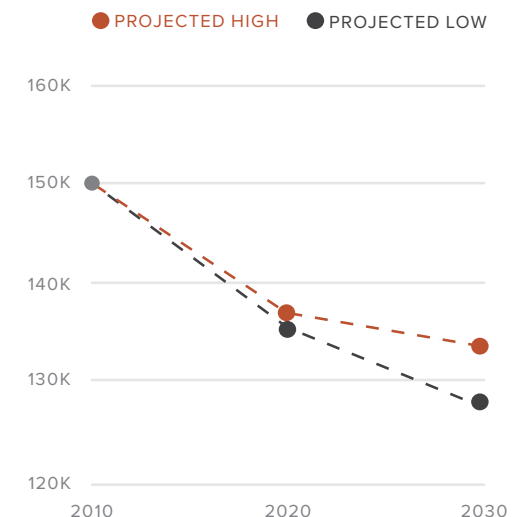
POPULATION PROJECTIONS

The Agency of Commerce and Community Development has developed [population projections for Vermont municipalities from 2010–2030](#).

Total Vermont population by age



Vermont school age population over time



Key Considerations

- Population trends: projected population growth
- Population characteristics: sex, age groups, ethnicity
- Income, poverty levels
- Special-needs populations

Comparing the demographic characteristics and trends in your community with the those of your region helps you gain some context for how your community's population might change in the future. This is especially important for Vermont towns that have small populations. For example, let's say the population of a town has remained steady over the past 10 years, while the surrounding towns have all increased by 5 percent over the same time period. It would be a notably different situation if the surrounding towns had all experienced a population decrease over that time period. In the first instance, there is likely an opportunity to grow, while in the second, there may be a risk of shrinking. In both cases, the regional context provides crucial information.

Identify notable demographic trends in your community that will inform visioning (Step 2) and identification of the goals and measurable objectives (Step 3.) As you work through the different assessment sections, gather information on the needs of various populations and highlight instances in which needs are not being met.



CRAFTSBURY

Economic Conditions

Your plan is required to include: *An economic development element that describes present economic conditions.*

Creating a clear picture of current economic conditions will help you at later steps in the process when your community needs to identify the location, type, and scale of desired economic development, and identifies policies, projects, and programs necessary to support your goals.

The health of the economy has a direct influence on the well-being of the residents, community facilities and services, and the environment. Planning for ways to support the local economy can help businesses and organizations create jobs aligned with the skills and aims of residents; establish a balanced tax base to meet the needs of the community; protect economic resources; and identify necessary services and products.

In order to describe current economic conditions in your community, you must gather relevant data. Keep the following key considerations in mind as you decide what data points to use.

Key Considerations

- Employment trends: workforce, employment, employers, jobs, wages
- Place of work: labor-market area, commuting patterns; job center/bedroom community
- Current and past trends in regional and local economic sectors, clusters, employers
- Economic strengths, weaknesses, opportunities, threats

As you gather and analyze the data, consider it alongside other relative information such as population trends, labor force characteristics, regional economic conditions, natural resource production potential, public services, utilities, transportation, and land availability. The analysis should point out problems, opportunities, and needs. For example, it may be that a community would like to see a certain type of industry develop in the area, but without wastewater capacity or access to three-phase power, it may be impossible for that industry to develop without significant infrastructure costs. Having a clear picture of these factors will help your community develop a stronger vision with attainable goals.

Remember to take an inventory of existing economic plans, programs, initiatives, and organizations in your community. These may include regional economic development strategies, local market studies, workforce development programs, business organizations, agricultural and forestry initiatives, and downtown, village, and growth-center designations. Vermont also has a [Statewide Comprehensive Economic Development Strategy](#) you may want to review as part of your assessment. Your plan's economic development element should build on any good work already being done and highlight existing plans, programs, and initiatives that can be used to help your community identify economic development goals.

REGIONAL DEVELOPMENT CORPORATIONS

There are [12 Regional Development Corporations \(RDCs\)](#) throughout Vermont. They provide local technical assistance to the businesses and employers within the communities they serve. This entails, but is not limited to, real estate and site selection assistance, project finance coordination, workforce development programming, and general business advocacy.



NORTHFIELD

The emphasis placed on economic development in recent years has provided Vermont with some great examples of what communities can do by taking an in-depth look at their economic conditions and future outlooks. The economic study undertaken in the Mad River Valley (see sidebar below) is a great example of what documenting existing economic conditions can look like. Keep in mind that the type of economic activity that is appropriate for different communities will vary widely. Focus on the opportunities that are the best fit for your community. Conducting an in-depth analysis like that of the Mad River Valley may be beyond what your community can complete as you put together your plan, but you may decide that conducting such a study down the road becomes a priority action item of your plan.

MAD RIVER VALLEY ANNUAL DATA REPORT

The towns of Fayston, Waitsfield, and Warren joined together to create the Mad River Valley Planning District in 1985. [The district collects economic data and produces an annual report to help inform their planning efforts.](#)

In 2014, the planning district made economic development a priority and used a [Municipal Planning Grant](#) to hire consultants to study the issue in more depth. This project focused on understanding and quantifying the valley's economic profile and economic health by assessing relevant data, conducting interviews with residents and businesses, identifying industry sectors of strategic importance, establishing an economic baseline, and exploring initiatives that support its economic future. Check out their work [here](#).

This table from the report highlights some of the challenges and opportunities in the Mad River Valley.

WHAT CAN'T BE FIXED	WHAT <i>COULD</i> BE ADDRESSED	WHATS "TRICKY"
• Access to I-89 • Energy supply (natural gas availability) • Paving the Mad River Path • Climate (more rain) • Larger industrial sites • Space for larger-scale housing development	• Workforce housing, seasonal rentals for laborers • Cost of renovating within existing footprints, structures • Creating a programmable space with event capacity • Wastewater capacity • New energy technologies (digesters) to reduce costs • Permitting support for expanded non-ski activities at ski areas • Easing business-related permitting (change-of-use, signs) • Conversations about creating more accessible, point-to-point, lower-gradient trails	• "Boringness" • Customer service attitudes • Increased availability of trail information where landowner permission is informal or not publicized • Investments in private property upgrades • Assisting landowners and farmers with lease agreements or access • Standing and impact of abutters in permit process

Natural Resources and Physical Conditions

Your plan is required to include: *A statement of policies on the preservation of rare and irreplaceable natural areas.*

Documenting the natural resources and physical conditions in your community will help you identify opportunities and constraints in other areas of your plan, such as land use, housing, transportation, and economic development. In addition, assessing your natural features and physical conditions will highlight areas that provide important ecological functions and must be protected for the public's health, safety, and welfare. This assessment will also inform your community's statement of policies on the preservation of rare and irreplaceable natural areas that will be part of Step 3. Note: "Flood resilience and hazard mitigation" is covered in a separate section of this step. It is recommended that you collect data and maps that cover the key considerations listed below.

Key considerations

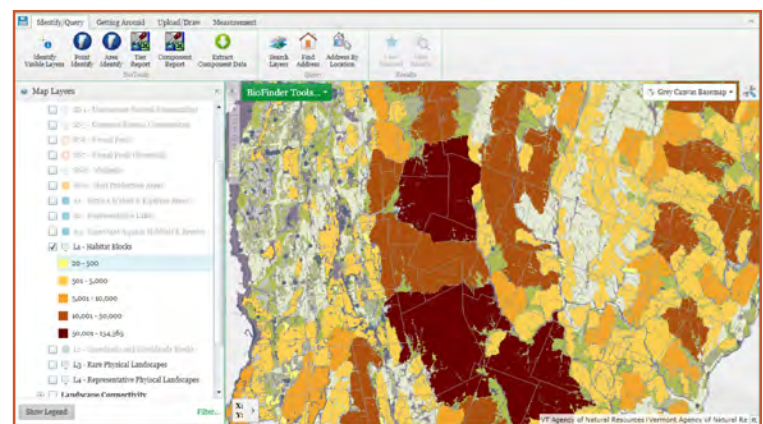
- Topography and drainage: elevations, steep slopes, development suitability, watersheds, stormwater
- Soils & earth resources: primary agricultural soils, forest soils; mineral deposits; development suitability
- Water resources: surface waters, groundwater, river corridors, wetlands, shore lands
- Wildlife habitat: habitat blocks, core habitat areas, travel corridors, rare/threatened/endangered species habitat, vernal pools
- Climate (prevailing weather patterns) and climate change

Mapping and analyzing natural resources and physical conditions has never been easier. The Agency of Natural Resources maps out and analyzes many of these resources in your municipality and across the state in an online tool they've created called Biofinder [see sidebar]. Layering these features on top of each other in a map can help you identify key resources and areas your community may want to conserve and protect. The Biofinder can even generate a report (as a spreadsheet or PDF file) describing the components of biological diversity and the total number of acres for each component within your municipality.

Your assessment should inventory any existing open-space plans, programs, initiatives, and organizations in your community. These resources may be helpful in setting your goals (Step 3) and identifying the most effective actions that will help you reach your goals. Mapping out specific areas, places, and resources that are already conserved or that are the focus of conservation efforts is also helpful in guiding natural resources protection priorities.

AGENCY OF NATURAL RESOURCES BIOFINDER

[BioFinder](#) includes 21 overlapping data sets representing terrestrial and aquatic biological, ecological, and natural heritage data at various scales and aspects. An analysis then identifies the locations of greatest overlap for priority ranking at the statewide scale.



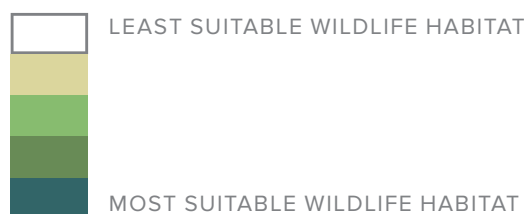
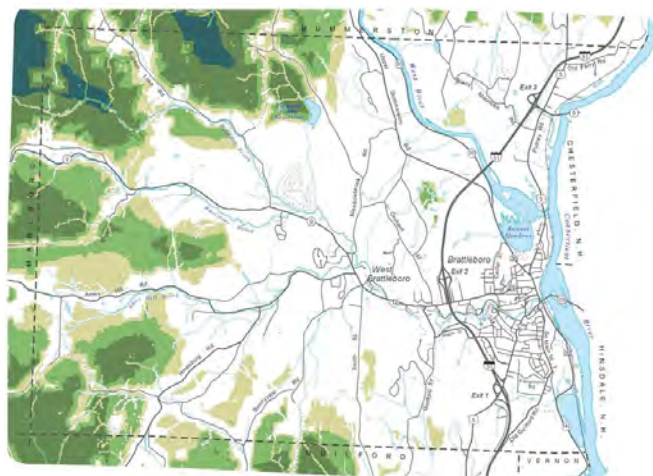
Your assessment should inventory any existing open-space plans, programs, initiatives, and organizations in your community. These resources may be helpful in setting your goals (Step 3) and identifying the most effective actions that will help you reach your goals. Mapping out specific areas, places, and resources that are already conserved or that are the focus of conservation efforts is also helpful in guiding natural resources protection priorities.

You should also look at trends over time and identify how the health and quality of your natural resources may have changed over the years. For example, a community may have an impaired water body that has been improving over the years due to cleanup efforts. If you can identify water-quality data and show how that water quality has been improving, your community may use this information to set a measurable water-quality target in Step 3 and identify the most appropriate actions to get you to those targets.

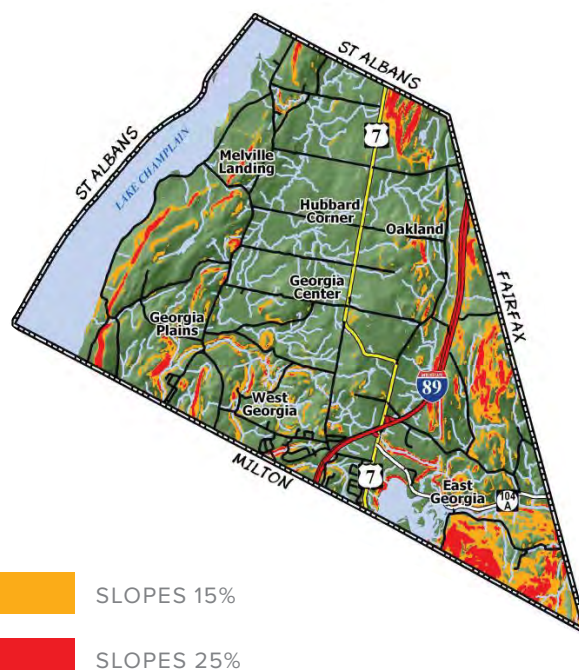
Topographic information is important for planning future land use, transportation, and public facilities and services. Your topography influences accessibility, can provide natural boundaries between areas, and often determines land use. (Areas with slopes of 15 percent, 20 percent, and over 25 percent are mapped on the [Agency of Natural Resources Atlas](#).)

Try to understand your community's natural environment from a larger regional perspective. Regional Plans and [Basin Plans](#) can help you see how your community fits in the bigger picture.

BRATTLEBORO WILDLIFE SUITABILITY MAP



GEORGIA STEEP SLOPES MAP



Transportation

Your plan is required to include: *A transportation plan, consisting of a map and statement of present and prospective transportation and circulation facilities showing existing and proposed highways and streets by type and character of improvement, and where pertinent, parking facilities, transit routes, terminals, bicycle paths and trails, scenic roads, airports, railroads, and port facilities, and other similar facilities or uses, with indications of priority of need.*

The infrastructure that allows people and things to move from one place to another plays an important role in quality of life and is essential to our economy. Transportation issues vary widely from place to place, from maintenance of rural roads to parking, transit, and streetlights. It's important to remember that the transportation network in your community also includes places like a Main Street, where people can interact, socialize, and gather; or in rural areas, design features like stone walls and tree lines along roads, which are important parts of what makes your community special. Keep in mind the needs of all people in your community, particularly those without automobiles. You can start by collecting data and maps that cover the key considerations listed below.

“Speed in locomotion should be a function of human purpose. If one wants to meet and chat with people on an urban promenade, three miles an hour will be too fast; if a surgeon is being rushed to a patient a thousand miles away, three hundred miles an hour may be too slow. What an effective network requires is alternative modes of transportation, at varying speeds and volumes, for different functions and purposes.”

Lewis Mumford

Key Considerations

- Vehicles: ownership, use, vehicle miles traveled, electric vehicle–charging stations, parking
- Highway system/network: legal and functional road classifications, ownership, infrastructure (e.g. culverts, bridges, road surface), maintenance costs, suitability for cyclists
- Traffic volumes and patterns: congestion areas, high accident locations
- Sidewalk and recreation paths: existing networks, use, connections or links to other networks
- Public transit: facilities, services, service areas
- Rail: available freight and passenger services, facilities; planned improvements
- Airports: available services, facilities, airport zones, planned improvements

In addition to collecting data and maps that cover the above mentioned considerations, look at existing traffic studies, corridor-management plans, access-management policies, “complete streets” policies (see sidebar on next page), and any planned improvements that are in the works. These resources should highlight the transportation issues facing your community.

In the process of assessing your transportation infrastructure, identify the primary function of the different pieces and evaluate how they are working. An arterial road may have the primary function of moving vehicles quickly from place to place, while the opposite is true in a downtown area where slower speeds and certain levels of congestion support local retailers and improve safety for pedestrians and cyclists. Documenting this can inform the transportation and land use policies your community will choose later in the planning process. For example, if a road is identified as an arterial road with the goal of moving high volumes of traffic, a community may choose to limit curb cuts and uses that generate vehicle trips, as they will degrade the function of the road. If a street is in a village center or downtown, the primary function should be to create a safe and vibrant social space for people to meet, shop, walk, and enjoy themselves. In order to work toward improving the function of these streets, a community may want to focus retail, office, and housing uses in this area, along with streetscape investments that slow traffic and create a unique place to which people are drawn.

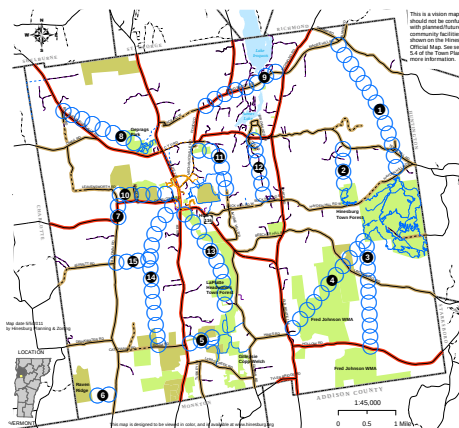
Keep in mind that transportation infrastructure is expensive to build and maintain. Documenting the costs associated with building and maintaining infrastructure is helpful in guiding future decisions regarding how and where to invest. For example, knowing the life cycle costs and liabilities of taking on a new municipal road as well as anticipated tax revenue from development can inform policies on whether or not your community is willing to own and maintain certain roads proposed for different types of developments.

COMPLETE STREETS

Complete Streets is a philosophy and approach to planning, design, construction, and maintenance of our roadway network to consider all users, including pedestrians, bicyclists, and transit riders. The Department of Health has developed [useful guidelines for municipalities](#) to use as they plan for transportation improvements. Vermont law requires that *except in the case of projects or project components involving unpaved highways, for all transportation projects and project phases managed by a municipality, including planning, development, construction, or maintenance, it is the policy of this state for municipalities to consider “complete streets” principles, which are principles of safety and accommodation of all transportation system users, regardless of age, ability, or modal preference. 19 V.S.A. § 309d.*

HINESBURG TRAIL NETWORK VISION

Using an assessment and mapping of their existing infrastructure, Hinesburg mapped out their vision and priorities for future bicycle and pedestrian infrastructure.



Utilities, Facilities, and Services

Your plan is required to include: *A map and statement of present and prospective community facilities and public utilities showing existing and proposed educational, recreational, and other public sites, buildings, and facilities, including hospitals, libraries, power generating plants and transmission lines, water supply, sewage disposal, refuse disposal, storm drainage, and other similar facilities and activities.*

An educational facilities plan consisting of a map and statement of present and projected uses and the local public school system.

This part of the assessment will help you later in making the required recommendations to meet future needs for community facilities and services, with indications of priority of need, costs, and method of financing.

Community facilities and services are provided by the municipality (or are available within the municipality) for the health, benefit, safety, and enjoyment of the general public. They include schools, parks and recreation facilities, libraries, public water supply and waste disposal systems, solid waste management, police and fire protection, health and human services, and general administrative services. Community facilities and services have a significant effect on the municipality's ability to grow and maintain itself in an orderly and healthy way. You can start the assessment of your community facilities by collecting data and maps that cover the key considerations listed below. Unlike the other parts of your assessment, where a lot of the data is generally accessible online through the links on the Department of Housing and Community Development Web page, the community facilities piece may require a bit more legwork as some of the information may only be available in your municipal office.

Key Considerations

- Local government: administration, staffing, tax base
- Public water supplies: facilities, service area, treatment capacity, mapped source protection areas
- Municipal wastewater treatment: facilities, service area, reserve capacity, allocation
- Public safety: fire, rescue, police; facilities, equipment, services; crime rates, calls, response times
- Public works: facilities, equipment, programs
- Municipal recreational: facilities, services, programs
- Public cemeteries: capacity
- Solid waste management: facilities, services
- Telecommunications: available facilities, services; wireless/broadband coverage
- Educational facilities: Current and projected enrollment of pre-K, elementary, secondary, higher education, adult; capacities
- Child care facilities: services, child care programs, capacities
- Health care facilities: services, programs; community health initiatives
- Social services: programs

If the facilities are at capacity, further development may strain them, causing financial burdens and environmental problems. If facilities are inadequate, they may prevent the municipality from adequately meeting existing needs and accommodating future growth. If they are oversized and underutilized, they may encourage unplanned growth or higher tax burdens on residents and businesses.

Evaluate these facilities and services in terms of their:

- quality;
- ability to deliver services;
- capacity to meet future needs based on population, economic, and land use trends;
- effect on orderly and efficient municipal and regional development;
- other standards the municipality and region may set.

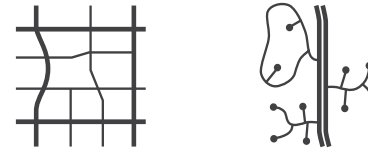
Your assessment should inventory any existing plans as they relate to your community facilities (such as any planned upgrades, replacements, mergers, etc.) Additionally, you should look at operating and capital budgets as they relate to your tax base in order to understand the future outlook of funding for all of these facilities. Documenting the costs of expanding, maintaining, and eventually replacing some facilities/services is helpful information that will inform your community's decisions regarding any future expansions/contractions. It's also a good idea to identify potential opportunities for merging or regionalizing services when applicable.

Many of these utilities, facilities, and services are likely engaged in their own strategic plans. Reach out to relevant groups or bodies (such as school boards, cemetery commissions, etc.) and get them to provide input into the assessment. Asking them what their plans are is also a good opportunity to let them know about your planning process and how what they do fits in.

CASE STUDY: BUILDING BETTER BUDGETS

Smart Growth America conducted a [national examination of the fiscal benefits of smart growth development](#) and surveyed 17 studies comparing different development scenarios.

SMART GROWTH TYPICAL SUBURBAN

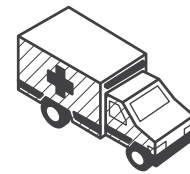


Smart growth development

costs $\frac{1}{3}$ less

for upfront infrastructure.

Smart growth development saves an average of 38 percent on upfront costs for new construction of roads, sewers, water lines and other infrastructure.



Smart growth development

saves an average of 10%

on ongoing delivery of services.

The survey concluded that smart growth development saves municipalities an average of 10 percent on police, ambulance and fire service costs.



Smart growth development produces

10X more tax revenue

than conventional suburban development.

The survey concluded that on an average per-acre basis, smart growth development produces 10 times more tax revenue than conventional suburban development.

Energy

Your plan is required to include: *An analysis of energy resources, needs, scarcities, costs, and problems within the municipality.*

This part of the assessment will help you later in developing ... *a statement of policy on the conservation of energy, including programs to implement that policy, a statement of policy on the development of renewable energy resources, a statement of policy on patterns and densities of land use likely to result in conservation of energy.*

Energy planning can bring a wide variety of benefits to your community, including cost savings, energy independence, local influence over energy facility siting, a clean environment, and local jobs. Many communities across the state now have energy committees that can help pull together the energy-related information you need in your plan. If your municipality wants greater control over the siting of renewable energy facilities, you may choose to adopt an enhanced energy plan that addresses siting issues in greater detail and that can be used to influence the state review process.

Key Considerations

- Consumption/use: existing, projected by sector (e.g. municipal, residential, commercial/industrial, transportation); cost
- Utilities, fuel providers: service areas, customers base
- Facilities, infrastructure: generation facilities, transmission corridors, substations, distribution lines, three-phase power
- Renewable energy: type, potential (e.g., mapped solar, wind, hydro)
- Energy efficiency: municipal policies, programs; planned upgrades, improvements

Much of this information is available in your regional plan, with some exceptions, such as energy use and efficiency data as it relates to your municipal facilities. You should also take an inventory of any existing municipal energy programs, planned facilities/efficiency improvements, and policies. Gathering this information and data should give you a picture of energy use, future needs, and potential opportunities to meet those needs. For those opting to create an enhanced energy plan, the regional plan can serve as a critical resource.

ENERGY PLANNING & IMPLEMENTATION GUIDEBOOK FOR VERMONT COMMUNITIES

The Vermont Natural Resources Council has developed a guidebook specifically designed to help municipalities with the energy-planning component of their plans. Learn about useful tools, best practices, and case studies by [downloading this helpful resource](#).

There are a number of tools (see Energy Planning & Implementation Guidebook sidebar) that can help you establish measurable targets and evaluate the costs and savings associated with various actions as they relate to energy and efficiency needs. Choosing the right tools and analysis can be effective at guiding your actions in Step 3 (goals and objectives) and Step 5 (implementation). For example, an analysis may provide a community with energy use and audit data for municipal buildings alongside the costs and savings of making various improvements to these buildings. Having this information can guide them in setting the right targets for energy savings and in selecting the most-effective actions to hit those targets.

While municipalities are prohibited from regulating electric transmission or generation facilities [see Appendix 2], mapping out the best locations for renewable energy facilities can help guide energy development to appropriate areas of your town – especially if you have chosen to adopt an enhanced energy plan. Instructions and resources for assessing the potential for renewable energy siting and integrating that with land use considerations are available from the [Public Service Department](#) and from your RPC.

Significant Cultural, Historic and Scenic Resources

Your plan is required to include: *A statement of policies on the preservation of scenic and historic features and resources.*

Vermont's scenic landscapes and historic buildings, villages and downtowns, and cultural ties to long-standing traditions contribute to the special sense of place residents enjoy and visitors admire. Identifying and highlighting the key features that contribute to the special character of your community will guide what your historic and scenic preservation goals will be (Step 3) and how best to meet those goals (Step 5). In addition to the visible resources, remember to document the less-visible evidence of historic and prehistoric peoples and cultures.

Keep the following key considerations in mind as you collect information on your scenic and historic features and resources.

Key Considerations

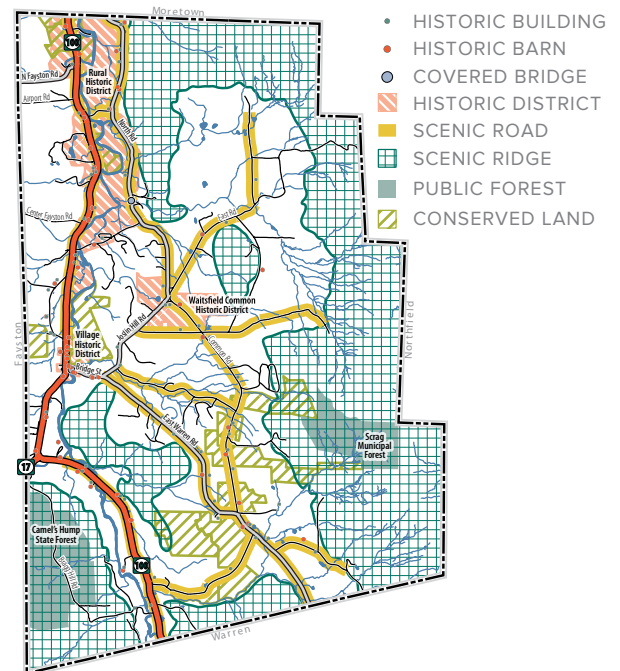
- Historic sites, structures, districts, cultural landscapes
- Archeological resources
- Scenic viewsheds, ridgelines, road corridors; designated scenic byways
- Places that have special meaning

It's also a good idea to take an inventory of existing plans, programs, initiatives that preserve these resources. In addition to identifying resources, your community can then see which of the resources may have preservation measures or incentives in place and that may be more vulnerable to negative changes. Identifying those at-risk resources may help inform community goals and actions later on in the process. For example, an assessment may map out scenic open fields, steep hillsides, and ridgelines, as viewed from public vantage points, and note the lack of standards that would help preserve them. A community may decide that maintaining these resources is part of their vision and choose to include a plan objective of avoiding undue adverse impact to mapped scenic resources and to later adopt an overlay with site design standards that apply to development within these areas.

Regional Plans often contain a list and map of these resources that you may want to use in your assessment. Additionally, the Vermont Division for Historic Preservation adopts a [State Preservation Plan](#) every five years that can help identify resources and strategies for maintaining and enhancing your cultural resources. The Division also maintains an [online database of data about historic resources](#) from barns to properties on the national register of historic places that can be searched by municipality.

Beyond the resources identified in inventories and studies, communities can identify places that have special collective meaning — places that engender shared experiences and emotions. The visioning process in Step 2 may bring to light several resources missed in the assessment.

WAITSFIELD MAP OF HISTORIC AND CULTURAL RESOURCES



Housing

Your plan is required to include: *A housing element that shall include a recommended program for addressing low- and moderate- income persons' housing needs as identified by the regional planning commission [in the regional plan]. The program should account for permitted accessory dwelling units, as defined in subdivision 4412(1)(E) of this title, which provide affordable housing.*

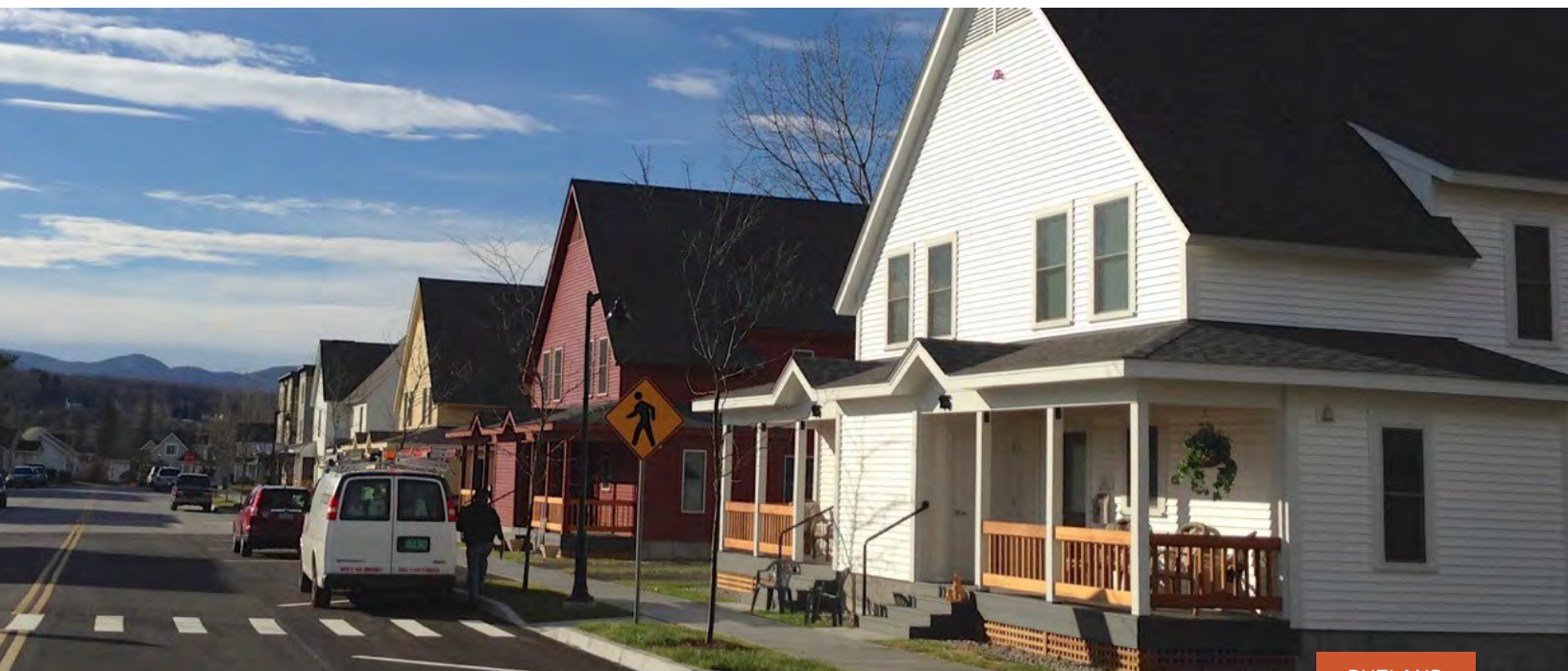
A robust housing plan can ensure that the housing in your community is of the quality, affordability, and variety to promote community health. Without housing that is desirable and affordable at all income levels, it is difficult to attract people and business and maintain a vibrant, healthy community.

In order to include a housing element with a corresponding recommended program (to be determined later), you will want an understanding of your current housing stock and future housing needs.

You will want to start by referring to your regional plan and looking at the housing needs they have identified for your community. In some instances, the data and analysis they have included may suffice for your housing assessment, although it may be that you need more specific or current information depending on when the regional plan was last adopted. Collect and analyze housing data for the following key considerations.

Key Considerations

- Households: changes in number, average size, age of householder
- Housing trends: numbers, market conditions, vacancy rates
- Housing stock: type, age, condition (e.g., energy efficiency, lead-based paint)
- Housing affordability: median sale prices, rental rates in relation to household income
- Housing needs: regional, local/fair share (e.g. affordable, workforce, special needs, temporary/emergency shelter)
- Housing locations: location in relation to services, facilities; transportation costs of living in different areas



RUTLAND

Analyzing projected population changes, current housing stock and availability, economic development, and the resulting incomes of your community's residents can go a long way toward determining what your housing needs are and what development should be prioritized. There are some great resources that have compiled this data and explain how you can use it. Check out the Vermont Housing Data website (see sidebar) and needs-assessment guide for the information you need.

VERMONT HOUSING DATA WEBSITE

The Vermont Housing Data website includes useful local data as well as a [Vermont Housing Needs Assessment Guide](#). These two resources make it easy for you to build a housing data profile for your community that includes trends over time at the local, county, and statewide level. The assessment guide is a tool specifically designed to help communities include what they need in their local plans.

Consider the types of housing available in your municipality and the larger region, including whether there are opportunities for homeownership as well as rental units with an appropriate number of bedrooms. Analyze median home prices and rents rather than averages, as a median is less likely to be skewed by a small number of higher- or lower-priced properties. Current vacancy rates can tell you much about the availability of housing. A particularly low vacancy rate may mean that housing is scarce and it will be difficult to attract people to the community, something that will hinder employers from attracting workers. Also consider the availability of subsidized housing for workers making lower wages and whether the waiting list for such housing options is long.

Take an inventory of existing housing plans, programs, initiatives, and organizations in your community. These may include housing action plans, [such as Burlington's](#) programs to incentivize housing; the [Neighborhood Development Area program](#); or a local housing trust fund, like [Montpelier's](#). In addition to knowing what your community needs are, you will want to know what's already being done, so that when it comes time to recommend some actions, you can build on what is working for your community.

Flood Resilience and Hazard Mitigation

Your plan is required to include: *A flood resilience plan that identifies flood hazard and fluvial erosion hazard areas, based on river corridor maps provided by the Secretary of Natural Resources pursuant to 10 V.S.A. § 1428(a) or maps recommended by the Secretary, and designates those areas to be protected, including flood plains, river corridors, land adjacent to streams, wetlands, and upland forests, to reduce the risk of flood damage to infrastructure and improved property; A flood resilience plan may reference an existing local hazard mitigation plan approved under 44 C.F.R. § 201.6.*

Using the latest maps of flood hazard areas and river corridors (fluvial erosion hazard areas) will help you set goals and objectives during Step 3 when it is time to recommend policies and strategies to protect the areas identified [flood hazard and fluvial erosion hazard areas] and to mitigate risks to public safety, critical infrastructure, historic structures, and municipal investments.

Key Considerations

- Mapped river corridors and special flood hazard areas
- Other mapped hazard areas
- Properties and infrastructure vulnerable to flood damage or other hazards
- Wetlands, flood plains, farm and forest land that provide or could provide capacity for slowing and storing floodwaters.

Vermont's long-term economic development strategy is to support reinvestment and growth in and around Vermont's historic centers – many of which are near rivers or lakes and vulnerable to damage from floods. The way land is developed helps or hinders a community's ability to avoid and respond to disasters. However, in most Vermont communities, it's not practical or possible to relocate buildings, roads and other infrastructure to locations outside of river corridors. Improving public safety and reduce damage from flooding in these areas is a challenge for many communities, as there are often competing and conflicting interests.

You can start to address flood resilience by generating data on your municipality from the Flood Ready [website](#) with the easy-to-use Community Risk Assessments (see next page). This tool will instantly generate flood risk data, regarding: buildings in located flood hazard areas, mitigation actions and dates, and the status of Local Hazard Mitigation and Emergency Operations plans. Review this information to evaluate community readiness and to see what may be needed to avoid preventable flood damages and costs.

To help communities further consider their options, DHCD together with ANR and the RPCs developed a [Flood Resilience Checklist](#) to assess how well your community is positioned to avoid or reduce flood damage, reduce insurance rates and to protect people and property. This information can help ensure your plan advances an integrated strategy of policies, programs and investments to: protect people and property; strengthen Vermont's preparedness at individual, community and regional scales; ensure a coordinated, fast and efficient response after a disaster; reduce the repetitive repair costs to infrastructure that impact local, state and federal budgets; ensure businesses stay open and Vermont's economy remains strong after a flood.

Expanded Community Report for Enosburg

Emergency Relief and Assistance Fund (ERAF) - State Post-Disaster Funding

Flood Hazard Mitigation Actions	Action Dates		Responsible	ERAF Status
1. 2013 Road and Bridge Standards	03/18/2013		Enosburg	Yes
2. Local Emergency Operations Plan	09/08/2015		Enosburg	Yes
3. National Flood Insurance Program	06/19/1996		Enosburg	Yes
4. Local Hazard Mitigation Plan	In Process	Interim	Enosburg	Yes
5. River Corridor Protection				No
ERAF Rate for Actions 1 - 4:12.5%,	Actions 1 - 5: 17.5%	ERAF Rate for: Enosburg		12.5%

21	Buildings in the Special Flood Hazard Area (SFHA) (estimated from e911 sites).
3	Flood Insurance Policies in SFHA (Zone A, AE, AO, A 1- 30)
14%	Percent of buildings in the SFHA with flood insurance in force.
0	Critical or public structures in SFHA or 0.2% flood hazard area (est. from e911 sites.)
3%	Percent of buildings in the SFHA.
06/19/1996	<u>National Flood Insurance Program (NFIP) (Enrollment Date)</u>
<u>Vector</u>	<u>Flood Insurance Rate Map Standard (Digital FIRM (DFIRM), Rough Digital, Paper)</u>
Enosburg	NFIP Status: Regular Program
	<u>Community Rating System (CRS)</u>
Yes	<u>Local Emergency Operations Plan (LEOP) ERAF Status valid for Enosburg?</u>
09/08/2015	LEOP - annual update after Town Meeting and before May 1.
Yes	<u>Local Hazard Mitigation Plan (LHMP) ERAF Status valid for Enosburg?</u>
04/21/2008	LHMP - Valid for 5 years from FEMA final approval date
Returned from FEMA	LHMP - Status of review (Plans currently in review are valid for ERAF).
No	<u>River Corridor Protection in Enosburg?</u>
	<u>River Corridor Interim Protection Status for ERAF valid for Enosburg?</u>
08/19/2013	<u>Municipal Plan - Valid for 5 years from adoption date</u>
05/27/2013	Zoning Adoption / Amendment Date
	Hazard Area Regulation Adoption / Amendment Date
Yes	<u>2013 Road and Bridge Standards</u>
67.380	Town Highway Mileage in Enosburg
03/18/2013	<u>Enosburg Road and Bridge Standards and Adoption Date</u>
	<u>Enosburg Certificate of Compliance with Road and Bridge Standards and Date</u>
	Town Highway Network Inventory Date
80%	<u>Town Highway Structures Grant Rate (State match 80% or 90%)</u>
70%	<u>Class 2 Roadways Grant Rate (State match 70% or 80%)</u>
<u>District 8</u>	<u>Project Manager email for VTrans Maintenance District 8</u>

Note: if you have updated information - please let us know:

1. Road Standards and Certificates - contact your VTrans District Project Manager: District 8
2. Local Emergency Operations Plans or Local Hazard Mitigation Plans contact your Regional Planner
3. For other questions please contact VT DEC **Flood Ready Atlas- River Corridor and Flood Hazard Maps**

FLOOD READY VERMONT

Land Use

Your plan is required to include: *A land use plan consisting of a map and statement of present land uses, including information on the amount, intensity, and character of such land uses.*

Documenting existing land uses in the community will illustrate the pattern of development and give you valuable information for mapping out your future land use (see Step 4). A clear analysis of past and existing patterns of land use also can give you a sense of where future development is likely to occur given your community's existing conditions and current regulations (or lack of regulations). Having this information will be essential in guiding the actions you will be selecting in Step 5.

To start documenting land uses, first determine the types of land uses that you want to show. You may want to use the land uses explained in the “Vermont Transect” identified in [Step 4](#) of this module, or you can use land use cover data available from the United States Geological Survey. If available, digital parcel data linked to the grand list is very useful. In addition to portraying subdivided lands, large land holdings, and other land ownership patterns, you can color code different land uses and conduct statistical analyses in GIS software. Other helpful sources of information include aerial photography and building permit records that can tell you where development has been happening in recent years.

Key Considerations

- Historic/existing settlement patterns
- Changes in land use/land cover
- Subdivision and development trends: parcel numbers, size, rate, type, location
- Existing/proposed downtown, growth center, village, neighborhood designations
- Design considerations: design review districts, historic districts
- Regional trends planned pattern of development and existing zoning



WESTMINSTER

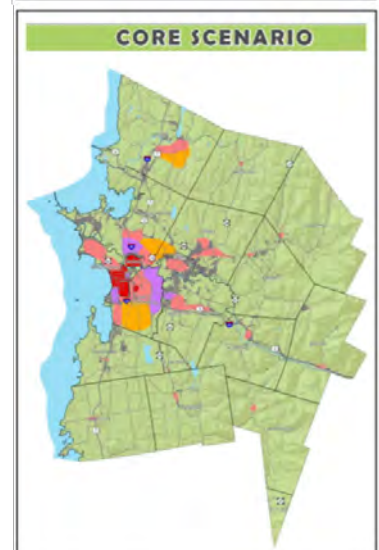
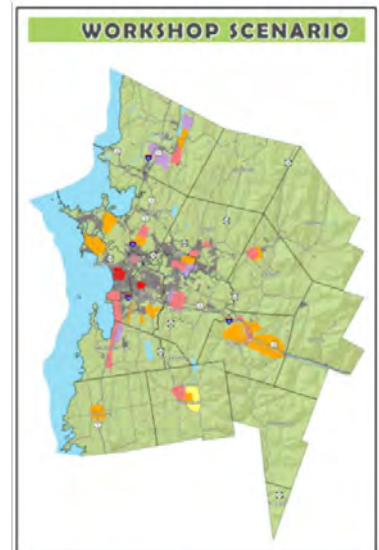
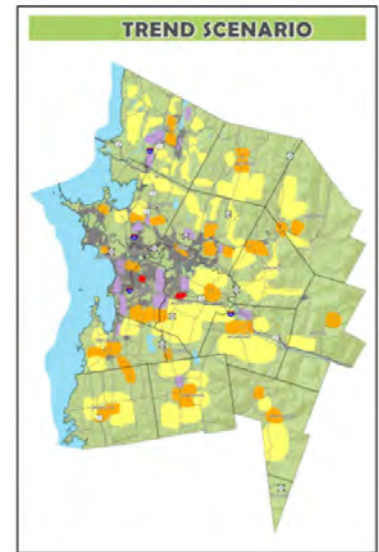
GIS software can help you analyze current land use and give you data such as percentage area of types of land use, neighborhood density, and age of housing (depending on information available in your grand list). By using this data and looking at development and land use change over the years, you can conduct various build-out scenarios.

A build-out scenario uses past development patterns to forecast likely development into the future. Based on your community's population projection from your demographic assessment, housing data, economic development trends, natural resources and physical features, and development regulations, you can project what your community will look like in 20 years. Many of these analyses include considering multiple scenarios, comparing likely future outcomes with certain assumptions modified. Mapping out this projection and painting a picture of your community's future based on existing trends is a great way to start the process of coming up with your shared community vision (Step 2). It lets you say "Here's what our community will look like if recent trends continue and we don't do anything." From there it becomes easier to answer questions like (1) "Is this what we want our community to look like?" (2) "How would we like it to be different?" and (3) "What do we need to change so that the future of our community looks more like our vision than the projection of current trends?"

There are a variety of methodologies and tools available to you to help conduct build-out scenarios. Some tools, like [CommunityViz](#) can enable you to visualize scenarios in 3-D. Others, like [Envision Tomorrow](#), can even model the fiscal impacts of various build-out scenarios. Scenarios can be developed with varying degrees of detail and resources (see sidebar for example of scenario planning in Chittenden County.). Regional Planning Commission (RPC) staffs have created build-out scenarios and analyses for several communities in Vermont. Your RPC can help advise you on what method might be the best fit.

CHITTENDEN COUNTY SCENARIO PLANNING REPORT

Download report [here](#).



Regional Context

Your plan is required to include: *A statement indicating how the plan relates to development trends and plans for adjacent municipalities.*

Reviewing the plans and bylaws of adjacent municipalities along with looking at your regional plan and recent development activity can help you understand potential future impacts on your community and your plans. Additionally, for plans to be regionally approved they need to be compatible the regional plan and compatible with approved plans of other municipalities in the region.

Key Considerations

- Land uses along town boundaries
- Major regional initiatives/projects
- Development trends

It's likely that you've included regional considerations/trends throughout different parts of your assessment (such as housing and natural resources.) You should consider taking a step back and looking at the regional context from a big picture perspective. Ask yourself – is there anything happening in the area that we are missing that is important for us to think of?

Regional Planning Commission staff are a great resource to check in with and your community's Regional Planning Commission representative is also likely a good person to help gather the best and most relevant data and information that will help you. Meeting with or calling officials or planning commissions from neighboring municipalities is also a good way to find out what their plans are and what changes are expected in the future. Some towns don't have plans, or they may not be up to date, and in person communication may be the only way to get the information you are looking for.

You might use this part of your assessment to identify possible opportunities for regional cooperation. Towns across the state have worked together to undertake multi-town initiatives related to affordable housing, economic development, public safety, highway maintenance, recreation and conservation.

How do we use this assessment information?

Once you have assembled and analyzed the information outlined in each of these sections, it should be consolidated and presented in a format that is accessible to the public and those participating in the community visioning process and future steps of the planning process.

Making the assessment information widely available and accessible before other steps in the process helps people be more informed as they provide input. You may want to put it into a digital format, post it on your town website, and distribute the link through [Front Porch Forum](#) and Facebook, and send it to municipal committee email lists and invite people to distribute. Having paper copies available front and center at your library and town offices is also advisable. Talk to teachers in your community and see if the assessment might fit into their classes. Writing an article in your local paper outlining the process timeline, providing community assessment highlights, giving a link to more information, and inviting people to participate in the visioning is a great idea. Creating a brief presentation with key findings to lead off any visioning meetings is also wise, as not everyone will take the time to read the assessment, no matter how well distributed it is.

Remember, the point of the assessment is to assist you and the community in making informed decisions throughout the rest of the planning process, and to keep your vision grounded in reality.

Step 2: Develop a Shared Community Vision

Public participation is particularly critical when developing the vision that describes the future of your community. While visioning can sound like something “fluffy,” — or a step you can skip — it is an essential component of every municipal plan. The plans that take root and are valued are always built on a shared vision of the future. Communicating an image of the future that speaks to what the community values and wants to change entails listening closely to others and appreciating their hopes and needs. The processes of enlisting others to envision exciting possibilities allows you to identify the issues the community cares about most, and not only builds consensus for a shared vision of the future, but also helps you pin down implementation actions and community priorities.

“It’s about discovering what your community cares about — its shared values — and building a vision for the future based on those shared values. Activities in this phase focus on bringing a broad mix of people into the process to help identify these values. Telling personal stories about local experiences is a key engagement strategy in this phase, bringing people together and helping them to find common ground.”

Community Heart & Soul Field Guide, Orton Family Foundation

Identify What to Maintain, Evolve and Transform

As counterintuitive as it might seem, the best way to lead people into the future is to discuss places in town they know and like today. Often, when you get a group of people talking about the places that matter to them, differences are set aside in favor of shared goals. However, simply stating shared goals is not particularly helpful to a land use visioning process because they are not linked to the places a community cherishes as is, or would like to improve. Mapping places the community wants to (1) maintain, (2) evolve, and (3) transform is a great way to engage stakeholders in the process. This approach helps identify the degree of change a community would like to see and focuses attention on where and what needs more detailed discussion, planning, or targeted investment.

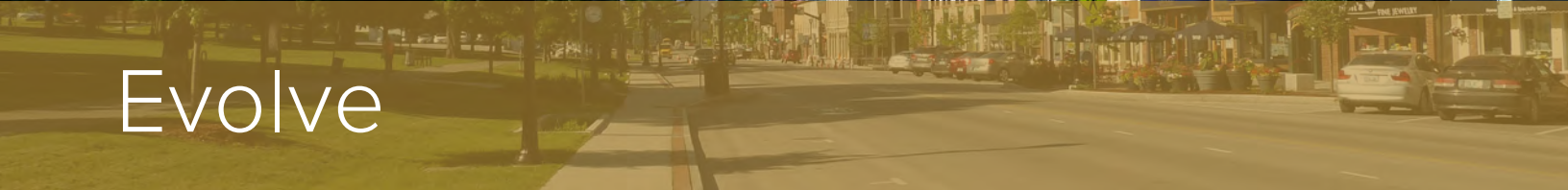


BOLTON



Maintain

Maintain: Municipalities often identify the working landscape and important natural features as areas they would like to maintain and where they wish to see limited change. You may also want to maintain existing neighborhoods, with the addition of some new housing opportunities that are well designed and compatible with the existing character.



Evolve

Evolve: A village center or downtown may have great potential and you would like to build on its underlying strength and character. Or there is a need for commercial and industrial space to accommodate the projected growth. Evolving a place might mean the community wants to promote changes that are incremental such as infill development, redevelopment, and streetscape improvements.

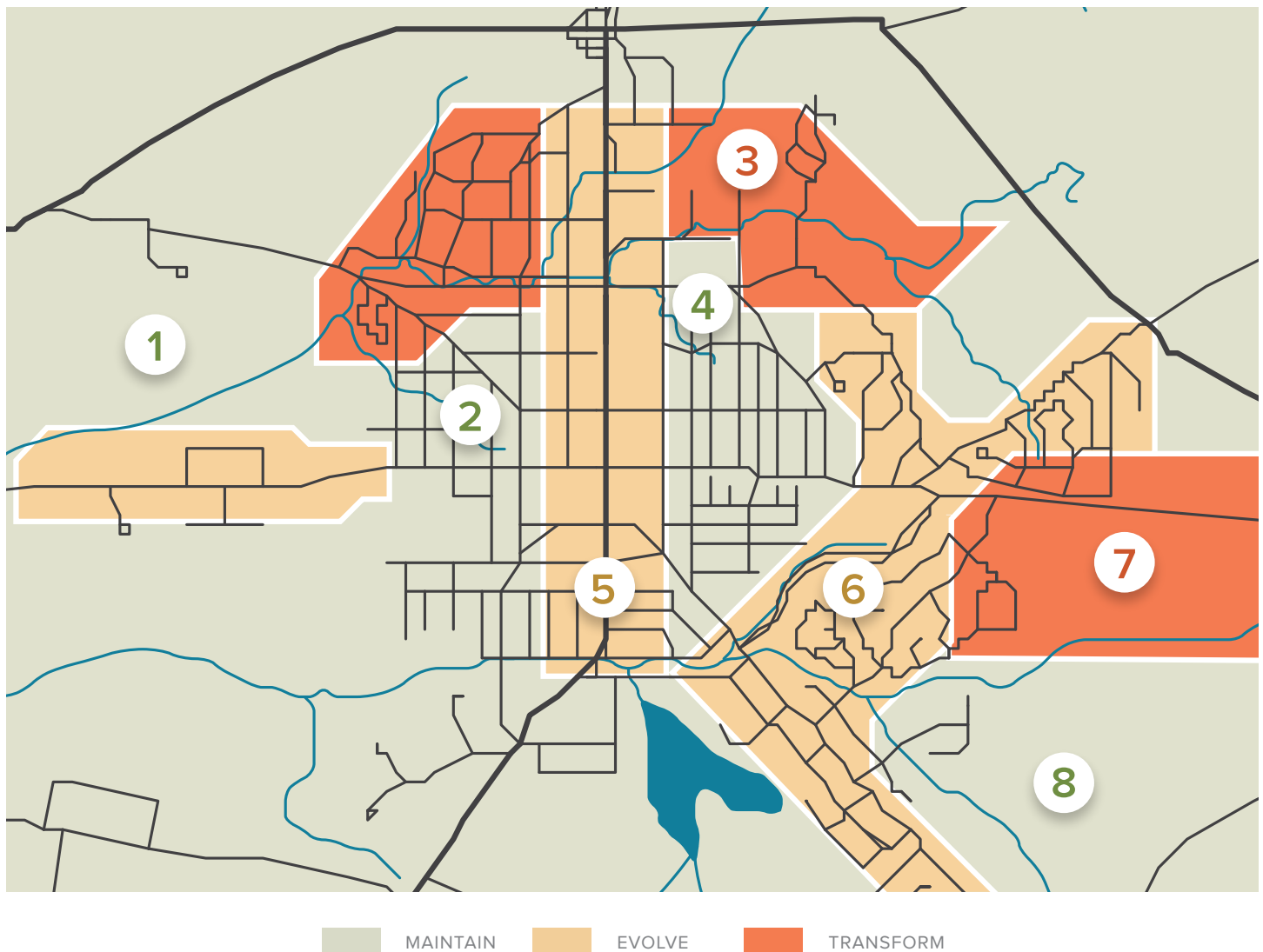


Transform

Transform: There may be areas of town appropriate for complete transformation; e.g., a strip development or underutilized parcel or contaminated site. Undeveloped areas within walking distance of a community center may also be suitable for transformation into a new neighborhood.

Areas selected to “evolve” or “transform” may benefit from specific area planning. Priority areas targeted for change should be identified and addressed in Step 5. Identifying areas your community wants to maintain, evolve, and transform will also make it easier to create a land use map later on in the process. The framework is also a terrific approach to determining aspects of a town that are more general or not necessarily location specific. For example, a community might want to evolve to become more affordable or encourage more household diversity throughout the town. Keeping a “maintain, evolve, transform” list that applies to townwide changes that can’t easily be mapped is a good idea.

Example Concept Map: Maintain Evolve Transform



1: Maintain

Protect rural character and opportunities for agricultural enterprises.

2: Maintain

Preserve historic character of neighborhood while allowing for some more housing.

3: Transform

Cleanup and engage downtown waterfront.

4: Maintain

Keep up maintenance on this cherished park!

5: Evolve

Encourage second story housing and make improvements to Main Street.

6: Evolve

Promote infill housing and add bicycle lanes and sidewalks connecting to downtown.

7: Transform

Cleanup brownfield and establish new industrial park.

8: Maintain

Preserve river corridor and mitigate downstream flooding.



NORTHFIELD

Gathering information and ideas from those in your community about how and where they want to evolve, transform, and change can be done in a variety of ways, such as through focus groups, open houses, workshops, or using online tools. When you are gathering people at a meeting or event you should:

1. Review your meeting materials/instructions that clearly say who should attend, when and where the meeting will be held, what the planning process aims to do, why their involvement is needed, and how their participation will influence the final outcome;
2. Review and finalize your communication plan to get the word out to the community;
3. Distribute your meeting materials a week or two before the meeting to give folks time to think;
4. At the meeting, give a brief presentation of the overall work plan and timeline;
5. Describe the goal of creating the shared vision and review the instructions on how to participate in the meeting;
6. Break up into smaller groups to encourage back-and-forth discussion;
7. Provide people with large maps and materials such as stickers and markers to put their ideas on paper; and
8. Bring the groups back together to share results.

TIPS TO SUCCESSFUL PUBLIC MEETINGS

- Explain the ground rules to keep the conversation focused on achieving the objectives
- Encourage collaboration
- Monitor group progress and keep the meeting on schedule
- Focus on the needs of the participants, and steer them away from personal positions and feelings about topics and/or others in the group
- Ensure everybody has the opportunity to speak
- Identify themes and areas of agreement and disagreement
- Record the group's discussion
- Share meeting notes as follow-up, and ask the group to review for accuracy

See [Holding Effective Public Meetings](#) for more tips drawn from a survey of planning commission members and staff.

In many communities, you will find consensus about the overall vision. People rarely agree on everything, but one way to address differing viewpoints is to focus on areas of agreement. Hosting meetings in a particular neighborhood may be one way to address location-specific goals, aspirations, and concerns. If there are controversial areas or ideas, you may want to address them separately with an advisory committee or task force or table them for later in order to keep your momentum going.

Use Photographs and Images

A picture is worth a thousand words. There's no better way to explore options for the future and communicate a final vision than with photographs and images. One way to use images in your visioning process is to invite the community to submit photos showing what they like and value as well as changes they would like to see.

Local artists, architects, and designers who are willing to help can illustrate the types of possible changes. Local volunteers who know how to use software applications that alter photos, like Photoshop, or show 3-D models, like SketchUp, may be able to capture the desired changes in a way that everyone can easily understand.

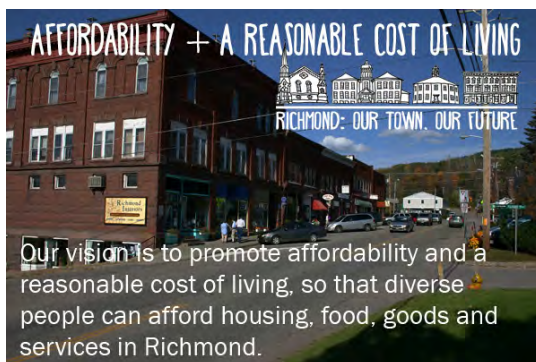
Create a Vision Statement

A vision statement captures what community members value most about their community, the shared image of what they want their community to become, and the preferred approaches to creating the desired future. While crafting the statement, remember that you're describing the dream of your community's highest potential. Consider using pictures and images to bring the vision to life. Vision statements can vary in length, but should be clear and concise, and create a visual image in the mind of the reader.

Richmond's vision statement is a great example of a clear and concise vision statement that is communicated with the use of photos.

RICHMOND VERMONT'S VISION STATEMENT

The Town of Richmond aims to be the most livable small town in Vermont. We value our unique combination of authentic Vermont character, diverse local services, and accessible location in Chittenden County. We want Richmond to be an affordable and appealing place for people to live, work, play, shop, and connect. We will take a forward-thinking approach to emerging opportunities and challenges while honoring and strengthening our close-knit community and rural character.



What is the best way for my community to create a vision?

The visioning process should begin with a fact-based understanding of the existing conditions of the community, e.g., data on housing needs, economic conditions, and anticipated population changes. The information from your community assessment in Step 1 can frame and focus the discussion and keep it firmly rooted in real issues and possibilities.

Keep the entire process open and transparent with information that is freely and widely shared. Develop a plan to reach as many people willing to participate as possible. As discussed in the introduction of this manual, there are a variety of methods and tools that can be used to share information and engage people in creating a shared vision.

For a great example of a visioning process, check out the [website Richmond created](#) for their planning process, which documents the steps they've taken and presents community data as well as the results of their visioning process.

RICHMOND VERMONT'S VISION STATEMENT

Richmond's Visioning Process included interviews, community conversations, and an online survey.

Main Survey Conclusions



You love:

The Richmond community, small town character, village businesses and services, the people, and rural landscape



You wish:

For more businesses, more activities and community gathering places, and safe bike & walking paths



You are:

Different and the same. Youth and seniors, newcomers and longtime residents have similar values but different needs and priorities.

That's just the start. People love this community, and have hundreds of ideas about what can make it even more vibrant and livable for all.

Scroll through to find out who responded and what they said. Learn more about the Our Town, Our Future process at richmondvtfuture.weebly.com.



DANVILLE

One public participation method that is gaining popularity is the “charrette.” Charrettes provide a rapid planning process intended to focus community attention on the issue at hand rather than spreading the process out over a much longer period of time. Concentrating your efforts into one, or a couple big events, with widespread participation and discussion, will be more effective than a year of public meetings that can risk creating meeting fatigue and may be dominated by the usual meeting-goers. Get people excited about participating with multiple opportunities to get involved. Conduct events at different times of the day and week to accommodate people’s varied schedules.

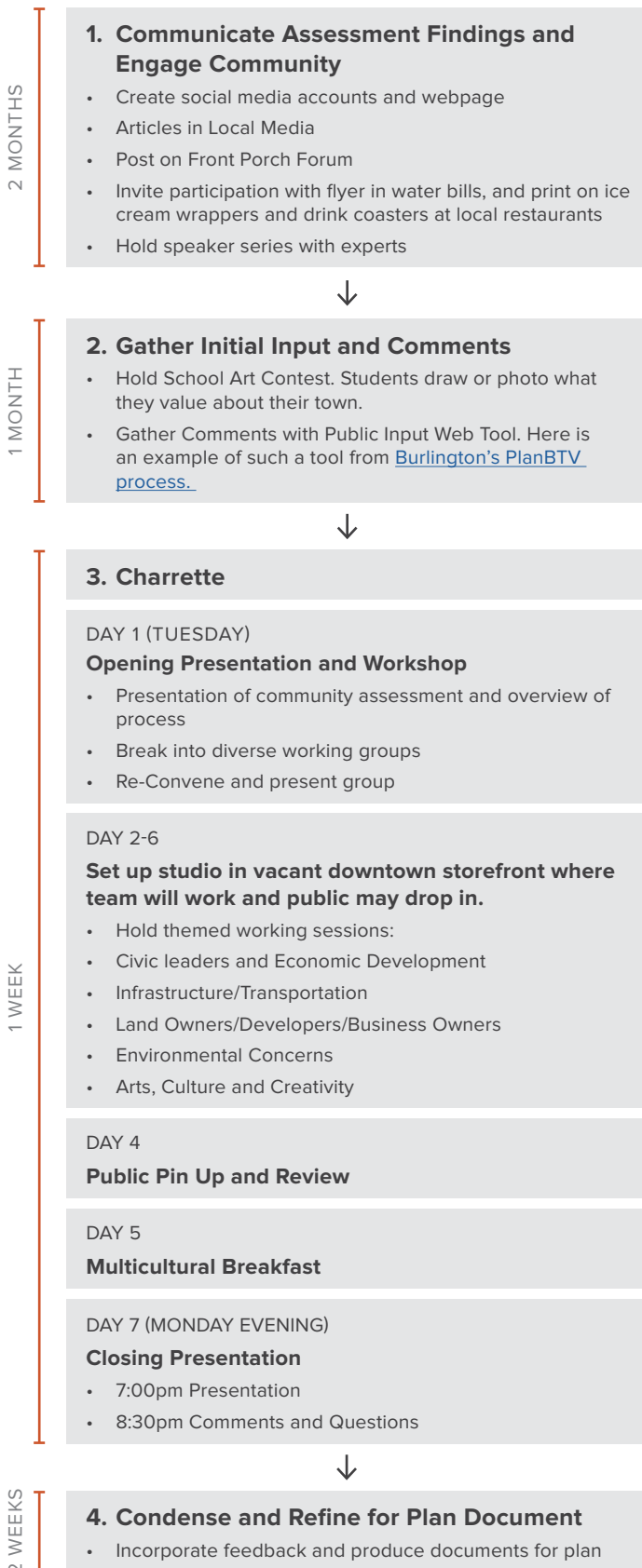
WHAT’S A CHARRETTE?

A charrette is an intensive decision-making process that brings community members together to find a mutually agreeable vision or solution to a problem. The time frame is usually compressed (2 to 5 days) and has multiple opportunities for learning, problem solving, and feedback. Charrettes are most commonly used for designing neighborhoods, streetscapes, and other specific plans like a village redevelopment plan, but they can also be used for establishing a vision for a municipal plan. Read more [here](#):

To give you a feel for what a visioning process might look like, two visioning scenarios are outlined on the next page.

Example Visioning Processes and Timelines

Bigger Vermont Town/City



Smaller Vermont Town



If you are interested in learning more, check out these useful resources related to different approaches to visioning:

- [Community Heart & Soul Field Guide, Orton Family Foundation, 2014](#). A helpful guide that outlines a detailed process focused on widespread community participation in enhancing a community's identity and "heart and soul."
- [Community Visioning Handbook: How to Imagine — and Create — a Better Future](#), Maine State Planning Office, 2003. Offers a particularly thoughtful visioning guide, explanation of "Why Vision?"; useful "How To" steps; and public workshop instructions, tips, and exercises.
- [Vermont Digital Economy Project Guides, Vermont Council on Rural Development](#). Information and examples on using digital communication tools with an emphasis on guidance for local governments.

Crafting and honing a community vision is often the hardest part of this process. However, your vision can only become a reality once it is broken down into organized, actionable elements. Step 3 will walk you through the process to create the goals and objectives to help ensure that your community vision and plan become a reality.



WATERBURY

Step 3: Identify Community Goals and Objectives

Once you have a shared vision, it is time to identify the goals and objectives that will move your community toward making this vision a reality.

This section of the manual, in addition to describing the terms “goals” and “objectives,” defines “policies” and “actions.” While the focus of Step 3 is to identify your goals and objectives, it is helpful to understand how they are linked to actions and policies that will be evaluated and prioritized in Step 5.

The remainder of this section highlights relevant state goals for each of the required elements of your plan, including (1) economic development; (2) natural resources; (3) transportation; (4) utilities facilities and services; (5) energy; (6) historic and cultural resources; (7) housing; (8) flood resilience and hazard mitigation; and (9) land use. (Note: Some of the statutory topics are combined to make them more manageable.) Under each of these sections you will find questions that will help you get the ball rolling toward establishing your goals and objectives.

The level of detail in your plan for each topic area will vary depending on the issues your community is facing. One community may need to focus on flood resilience and protecting river corridors, while another needs to address a housing shortage. Focus on what matters most to implement your shared vision.

The assessment and key considerations identified in Step 1 will help you see potential opportunities and challenges in realizing your vision and will guide you toward identifying goals and objectives that will get you where you want to go.

While the focus of Step 3 is to identify your goals and objectives, take some time during this step to brainstorm plausible action items that support your goals and objectives. The community should generally support the actions included in this list, however you should not spend time evaluating them yet and think of these items as ideas to consider later. Later on, in Step 5, you will revisit and evaluate these action items and select the best ones to be included in a prioritized implementation plan.

At a minimum, goals and objectives need to be identified for the list of topics presented on the following pages. The level of detail under each section will vary depending on the issues a community is facing.

Organized by topic area, the next sections highlight relevant state land use goals and basic statutory requirements. Rather than crafting new language and concepts, your community can opt to use the same language as the statewide goals or regional plan goals where appropriate.

The [DHCD Planning Manual webpage](#) includes examples of goals, objectives and recommended actions from municipalities around the Vermont.

Goals, Objectives, Policies, and Actions: What's the Difference?

Your plan is required to provide: *A statement of objectives, policies, and programs of the municipality to guide the future growth and development of land, public services, and facilities, and to protect the environment.*

It is helpful to think of goals, objectives, policies, and actions as a hierarchy with the broadest goals at the top, and each subsequent category having increasing levels of specificity, with actions being the most specific. Some plans label objectives as “strategies” and actions as “tactics,” which is fine, so long as they clearly communicate the purpose and outcomes of the plan, and the terminology is used consistently throughout the plan.

Aim to use clear language with active verbs like study, adopt, enforce, and create.

Goals state a purpose and destination, reflecting the shared vision for the community. They articulate an overarching principle that guides decision-making, providing a framework for the more detailed action statements. The goals within a plan must be internally consistent. Achieving one goal should not prevent or hinder achieving another goal. They should also not be so vague that their meaning is open to many interpretations. They should be both challenging and attainable.

NOTE: Instead of starting from scratch, you can choose to adopt some or all of the 14 statewide planning goals in 24 V.S.A. §4302(c) as your local goals. Relevant goals from the regional plan could be used the same way. Starting from already-established goals can save time and help ensure consistency with the statewide goals and compatibility with the regional plan, but be sure to include specific objectives and actions that customize those goals for your community vision.

Objectives provide targets for the accomplishment of goals. They should be specific enough that the municipality can determine when the objectives have been met. Effective objectives are SMART: Specific, Measurable, Attainable, Relevant, and Time-bound. The time frame (long term, intermediate term, and short term) for the objective should be clear.

Policies are definite courses of action adopted to attain your objectives and intended to guide all relevant decision-making across municipal departments. For example, some municipalities have detailed policies on limiting sewer line extensions or policies to maintain clear lines of communication between all the local boards and commissions. Policies may be needed for some but not all goals and objectives.

The term “policy” is used in some Vermont plans as an umbrella term referring to all statements of intent, encompassing the goals and objectives. “Policy” has also been used interchangeably with “objective.” You can choose to use the terms that best communicate the intent of your community.

Actions are the next steps needed to move toward the objectives. These are concrete activities that can be described in specific terms. Actions should identify the responsible party, the time frame for accomplishment and any necessary resources to get the job done. Actions also include “programs.”

Programs are organized activities or resources for implementing the plan. Municipalities may have a variety of existing programs such as a farmland protection effort or a program to help shop owners improve their building facades. Involvement in regional, state, or federal programs may also be recommended for furthering a goal. If suitable programs do not exist or are insufficient, you might recommend the creation of a new program such as instituting a village improvement committee or creating a town hazard mitigation fund.

GOOD AND BAD EXAMPLES OF GOALS, OBJECTIVES AND ACTIONS

BAD

Goal

Make the community more walkable and bicycle friendly.

Too vague. The goal needs to provide a clearer picture of where you want to go and what you want to become. This goal gives little direction and could be interpreted many ways.

Objective

Encourage the construction of sidewalks and bike paths.

Where? Everywhere? This does not provide a clear step toward reaching the goal and provides no achievable outcome. Note that the term “encourage” is not meaningful in this context and should be replaced with a more action oriented verb.

Policy

All town boards and commissions should consider the needs of bicyclists and pedestrians in their decision-making.

What decisions? Do the town boards and commissions have enough information to make meaningful decisions? Note that the term “should” and the overly broad scope of this policy make it impossible to recognize whether the policy is being applied.

Actions

Seek funding to pay for new bicycle and pedestrian facilities.

This action item should state who is responsible for what and when the action should be completed. Information regarding specific funding sources are also easily obtained and should be included.

GOOD

Goal

Integrate Complete Streets approaches and design features into road construction, upgrades, and maintenance to create safe and inviting environments for all users to walk, bicycle, and use public transportation.

Objective

Establish a network of bicycle and pedestrian facilities that connects the village neighborhood district to the village center. (Target: Increase percentage of residents walking or bicycling to work by 10 percent in 2020.)

Policy

Sidewalk upgrades focused on major arterial routes will be a funding priority and included annually in the capital budget.

Actions

- Prepare a sidewalk plan for the village and neighborhood districts to improve existing sidewalks and identify new pedestrian and bicycle connections for improved access throughout the village and adjoining neighborhoods.
Responsible: Village Improvement Committee and Select Board
Completion: November 2017
Funding/Assistance: Seek Municipal Planning Grant funds
- Update the land use regulations so that all new development and redevelopment projects in the village and neighborhood districts include pedestrian facilities that conform to the sidewalk plan.
Responsible: Planning Commission
Completion: March 2018
Funding/Assistance: Planning Commission budget with help from the Regional Planning Commission

Below you will find the required municipal plan elements listed in state statute as well as the statewide goals for each element. However, some of the elements are combined to make them more manageable. For examples of goals and objectives under each topic, visit [DHCD's website](#) which includes a table that provides examples of goals, objectives, and recommended actions from municipalities around Vermont.

Municipalities are free to create goals and objectives that go beyond the elements required by statute, addressing issues such as public health, population loss, and climate change.

Economic Development

Your plan is required to provide: *a description of the location, type, and scale of desired economic development, and identify policies, projects, and programs necessary to foster economic growth.*

Statewide Goal for Economic Development

To provide a strong and diverse economy that provides satisfying and rewarding job opportunities and that maintains high environmental standards, and to expand economic opportunities in areas with high unemployment or low per capita incomes.

The economy is a primary driver of change, and the economic future of your community needs to be integral to your shared vision. Whether you are a small rural town looking to maintain your farming and forest industry or a mostly urban community looking to evolve opportunities for growing businesses, setting the right economic development goals and objectives can help you realize your vision.

Refer to the key considerations and the assessment data from Step 1 and the shared community vision to help you get started. It's helpful to think of questions like "What, in terms of economic development, will need to happen for us to realize our vision?" "Where and what kind of opportunities, by sector, would we like to see maintained, evolved, or transformed?" "What does our assessment tell us about the challenges in making these opportunities a reality?" "Based on our shared vision and conditions outlined in the assessment, what are some realistic targets we can set for ourselves?" "What are some possible actions, projects, and programs we should evaluate in Step 5?"

Don't forget to refer to any comprehensive economic development strategy that has been developed in your region. If your community was recently involved in developing such a strategy and it is specific enough and supportive of your vision, you might consider using parts of it in your plan.

Natural Resources

Your plan is required to include: *A statement of policies on the preservation of rare and irreplaceable natural areas.*

Statewide Goals for Natural Resources

To identify, protect, and preserve important natural features of the Vermont landscape, including significant natural and fragile areas; outstanding water resources, including lakes, rivers, aquifers, shore lands, and wetlands; significant scenic roads, waterways, and views.

To maintain and improve the quality of air, water, wildlife, and land resources.

To provide for the wise and efficient use of Vermont's natural resources and to facilitate the appropriate extraction of earth resources and the proper restoration and preservation of the aesthetic qualities of the area.

Vermont's natural beauty and environmental integrity define its identity and often drive peoples' decisions to move to or stay in the state. Our natural resources provide us with beneficial services that clean our water and air as well as recreation opportunities like hiking or boating that support our tourism economy. Communities can define a wide variety of goals and objectives to ensure the health of their natural environment and the appropriate use of natural resources such as extraction of sand and gravel deposits.

Your community vision and the "key considerations" in Step 1 can help guide your natural resource goals and objectives. It's helpful to think of questions like "What natural resources are part of our vision, and what must be conserved to realize our vision?" "Where are important habitat blocks or rare threatened and endangered species located in our community?" "Based on our shared vision and any environmental indicators identified in the assessment, what are some realistic environmental quality targets we can set for ourselves?" "What are priority areas we would like to see preserved?" "What are some possible actions, projects, and programs we should evaluate in Step 5?"

Transportation

Your plan is required to include: *A map of prospective transportation and circulation facilities showing ... proposed highways and streets by type and character of improvement, and where pertinent parking facilities, transit routes, terminals, bicycle paths and trails, scenic roads, airports, railroads, and port facilities, and other similar facilities or uses, with indications of priority of need.*

Statewide Goal for Transportation

To provide for safe, convenient, economic, and energy-efficient transportation systems that respect the integrity of the natural environment, including public transit options and paths for pedestrians and bicyclers. Highways, air, rail, and other means of transportation should be mutually supportive, balanced, and integrated.

Our transportation network connects us to friends and neighbors, provides corridors for trade, allows us to get to our jobs, links us to recreation opportunities, and often provides spectacular views of Vermont's landscape.

Consider objectives for achieving the community vision for the full range of transportation modes that meet the needs of a diverse population. Using the transportation maps and data developed in Step 1, identify what future facilities and services are needed to realize the municipal vision and consider what it will take to maintain the existing transportation system. It may be helpful to ask questions like "Are there any new transportation facilities (paths/roads/parking, etc.) included in our vision?" "How can we improve our existing infrastructure to realize our vision?" "Where does the assessment point to deficiencies in the transportation system? Do our existing policies, such as public works specifications, and practices support our vision?" "What are our community priorities in terms of making transportation improvements?" "What are some possible actions and projects we should evaluate in Step 5?"

A final map of your prospective transportation and circulation facilities should coincide with your future land use map (see Step 4.)



GUILFORD

Utilities, Facilities, and Services

Your plan is required to include: *A map and statement of prospective community facilities and public utilities showing ... proposed educational, recreational, and other public sites, buildings, and facilities, including hospitals, libraries, power generating plants and transmission lines, water supply, sewage disposal, refuse disposal, storm drainage, and other similar facilities and activities, and recommendations to meet future needs for community facilities and services, with indications of priority of need, costs, and method of financing. An educational facilities plan consisting of a map and statement of ... projected uses and the local public school system.*

Statewide Goals for Utilities, Facilities, and Services

Public investments, including the construction or expansion of infrastructure, should reinforce the general character and planned growth patterns of the area.

To plan for, finance, and provide an efficient system of public facilities and services to meet future needs. Public facilities and services should include fire and police protection, emergency medical services, schools, water supply, and sewage and solid waste disposal. The rate of growth should not exceed the ability of the community and the area to provide facilities and services.

To broaden access to educational and vocational training opportunities sufficient to ensure the full realization of the abilities of all Vermonters.

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 workforce development.

The location of certain municipal facilities — sewer, water supply, fire stations, schools, and even the town hall and library — can influence the way your community changes as powerfully as zoning regulations. Public facilities, plans, and policies need to be coordinated with your land use regulations to support your vision. Decisions to invest taxpayer funds in constructing, expanding, maintaining, or divesting in public facilities sends a clear signal about the community's priorities, so it needs to be tied to the vision in the plan.

The demographic information in Step 1 helps you assess the need for public facilities, but there may be other issues to consider, such as possible school consolidation or expansion, or if child care services in the area are adequate. Your regional plan may provide a framework that can help you address facilities and services in your plan.

To get started on setting your goals and objectives for community utilities, facilities, and services, think of answering questions like “What, in terms of changes to facilities utilities and services, will need to happen for us to realize our vision?” “What does our assessment tell us about the challenges in making these changes a reality?” “What utilities/facilities/services are the most critical to our vision?” “What are the estimated costs and possible funding sources associated with our priorities?” “Based on the conditions outlined in the assessment, what are some realistic targets we can set for ourselves?” “What are some possible actions, projects, and programs we should evaluate in Step 5?”

Refer to any initiatives or strategies for utilities, facilities, or services that have been developed in your region. If such efforts have been undertaken in your community, and are specific enough and supportive of your vision, you might consider using parts of them in your plan.

A final map of your prospective utilities, facilities and services should coincide with your future land use map (see Step 4.)

Energy

Your plan is required to include: *A statement of policy on the conservation of energy, including programs such as thermal integrity standards for buildings, to implement that policy; a statement of policy on the development of renewable energy resources; a statement of policy on patterns and densities of land use likely to result in conservation of energy.*

Statewide Goal for Energy

To make efficient use of energy, provide for the development of renewable energy resources, and reduce emissions of greenhouse gases. (A) General strategies for achieving these goals include increasing the energy efficiency of new and existing buildings; identifying areas suitable for renewable energy generation; encouraging the use and development of renewable or lower emission energy sources for electricity, heat, and transportation; and reducing transportation energy demand and single occupancy vehicle use. (B) Specific strategies and recommendations for achieving these goals are identified in the State energy plans prepared under 30 V.S.A. §§ 202 and 202b.

From cost savings to a cleaner environment there are plenty of reasons for you to include energy goals and objectives in your plan. Municipal plans are considered in Vermont's regulatory process for siting energy generating facilities, including solar and wind installations. State law also provides municipalities with the option for enhanced planning, allowing towns and regions to indicate preferred locations for those installations. (See Appendix 2 for guidance on how your plan can be used to influence renewable energy facility siting decisions.)

Refer to the key considerations and the assessment data from Step 1 and the shared community vision to get started. Ask questions like “Does any part of our vision require changes in our energy infrastructure?” “What are the most efficient and cost effective ways to reduce municipal energy consumption?” “Where are the best locations for renewable energy generation facilities?” “Where can people save energy by living close to jobs and services?” “Based on our shared vision and the data available in our assessment, what are some realistic targets we can set for ourselves in terms of energy consumption/generation?” “What are some possible actions, projects, and programs we should evaluate in Step 5?”



MONTPELIER



ST. JOHNSBURY

Historic and Cultural Resources

Your plan is required to include: ... *policies on the preservation of rare and irreplaceable ... scenic and historic features and resources.*

Statewide Goal for Historic and Cultural Resources

To identify, protect, and preserve important natural and historic features of the Vermont landscape, including significant scenic roads, waterways and views, important historic structures, sites, or districts, archaeological sites, and archaeologically sensitive areas.

Vermont's historic buildings and landscapes aren't preserved by accident. Our distinctive character of working landscapes, villages, and small cities results from community and statewide efforts to preserve these important resources. Your community assessment should have established an inventory of these resources, and your vision should serve as a guide in selecting goals and objectives related to your communities various historic and cultural resources. Clearly defining and mapping the resources that are important to your community makes it more likely that they will be enjoyed by future generations. Make sure to consider the Village Center and/or Downtown Designations (see Module 2) and how they can support the preservation and revitalization of historic buildings.

When coming up with your goals and objectives, ask yourselves these questions: "What are the most important historical and cultural resources?" "How important are they to our vision?" "What is it about these resources that make them part of our vision?" "Are there existing plans and measures in place to preserve and/or enhance these resources or is our community at risk of losing them?" "What are some targets we can set for ourselves that would show that we've succeeded in preserving our important resources?" "What are some possible actions, projects, and programs that will help us realize our vision of historic and cultural resources that we should evaluate in Step 5?"

CERTIFIED LOCAL GOVERNMENT PROGRAM

The [Certified Local Government \(CLG\)](#) program provides an opportunity to help local governments integrate historic preservation into local planning decisions. Any municipality which has enacted a historic preservation ordinance, enforces that ordinance through a local preservation commission, and meets the minimum requirements is eligible to become a CLG and receive the benefits of the program.

Housing

Your plan is required to include: ... *a recommended program for addressing low- and moderate-income persons' housing needs as identified by the regional planning commission pursuant to subdivision 4348a(a)(9) of this title. The program should account for permitted accessory dwelling units.*

Statewide Goal for Housing

To ensure the availability of safe and affordable housing for all Vermonters. (A) Housing should be encouraged to meet the needs of a diversity of social and income groups in each Vermont community, particularly for those citizens of low and moderate income. (B) New and rehabilitated housing should be safe, sanitary, located conveniently to employment and commercial centers, and coordinated with the provision of necessary public facilities and utilities. (C) Sites for multifamily and manufactured housing should be readily available in locations similar to those generally used for single-family conventional dwellings. (D) Accessory apartments within or attached to single-family residences that provide affordable housing in close proximity to cost-effective care and supervision for relatives, elders, or persons who have a disability should be allowed.

Housing, particularly as it relates to affordability, affects many other parts of your community, ranging from the ability to attract businesses and young people to energy and transportation demands. Goals and objectives should address housing needs determined in Step 1 and as described in the Regional Plan. Promoting accessory dwelling units, sometimes referred to as “mother-in-law” apartments, is an approach to meeting some of the housing needs across Vermont, and your community may want to incorporate this type of housing in its goals and objectives.

Your plan should consider both short- and long-term goals: whether new housing developments will be needed, or if rehabilitating an aging housing stock, whether there will be a greater need, and then whether you have the type of housing that is needed to meet your future population's needs. Additionally, keep in mind the goals and requirements of the [State and Federal Fair Housing Acts](#), which aim to actively reduce barriers to housing options by people who have historically been excluded or those that have special needs when seeking homes. These can include families with children, racial and ethnic minorities, and residents with mobility restrictions. When creating or updating your plan, consider how your local land use policies can affect the availability of homes for a diverse set of needs.

The following questions can help you set the right housing goals and objectives: “How much and what type of new housing needs to be built and how does our existing housing stock need to change in order to meet our housing needs now and over the next five, 10, and 20 years?” “What are the housing needs of low- and moderate-income households as identified by the regional planning commission, and is it likely that these housing needs are met with the existing plans and programs in place?” “What needs to change in order for these housing needs to be met?” “Where does our vision include new housing or changes to our existing housing stock?” “Considering the different challenges and opportunities highlighted in our assessment, what are some realistic targets we can set for ourselves?” “What are some possible actions, projects, and programs we should evaluate in Step 5?”

Note: Vermont law defines housing as affordable if it can be owned or rented by people with a household income that is 80 percent of the county median for a cost not more than 30 percent of the household income.

Flood Resilience and Hazard Mitigation

Your plan is required to include: A flood resilience plan that (i) identifies flood hazard and fluvial erosion hazard areas, based on river corridor maps provided by the Secretary of Natural Resources pursuant to 10 V.S.A. § 1428(a) or maps recommended by the Secretary, and designates those areas to be protected, including flood plains, river corridors, land adjacent to streams, wetlands, and upland forests, to reduce the risk of flood damage to infrastructure and improved property; and (ii) recommends policies and strategies to protect the areas identified and designated under subdivision (12)(A)(i) of this subsection and to mitigate risks to public safety, critical infrastructure, historic structures, and municipal investments.

Statewide Goal for Flood Resilience

To encourage flood-resilient communities. (A) New development in identified flood hazard, fluvial erosion, and river corridor protection areas should be avoided. If new development is to be built in such areas, it should not exacerbate flooding and fluvial erosion. (B) The protection and restoration of flood plains and upland forested areas that attenuate and moderate flooding and fluvial erosion should be encouraged. (C) Flood emergency preparedness and response planning should be encouraged.

Most municipalities prepare Local Hazard Mitigation Plans for the Federal Emergency Management Agency (FEMA) to identify actions that will help prevent the hazards they face from floods to pandemics. In Vermont, by far the most common and costly hazard facing communities is flooding. Records from Vermont's Division of Emergency Management and Homeland Security (DEMHS) show the state has experienced flooding every year since 2007 and had at least one federally declared disaster in 21 of the past 25 years. For this reason, municipalities are required to specifically address in the municipal plan, the community's ability to respond to floods.

When developing flood resilience and hazard mitigation goals and objectives, consider questions like: Does our assessment in Step 1 point to any flood hazard mitigation actions we aren't taking and should be? Are any parts of our vision threatened by the potential for future flooding or other hazards? Where is it safe for new development, where should we limit development? Where do we need to protect existing vulnerable settlements (including critical infrastructure, historic resources, and other investments)? What are some opportunities we have to make our community safer? Do we have enough information to identify and prioritize projects to reduce our vulnerability to future flooding events?"

TOOLS FOR WEATHERING THE STORM

The Vermont Agency of Natural Resources provides maps showing approximate locations of both the special flood hazard areas (inundation areas identified for the purpose of federal flood insurance) and river corridors (areas within which rivers need to move and where building, fill, and other such encroachments should be avoided). Maps and other information about preparing the flood resilience section of a plan can be found on the ["Flood Ready" website](#).

[Vermont Economic Resiliency Initiative](#) created a methodology to help communities engage and involve citizens in the process to identify policy changes and projects to minimize the economic impact of future floods. The report details a step-by-step process to combine inundation and fluvial erosion flood maps with data on critical infrastructure and key economic assets to prioritize steps that will reduce local risks.

[Flood Toolbox for Local Governments and Business](#) offers concisely written overviews, checklists and more advanced tools on floodproofing, managing debris, reducing stormwater with green infrastructure, protecting floodplain river corridors, planning and preparing for disasters.

Upland and Everywhere: Manage Stormwater

Slow it, Spread it, Sink it

Safer Areas

Plan for new development

River Corridors

Conserve and Avoid Development

Vulnerable Settlements

Protect People, Buildings and Facilities

Preparing for Future Flooding

Land Use

Your plan must include a land use plan consisting of a map and statement of present and prospective land uses that:

(A) Indicates those areas proposed for forests, recreation, agriculture (using the agricultural land identification process described in 6 V.S.A. § 8), residence, commerce industry, public, and semi-public uses, and open spaces, areas reserved for flood plain, and areas identified by the State, the regional planning commission, or the municipality that require special consideration for aquifer protections, for wetland protection, for the maintenance of forest blocks, wildlife habitat, and habitat connectors, or form other conservation purposes.

(B) Sets 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 service.

(C) Identifies those areas, if any, proposed for state designation under chapter 76A of this title, together with, for each area proposed for state designation, an explanation of how the designation would further the plan's goals and the goals of section 4302 of this title, and how the area meets the requirements for the type of designation to be sought.

(D) Indicates 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. A plan may include specific policies to encourage the active management of those areas for wildlife habitat, water quality, timber production, recreation, or other values or functions identified by the municipality

Statewide Land Use Goals

To plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside.

(A) Intensive residential development should be encouraged primarily in areas related to community centers, and strip development along highways should be discouraged.

(B) Economic growth should be encouraged in locally designated growth areas, employed to revitalize existing village and urban centers, or both, and should be encouraged in growth centers designated under chapter 76A of this title.

(C) Public investments, including the construction or expansion of infrastructure, should reinforce the general character and planned growth patterns of the area.

(D) Development should be undertaken in accordance with smart growth principles as defined in subdivision 2791(13) of this title.

The land use goals and objectives your community adopts should tie your vision together and reflect the other goals and objectives in your plan. Step 4 goes into detail about how to create a land use plan, how to map your future land use, and how your community should develop over the course of the planning time frame.

Step 4: Map Out the Future

Once you have set your goals and objectives, it's time to bring them together and map out your future land use along with any future utilities, facilities, and services necessary to make your vision a reality.

In this step, we outline how to map out

- future land use;
- prospective community utilities, facilities, and services necessary to support the development envisioned;
- areas to be considered for one of the state designation programs;
- forest, agriculture, recreation and resource lands be conserved and managed.

These important maps will guide any development regulations your community decides to adopt in the future as well as help direct how and where community investments will be made.

Creating the future land use map

Your plan is required to include a map and a statement of existing and proposed land uses in the town identifying areas to be conserved or protected from development, and areas where community investments in public facilities like sewer, water and sidewalks enable development.

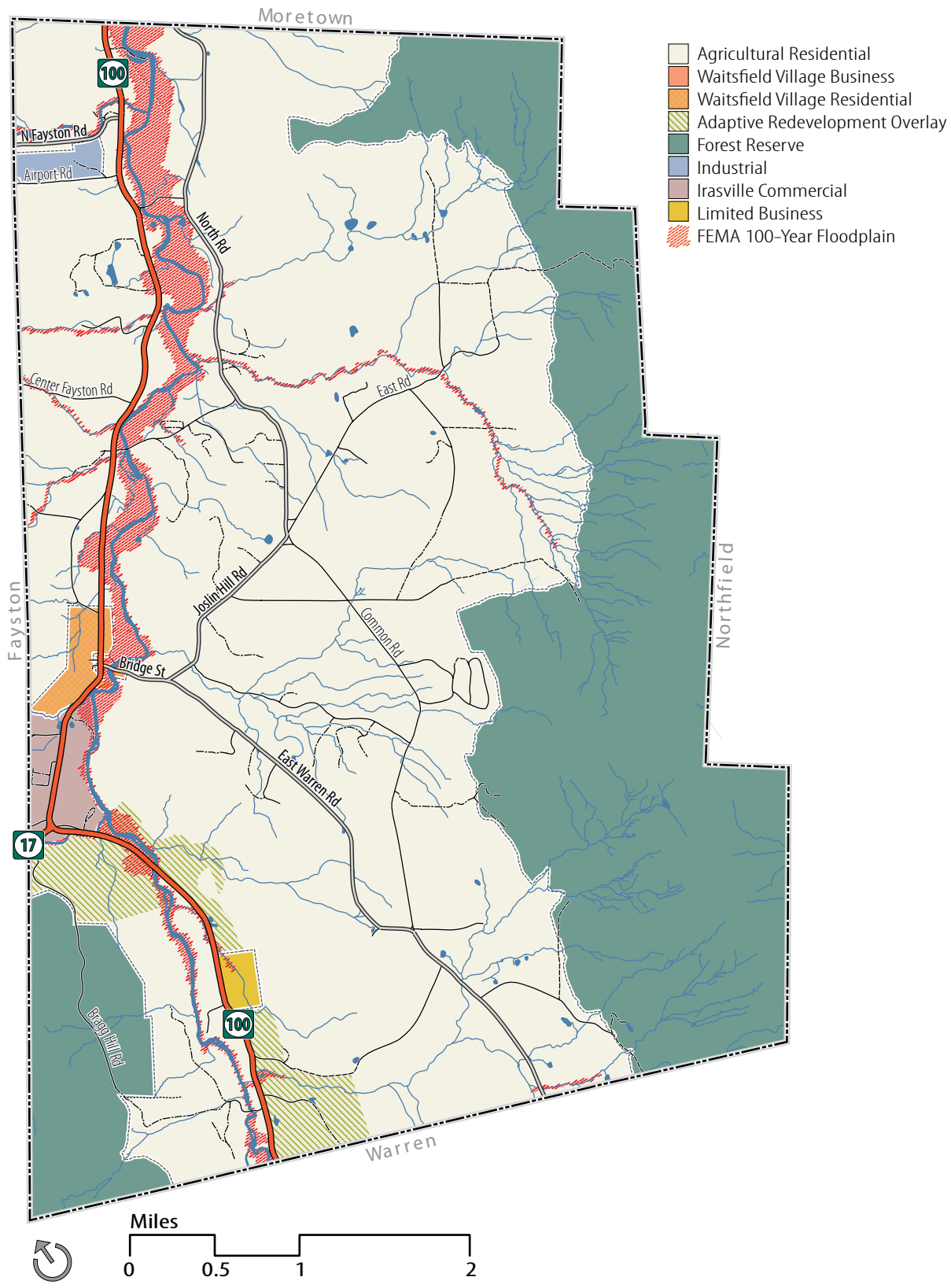
A future land use map graphically communicates important components of a community's vision for change, investment, and preservation. It also conveys what the community expects the future demand for land will be based on past trends and projections. This map doesn't necessarily reflect current uses of land but rather the uses desired within the planning time frame. In short, the map is a prescription for future growth and a guide for managing land use change.

The future land use map is not a zoning map, but it does establish the basis for a zoning map. It does not entitle property with any rights nor does it take any property rights away. The land use classifications can be broad, reflecting only general land uses such as a village center, neighborhood, agriculture, industrial, or conservation. If implementing the plan through zoning bylaws, you may need to adopt multiple zoning districts within each land use category to address the intricacies of your community.



JACKSONVILLE

FUTURE LAND USE PLAN EXAMPLE: WAITSFIELD



For each of the uses identified in the plan, you need to identify the *location, amount, intensity, and character* of such land uses. We provide some examples of how you might approach this task below.

The community assessment completed in Step 1, the vision articulated in Step 2, and the goals created in Step 3 set the foundation for the future land use map. The following process may be used to integrate those pieces into a future land use map.

- Review the “existing natural features map” created in Step 1 to see where development constraints and opportunities might exist.
- Examine your “existing land use map” to understand where uses are currently located in your community. Note that the existing land use map should depict existing land uses, not a previously adopted “future land use map” or the existing zoning map.
- Review the vision and goals developed in Steps 2 and 3, and see how they relate to the existing land use, considering whether any of the existing uses need to be modified or if new land areas are needed to achieve the vision and goals.
- If you created a “Maintain/Evolve/Transform” map in Step 2, compare it to your existing land use map (and existing zoning map) to see what changes the future land use map needs to show.
- Decide whether or not it is appropriate to categorize land for growth beyond the extent of your existing built-up area based on projected needs and the potential for development in your community. The methodology outlined in the “Growth Center” section of Module 2 can help guide the sizing, and location, of any new areas under consideration for growth.

Once you map out and characterize your land use categories (discussed below), you will want to review any community facilities and services necessary to support your proposed land uses (covered in more detail later in Step 4.) The feasibility of service/facility expansions as well as their compatibility with your goals and vision should be considered, and you may find that you need to adjust your land use map in instances where those expansions aren’t possible. Similarly, you should evaluate the compatibility of your land uses with other goals, such as natural areas your community has identified as priority conservation areas. Your land use map and/or your goals may need to be revised to ensure they are compatible and that your plan gives a clear direction for the future. The next few pages provide you with information to consider when locating and characterizing land uses for your future land use map.

Land use Categories

A number of systems for categorizing land uses exist and can be used to develop your land use map. One example, the [Land Based Classification Standards](#), developed by the American Planning Association, provides a method for structuring and communicating land use types.

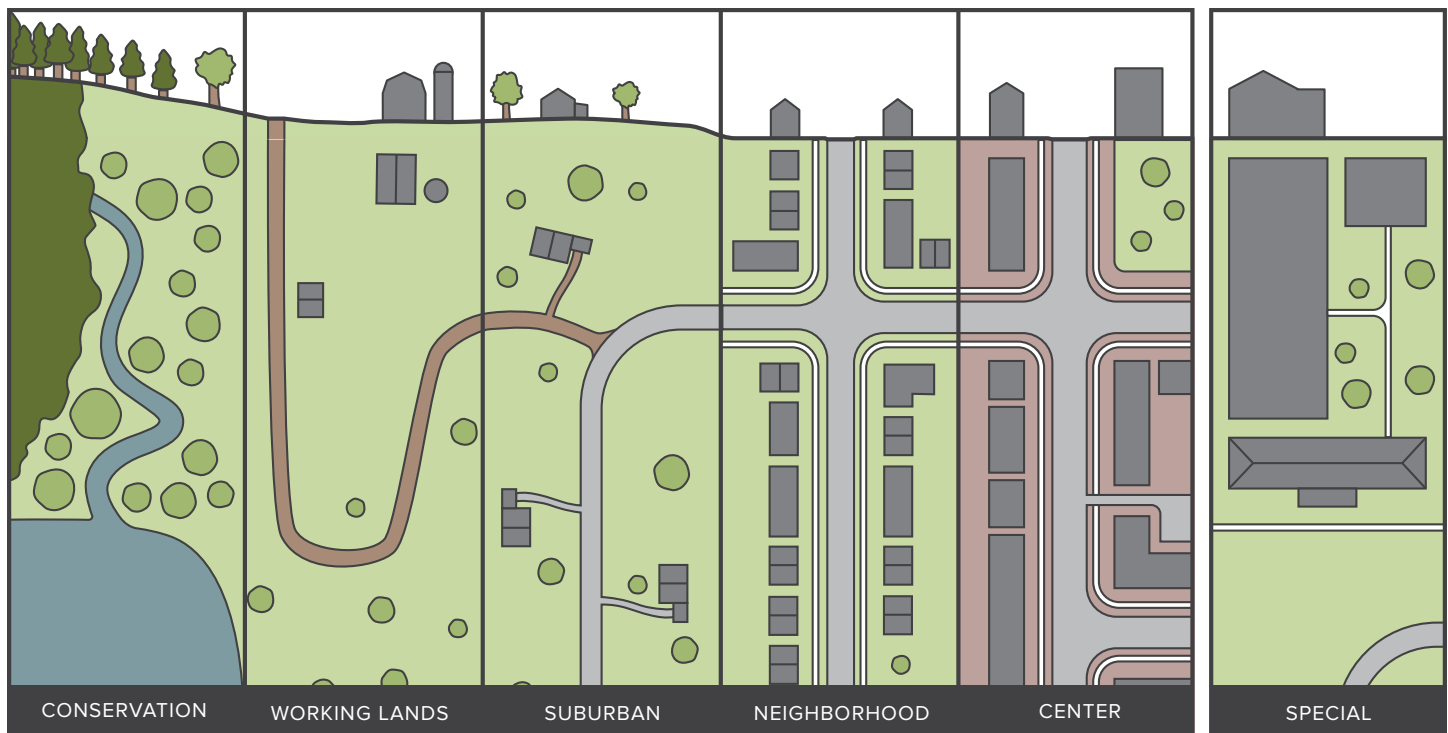
In this manual, we present a system of character zone mapping that provides a simple and intuitive way to categorize land uses for the full range of land uses present in most communities. All these methods can be used alone or in combination, depending on the needs of the community.

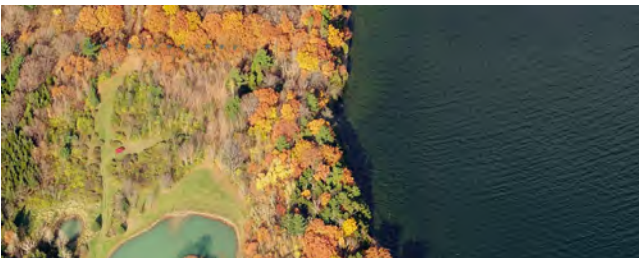
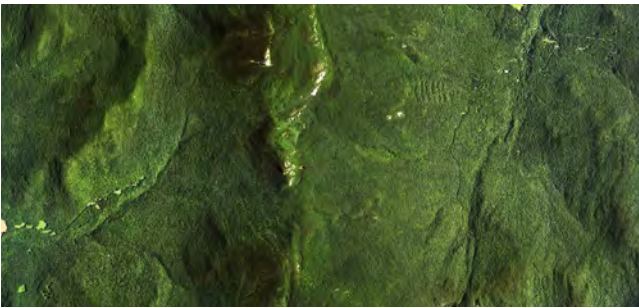
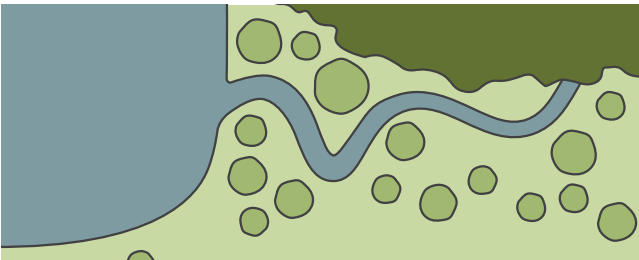
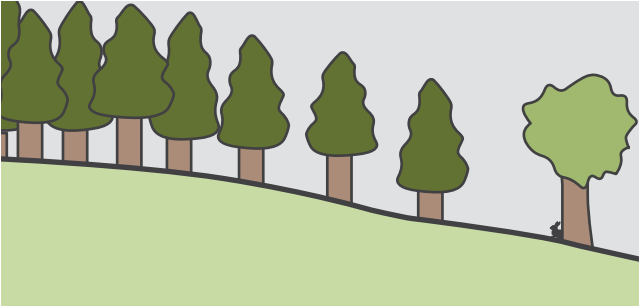
Transect/Character Zones Mapping

Development generally occurs on a continuum from rural to urban, and the gradations can be depicted using character zones referred to as a “transect.” The classifications shown on a transect help you visualize the types of land uses needed to achieve your goals and provide a foundation for your future land use map. The following transect example shows land use categories typical for many Vermont municipalities. These can be calibrated to fit the existing and envisioned land uses in your community.

1. Conservation & Natural Hazard Areas: Natural, open, or environmentally sensitive land.
2. Working Lands/Rural: Agricultural, forested, and sparsely settled lands as well as earth resource extraction areas.
3. Suburban: Low-density, primarily residential areas, typically located at the fringes of denser settlements or within commuting distance.
4. Neighborhood: Medium-density, mixed-use development that is primarily residential, typically located within walking distance of a downtown or village center.
5. Center (Village & Downtown): Highest-density areas of a city or town that include a variety of uses and building types.
6. Special: Areas for large-scale civic, institutional, and industrial uses.

The character — from conservation to center — is made up not only of the land uses and activities that take place in that area but of the degree of development and the physical characteristics of that development. In contrast to the planning categories that led to conventional 20th-century zoning — concerned primarily with controlling uses and impacts and largely ignored issues of community design and form — transect-based planning focuses on the form of development as a principal concern. The following pages outline typical purposes and characteristics for each of the six land use types.

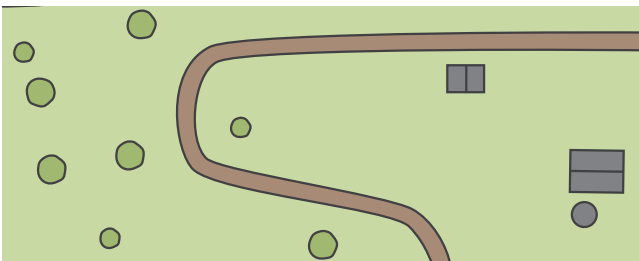




Conservation

Purpose: Promote the protection of natural resources and compatible recreational uses while guiding development away from important natural assets and hazards.

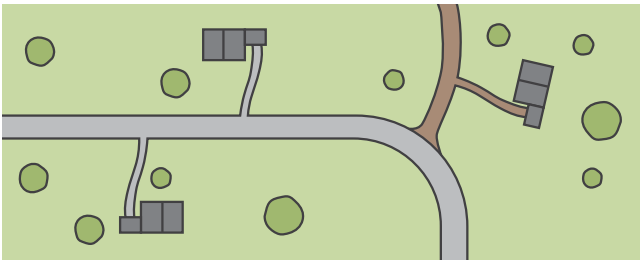
Areas in conservations areas should include any federal, state, or municipal parks, natural areas and nature preserves, land subject to conservation easements, and large pieces of land undevelopable due to natural features such as wetlands and very steep slopes. Parcel sizes tend to be large in size. Hunting, fishing, and other limited recreational uses as well as forestry management activities typically take place in these areas. Future residential development and subdivisions are not appropriate under the conservation classification. Commercial development should be compatible with the natural resources. Development of some renewable energy facilities may be appropriate.



Working Lands/Rural

Purpose: Promote protection of the working landscape and support agricultural, forestry, and earth-resource-related enterprises, avoiding fragmentation of land and loss of resources and incompatible development and activities.

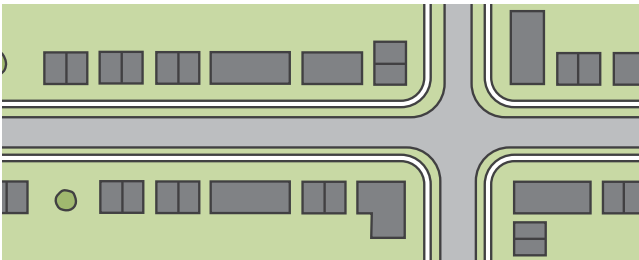
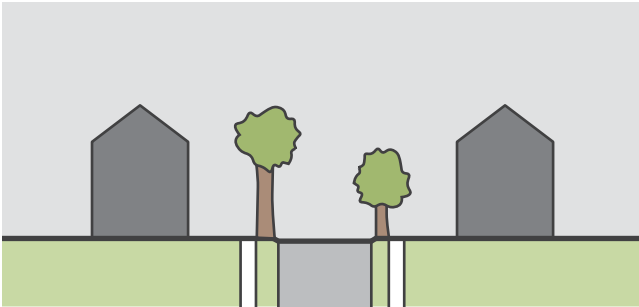
The Working Lands/Rural area consists of sparsely settled lands in open, forested, or cultivated states. Lot sizes are generally more than 25 acres in size. Agricultural, forestry, resources extraction, and/or recreation uses are common in these districts. Typical buildings include farmhouses, agricultural structures, farmworker housing, and camps. Limited agricultural and rural services uses like sawmills, veterinary and equipment-repair enterprises that support the working landscape may be located here. Agricultural enterprises, such as wineries and farmstands are also increasingly common in rural districts. Areas of your community that people would like to stay “rural in character” and are not classified as conservation should fall under this category. Anticipated residential growth in this area is limited, very low density, and municipal water and sewer should not extend here.



Suburban

Purpose: Accommodate existing low-density residential development and provide bike and pedestrian transportation options if feasible.

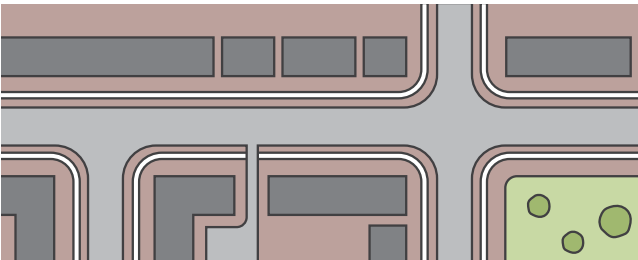
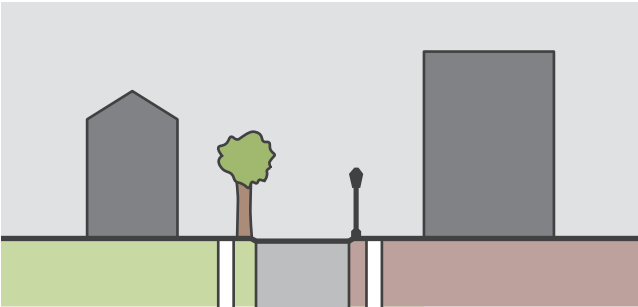
The Suburban area consists of low-density (often ranging from 4 units an acre to 1 unit per 2 or 3 acres), primarily residential areas, typically located at the fringes of a city or within commuting distance of the city center. Single-family detached housing is predominant with some opportunities for multifamily attached housing. Most housing in these areas was constructed after 1950. Pedestrians and cyclists may be accommodated, but the vast majority of people continue to rely on automobiles for transportation. Limited public transportation may be available in suburban districts but often lack the critical mass of households to support and make transit economically viable. Typical lot sizes in these areas range from 0.3 acres to 3 acres. Note: In many places, it is difficult to manage growth efficiently when large suburban areas are mapped; therefore, this context should be used sparingly as tax revenue from these areas is relatively low in relation to the high costs associated with maintaining infrastructure and providing services. Consider this district in areas where the current pattern is suburban in nature and is anticipated to remain that way.



Neighborhood

Purpose: Enhance and create cohesive residential neighborhoods within walking distance of services.

The neighborhood area consists of medium-density development with both residential and commercial uses typically located within a city or town. In small towns without centralized water and sewer, residential densities may be as low as 3 units an acre; areas that do have centralized water and sewer should have higher densities. Buildings may include both single-family detached and multifamily attached types such as row houses and apartments. Lots may be small (3,500 square feet) and areas tend to resemble traditional neighborhoods built prior to 1950. Commercial activity, such as a corner store or barber shop, are concentrated at neighborhood nodes and may be mixed use. People may access jobs and amenities by walking and biking, and often using public transit. Most of these areas are typically walking distance (about ½ mile) from commercial cores of villages or downtowns.

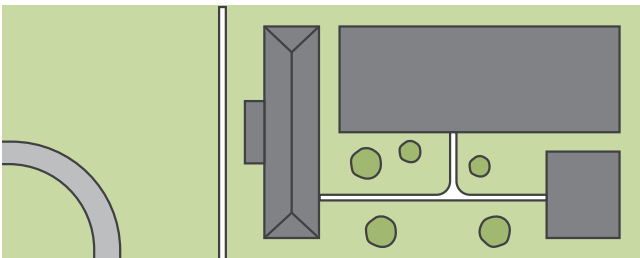
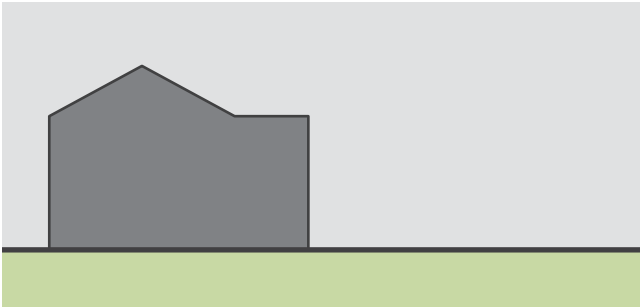


Center (Village or Downtown)

Purpose: Maintain and revitalize an existing village center or downtown or create a new one if needed.

The Center area consists of the highest density areas of a city or town that includes a variety of building types. Buildings are often mixed use. Residential uses are typically attached housing types and may include single-family homes. Civic, cultural, commercial, retail, and office uses are often present, including parks, greens, and other forms of public and civic space. Buildings are usually located close to the street and are taller than other buildings in the community. These areas are highly walkable and architecturally interesting. Transit is often available. The center district is often compact and the smallest of the districts.

Note: The last section of Step 4 gives an overview of related state designation programs (downtown, village center, new town center) that you may want to consider to support goals in your plan.



Special

Purpose: Allow large-scale civic, institutional, and industrial uses with unique spatial needs that do not fit within other areas.

The Special area consists of large-scale civic, institutional, and industrial areas. Typically, these uses take up large lots or extensive tracts of land, although they can vary greatly in size. They typically have multiple buildings in a form that does not fit easily into other districts. Certain uses such as heavy industrial may need some separation from adjacent contexts in order to protect more sensitive uses. Light industrial may be suitable in close proximity to other uses. Primary office and retail uses are generally not suitable for most special areas, such as industrial parks. In smaller-scale occurrences, uses typically considered a “special” area might be embedded in other districts. These special districts may be further refined into areas such as industrial, institutional/campus, museum, airport, etc.

Compatibility of Future Land use Map and Other Goals

Once you have a draft of your future land use map, it's a good time to review its compatibility with your other goals. You should review your goals in Step 3 and ask "Is this future land use map relevant to this goal, and is it supportive or does it prevent us from achieving our goal?" Resolve any inconsistencies and revise any goals and/or the land use map so they are consistent. For example, you might have an area identified as a priority conservation area that you've also designated for housing growth. This can be very challenging and may require prioritizing one goal over another. However, taking the time to resolve inconsistencies can go a long way in preventing future conflict.

The next thing that will help turn your vision into reality is to map out the facilities, services, and infrastructure needed to support your future land use.

Mapping Future Public Facilities, Services, and Infrastructure

The future land use map identifies the desired uses and character of the community going forward, but to achieve that vision, the municipality may need new, improved, or expanded public facilities and services. (Conversely, you may identify planned expansions that are not needed.) State statute requires that to be approved, a plan must include maps and statements of prospective transportation, utility, and facility needs. Municipal facilities may include the following:

- Roads, sidewalks, bike paths, trails, and parking facilities
- Transit, railroads, airports, and ports
- Water supply and distribution
- Sewage treatment and collection
- Stormwater management
- Public safety and emergency services
- School buildings and school transportation
- Municipal offices and other governmental and civic buildings
- Parks, playgrounds, and recreational facilities
- Libraries, cultural facilities, and community centers
- Solid waste disposal facilities
- Electricity generation and gas and electric transmission

One of the primary functions of municipal planning is to anticipate and prepare for predictable public facility needs over the long term to keep existing facilities in good working order and to create new and upgraded facilities when they are needed without sudden spikes in public expenditures. A 20-year planning horizon provides a good time frame for projecting future facility needs in a plan; it is long-term enough to meaningfully anticipate the life cycle needs of buildings and other large facilities and short enough to enable reasonably accurate projections that can inform five-year capital programs and annual budgets. Select board members, public works directors, road foremen, and others involved in public-facilities decisions need to be involved in assessing, mapping, and determining the timing and priorities for future facility needs sections of the municipal plan.

The locations of public facilities can strongly influence private land development decisions so it is critical to coordinate investments in public facilities with the land use vision in the plan. For example, a sewer line extension through farmland will generate demand for rezoning and developing those lands. Or expanding town offices in a village center rather than building a new facility in the outskirts will help support businesses and contribute to village revitalization. Mapping the likely locations of the new or expanded public facilities needed in the next 20 years helps to identify potential conflicts and signals the community's intentions.

One of the ways you can implement your vision is through the use of the state designation programs that can help promote development in and around your center(s). The manual highlights the programs here in Step 4 because statute requires you to

... identify those areas, if any, proposed for designation under chapter 76A of this title, together with, for each area proposed for designation, an explanation of how the designation would further the plan's goals and the goals of section 4302 of this title, and how the area meets the requirements for the type of designation to be sought.

Identify Any Existing or Proposed Areas for State Designation

Vermont offers a framework of state designations that encourages communities to maintain a pattern of compact centers surrounded by open countryside. The five designation programs — downtown, village center, new town center, neighborhood development area, and growth center designations — offer incentives to municipalities and individuals who invest in those places. They help align our environmental, housing, and transportation policies, programs, regulations, and public investments to maintain and enhance the landscape cherished by Vermonters and visitors alike. Module 2 of this manual explains how these designation programs work and how to apply for designation.

Before applying for designation, state statute requires that you identify any existing and proposed areas for state designation in the municipal plan. The plan must explain how the designation would further the plan's goals as well as the state planning goals. It also helps to explain how the area meets the requirements for the type of designation being sought.

For existing state designated areas, the municipal plan must explain how the designation under this section has furthered the goals of the plan and include a map that depicts the boundary of the designated area approved by the state. Designated areas can be shown on the existing and future land use maps or on any other maps in the plan. The future land use map should show land use areas that generally correspond to the state designated areas, but the boundaries do not need to be exactly the same.

Now that you have figured out where you want to go, it's time to figure out how to get there. Step 5 will guide you in identifying the priority action items that make your vision a reality.

THE FIVE STATE DESIGNATIONS



Downtowns

Downtown Designation provides communities with the help and resources they need to make downtown revitalization a community effort.



Village Centers

Village Center Designation supports small town revitalization with a variety of benefits to the 120+ participating communities.



New Town Centers

Some Vermont communities developed without a strong central core and this program supports the creation of an area that functions as a new downtown or village center.



Neighborhood Development Areas

The program offers incentives to create compact, walkable neighborhoods that attract more people and business to our existing community centers.



Growth Centers

The Growth Center program designates areas that are planned for new development in keeping with historic development patterns.

Step 5: Make It Happen

Planning means very little if it doesn't result in the changes the community desires — the collective vision made reality. Step 5 provides a road map to help you prioritize action items over the short term (one to two years), midterm (three to five years), and long term (six-plus years). Focus on the actions (such as public and private investments, strategic partnerships, policy changes, and funding sources) that are necessary to bring the plan to life.

A program to implement objectives is a required component of your plan. In Step 3, when you were developing the goals and objectives, you were encouraged to brainstorm the action items that could be used to implement those aspirations. Whether you did that or not, you will need to consider the ways that your plan can be implemented and determine which of those are most feasible and important.

All implementation programs should specify

- Actions to be taken;
- Associated timelines for completion;
- Those responsible for action;
- Anticipated cost, if known;
- A way to evaluate their effectiveness, e.g., by including performance measures.

The following sections describe the actions that could be included in an implementation program as well as ways to evaluate alternatives and identify priorities.

ANOTHER PLAN THAT SITS ON A SHELF?

Studies show that the most effective plans are those with a clear vision, measurable objectives, and strategies or actions designed to meet plan objectives. By including these three elements, you can make sure your plan doesn't just sit on a shelf.

CONFORMING TO THE PLAN

Vermont law requires that all the regulatory and non-regulatory tools chosen for implementation must conform to the municipal plan. That means the implementation steps must

- Make progress toward attaining, or at least not interfere with, the goals and policies contained in the municipal plan;
- Provide for proposed future land uses, densities, and intensities of development contained in the municipal plan;
- Carry out, as applicable, any specific proposals for community facilities, or other proposed actions contained in the municipal plan ([24 V.S.A. section 4401](#) and [section 4303 \(6\)](#)).



WILMINGTON

Types of Action Items

There are a wide variety of regulatory and non-regulatory tools described in the [Planning Implementation Manual](#) that can help municipalities put their plans into action. The list of Vermont-based examples of goals and objectives highlighted in Step 3 also include relevant actions and implementation tools. We encourage you to use this list as you think of ideas and reach out to other communities and learn from their experiences.

Regulatory Tools

Most municipalities already have some form of regulation, and in many towns, this means that a major function of the plan is to recommend changes to the zoning bylaws. Even towns without zoning are likely to have some type of land use regulation such as for flood hazards and road cuts that may need adjustments to further the goals of the plan. If you are not currently using any regulatory implementation tools, you may want to consider some types of regulation to achieve your shared community vision. Regulatory tools can apply to any aspect of land development such as the uses of land; the scale, proportion, and height of buildings; signs; architectural detail; and the design of new streets and bike paths. There is no right answer as to how much or how little your community decides to regulate; every community has its own particular needs, resources, and views on government, land, and community life.

The state of Vermont gives municipalities broad authority to use not just zoning but also other regulatory tools such as impact fees, phasing, official maps, and subdivision bylaws. Beyond that, municipalities can also adopt ordinances to address road construction, parking, sewer and water connections, and other public works matters that can help ensure new development meets local goals.

Vermont law places some limitations on what municipalities can regulate and requires certain other provisions. For example, zoning bylaws must provide for equal treatment of housing and requires provisions for affordable housing. The main uses that municipalities are prohibited from regulating include state-defined agricultural and forestry practices; farm structures; and public utility power generating plants and transmission facilities. See statute for details on the required provisions and prohibited effects and bylaw limitations ([24 V.S.A. section 4412](#) and [section 4413](#)). While it's helpful to be aware of these restrictions, don't get bogged down in these details as you work on developing your regulatory implementation program.

Most municipalities adopt some form of land regulations (e.g., zoning ordinance or unified development bylaw) that involve identifying districts or zones that have a different set of uses, dimensional requirements, and standards for development. The districts must be consistent with the land use plan you developed in Step 4, although they may be more specific. Increasingly, communities with areas targeted for growth and redevelopment are developing “form based codes,” focusing on regulations that control the form of development first and the use as a secondary consideration, with the purpose of achieving a physical vision of “place” and development that contributes to that built environment.

Non-regulatory Tools

Beyond regulation, communities need to consider a wide variety of non-regulatory implementation tools, such as capital improvement programs, housing incentives, and open space funds to help implement their plan. Many of these tools have been broadly applied throughout Vermont and beyond, and are highlighted in the [Planning Implementation Manual](#). That said, don't feel limited by these examples. There are few restrictions on non-regulatory actions, so this is an opportunity to get creative and tailor solutions to your community's needs.

One of the best tools available to meet your community vision and objectives is capital planning; that is, how you use limited funds to achieve needed improvements in public facilities and infrastructure. Not all improvements can be funded right now and some may be more critical to meeting your planning goals than others. The capital budget and program helps municipalities select, schedule, and finance their public facility improvements. The program sets forth the capital projects to be funded each year, for a period of five or more years, and identifies the anticipated source of funding for each project. The long term capital program informs the annual capital budget. Projects listed on the capital program are likely to be implemented because funding is allocated to make it a reality. While capital planning may seem purely an accounting exercise for municipalities to manage public facilities, it is a powerful implementation tool when used to fund priority projects that move the community closer to the vision in the plan.

Coordinating public and private actions can be another effective way of insuring that your vision and objectives are carried out. The implementation program should spell out how this coordination will take place. For example, a municipal decision to upgrade roads should be consistent with any plans for future growth. Any sewer line extension approvals through the public works department should adhere to land use policies on locations for growth. If there are plans to replace aging infrastructure and to add streetscape improvements like sidewalks, try to schedule them together to minimize disruption and reduce costs.

The private sector engages in a variety of development and conservation activities, including construction of homes, businesses, and industry; land preservation; and the use of land for recreation and agriculture. Partnerships between the public and private sector can bring together the talents and resources to develop innovative solutions to common problems.



WAITSFIELD

Your community may also develop cooperative relationships with individuals in the private sector whose lands are sited in key locations or whose plans for the future may have a significant impact on the community in a way that can support or detract from the plan. Contact these individuals early to learn their intentions and to inform them about the process and vision if they haven't been involved yet. Work with them to identify mutually beneficial implementation strategies. By working together in a cooperative atmosphere, public and private entities can avoid adversarial relations and detrimental development. Examples of individuals in this category include:

- Owners of significant resource lands, such as farmland and scenic areas;
- Major employers;
- Owners of major recreation facilities, such as a ski area;
- Landowners in an area targeted for new development;
- Developers active in the community.

Communities may also wish to coordinate their implementation programs with various nonprofit groups working in areas such as affordable housing, land conservation, or economic development. For economic development, most parts of Vermont are served by regional development corporations (RDCs). They exist to assist private sector businesses expand current facilities, access training programs for employees, access financing for business expansion, or find locations for stores, plants, or warehouses. They can also help communities set up economic development programs or take other steps to encourage the kind of economic development that meets local goals. Local chambers of commerce and downtown organizations can also be helpful in this area.

Evaluating Alternatives and Identifying Priorities

Evaluating the options you have identified to meet a particular objective will help you arrive at recommended implementation actions. To evaluate those options, consider the following criteria:

The availability of financial resources required for implementation

- The capacity of staff or volunteers to do the work
- The timing of the action, given other priorities in the community
- The compatibility of the action with other proposed actions
- The degree of alignment between the action and community values and sentiments
- The effectiveness of the action in meeting the shared community vision and public goals

If you have a large number of action items, consider using an initial screening process to quickly evaluate all of the action items to identify the ones that merit more in-depth consideration and evaluation.

A successful implementation program has community buy-in; responsible parties are identified for every implementation action. Make sure your process is as transparent as possible, demonstrating how the proposed actions implement the shared community vision developed in Step 2.

Once you have a draft of your implementation program, invite all of those who participated in earlier planning steps to a community meeting so you can present the progress on the plan and give them a chance to comment on the proposals. Implementation can't happen without them, and if they aren't on board, you risk setting up the

HOW DO WE FUND THIS IMPLEMENTATION PROGRAM?

Inevitably, some of the tools and actions you select will require money to implement. The Department of Housing and Community Development maintains a list of grants and loan funds that may help make parts of your vision possible. [See the list here.](#)

plan and community vision for failure. As with the other steps described in Step 2, there are a variety of ways you can involve the public at this stage and you should select the method that best fits your community. Getting widespread community input also helps identify the best alternatives and priorities when there are competing ideas that both make sense on paper.

Moving From Plan to Action

Now that you have your shared community vision, your goals and objectives, and your implementation plan laid out, it's time to begin moving from plan to action. Once all the components of your plan are complete, you can start the formal adoption process. The adoption process is clearly described in Appendix 1 of this module. There are checklists and instructions to help you along the way.

The required adoption process includes formal public hearings that may result in changes to a document over which you have labored long and hard. However, if in the process of developing the plan, there has been broad and open public discussion of the vision and implementation priorities, the changes usually will be minimal.

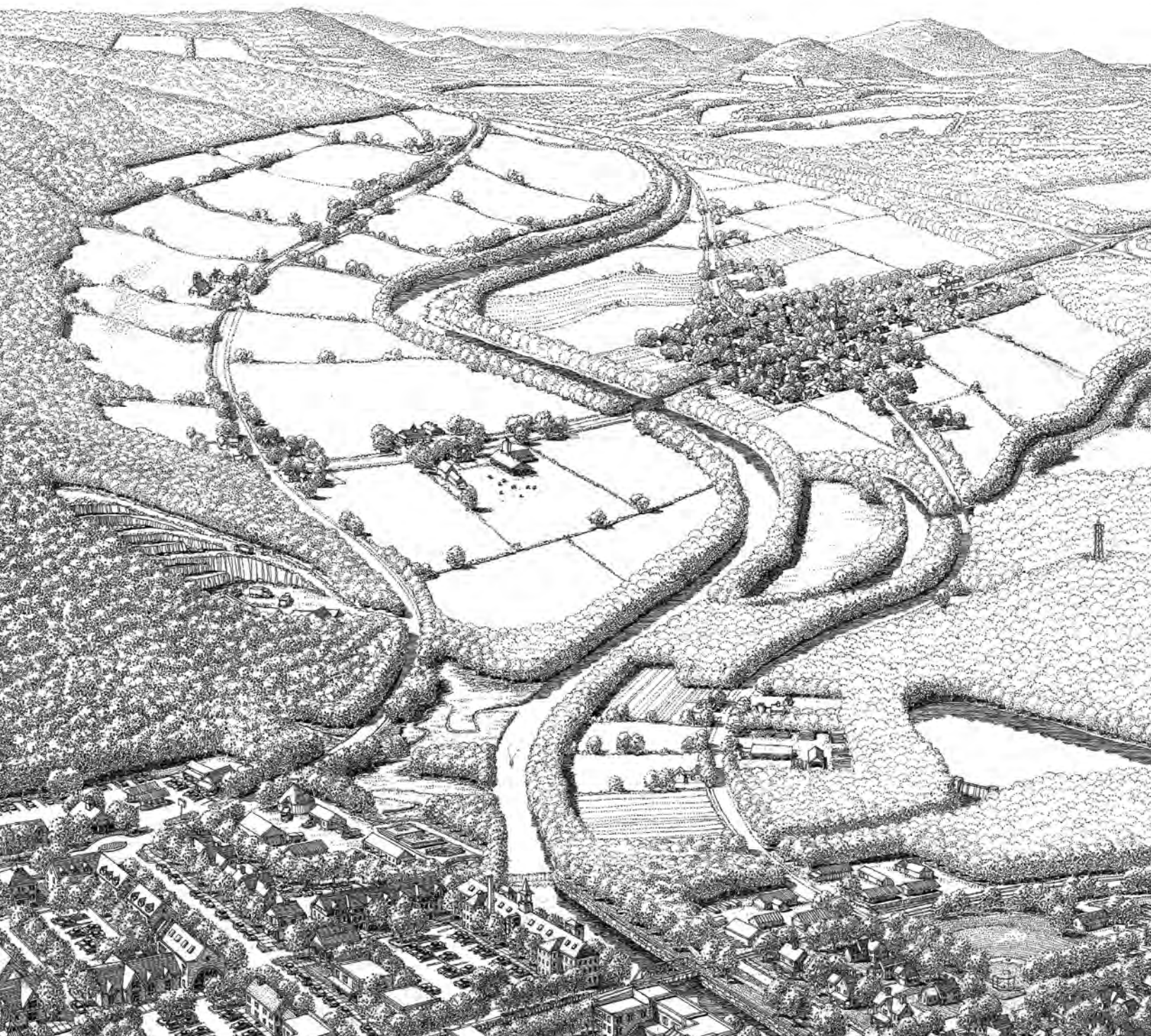
If you've completed Steps 1 through 5 congratulations! It's time to take action and move toward your shared community vision. The [Planning Implementation Manual](#) can help you focus on those implementation strategies.

Municipal Plan Implementation Strategies [Example]

Municipal Plan Element: **Land Use**

Objective/Measurable Target: **The majority of new development and subdivision occurs in the village and surrounding districts.**

Action/Strategy	Area	Recommended Lead/Partner	Estimated Cost	Timing	Priority	Financing
Hold public meetings on land conservation options and follow up with individual meetings with key landowners	Agriculture and Conservation Districts	Conservation Commission with assistance from Land Trust	Low (meeting and outreach expenses)	2 years	High	Conservation Commission Fund
Update bylaw to maintain historic character of the village and neighborhoods and enable infill in keeping with revitalization goals.	Village Districts	Planning Commission	\$20,000 (consultant and public outreach)	2 years	High	Municipal Planning Grant and Town Planning Fund
Adopt sewer and water service ordinance, addressing hook-ups and line extensions	Village Districts	Selectboard with Planning Commission	\$5,000	2 years	High	General Fund and technical assistance from Rural Water Association
Conduct a village planning process and produce an illustrative master plan of the desired development pattern to guide future decisions.	Village Districts	Planning Commission with Selectboard and Village Revitalization Committee	\$75,000	3-5 years	Medium	Better Connections Grant and Town Planning Fund



Working with Existing Plans

Developing or rewriting a municipal plan is a major undertaking for a community — one that you may not be eager to repeat any time soon. Once adopted, it's common to set the plan aside and move on to new projects, particularly the activities to implement the plan. The plan is meant to be a living document that is continuously used to guide and track your community's progress.

Every plan comes with an expiration date. In Vermont, a municipal plan must be updated and readopted every eight years to remain in effect. (For plans adopted before July 1, 2015, the plan is in effect for five years from the date of adoption.) If the plan expires, existing bylaws and capital improvement programs based on the plan are still valid, but can't be updated or amended. An expired plan can't be considered in local or state regulatory proceedings. It also means that the regional planning commission can't approve the plan or confirm the local planning process — a requirement for the town to qualify for a number of state grants and the state designation programs, and to levy impact fees.

Nearly all Vermont municipalities have adopted plans, the majority of which have been updated, rewritten, and readopted over the years. It's helpful to review current and previous plans when beginning the process to understand how your community and local priorities have changed over the years.

Prior to 2015 municipalities plans expired in five years unless readopted. Faced with new planning requirements, new forms of public engagement, rapidly changing tools and technologies, and a constant flow of new information, many planning commissions felt pressured to continually update and maintain their plans, leaving little time to act on the recommendations. Recognizing this, the legislature extended the period a plan is in effect from five to eight years. Municipalities are also now encouraged to use the extra time before expiration to actively engage in implementing the plan. This section discusses options and best practices for reviewing, amending, and comprehensively updating a plan, and for structuring the plan to make the update and reporting processes a bit easier.

PLAN AND BYLAW DATABASE

The Department of Housing and Community Development (DHCD) keeps a searchable database of municipal plans and bylaws that have been submitted to them. Every fall, DHCD also updates a Municipal Status Information (xls) spreadsheet; this spreadsheet provides data on the adoption/expiration of plans, bylaws, state designations, and other information. Both are available online ([see the Data & Resources section of Web page](#))

Make Use of Existing Plans

Given the considerable effort that goes into producing a plan, it deserves a prominent place on desks and meeting tables; not stashed away in a file drawer where it's easily ignored. Plans developed to be working documents are more likely to inform local decisions when preparing work programs and budgets, reviewing proposed development, establishing new programs, and undertaking community projects. Functional plans are clear, well organized, and structured for easy reference and use. Plans that include targets, indicators, or benchmarks can be used to track trends and measure progress. Plans that are consulted on a regular basis are also easier to monitor for needed updates.

TIPS TO MAKE YOUR PLAN USER FRIENDLY.

Your plan might have the right content, but could be reorganized to help people more easily find the information they need. Consider these ideas:



Include a clear, succinct community vision, big ideas/goals, and key community priorities in the front of the plan where they will be noticed.



Highlight priority action items for plan implementation within a summary table or to-do list that also identifies responsible parties and time frames for completion. Volunteers on different committees need to be able to easily identify their responsibilities. Make it easy for them to do so.



Add targets or benchmarks to track trends and measure progress. Quality of “measures” is more important than the quantity: Just because you can measure something doesn’t mean you should. Think carefully about the best indicators for measuring progress toward your community’s goals.



Consolidate and present supporting data and information in a separate community profile or “fact book” that can be referenced or incorporated as an appendix (and separately updated and maintained [see Step 1]). Supporting data and information is about the present and past, the focus of your plan should be on the future and how to get there.



Highlight key data, concepts, and illustrations in easily updated charts, tables, figures, or sidebars, rather than in the narrative or body of the plan. Information can be communicated more effectively this way; it can also be shared across social media platforms like Front Porch Forum, Facebook, and Twitter.



Consolidate and number plan policies and recommendations in a discrete section of the plan that can be excerpted and cited as needed.



Remove unnecessary parts of your plan and make it as concise as possible. The plan’s main audience is usually municipal volunteers who don’t have time to read through long documents.



Make the plan easily available on the town website in a single, searchable PDF that includes a good table of contents with hyperlinks and cross-references where applicable.

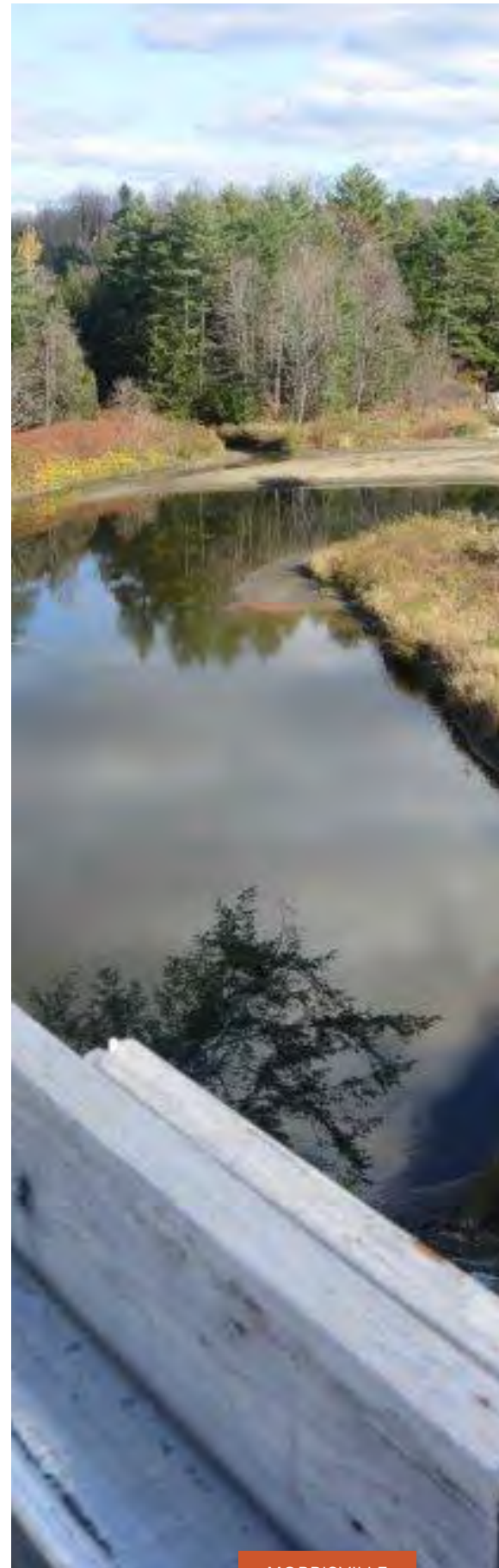
Annual Status Updates

The planning commission should devote some time each year to review the plan and progress. This might be done in conjunction with the commission's annual reporting requirements (described in Appendix 1) often included in the municipality's annual report and to justify any budget requests for the coming year. An annual review could include the following:

- A review and statistical summary of recent development activity in relation to the planned pattern, type, and rate of development. Does recent development conform to or deviate from plan goals, policies and objectives, and projected rates of growth?
- The status of implementation actions or programs. Have there been any major accomplishments or new initiatives within the past year? Have any barriers been encountered?
- The identification of new or emerging issues for future consideration. Have issues come up that aren't adequately addressed in the current plan or bylaws? Are there new state planning requirements that will have to be met?

An annual look at local programs, development activity, and plan goals and objectives helps maintain the plan's standing and relevance for local government. The annual review is also a good time to identify plan amendments for consideration in the next year or two, or to add to a list of more comprehensive updates to be considered in the future.

For regional confirmation of the municipal planning process (see RPC role in Appendix 1), a municipality must now document that it is actively engaged in implementing the plan. Routinely conducting an annual review, including a review of the municipalities' progress in implementing the plan, will help ensure regional confirmation and access to the grants and other benefits that are contingent on confirmation.



MORRISVILLE

Plan Amendments and Readoptions

A plan can be updated as part of the eight-year plan readoption, or at any time, using the plan amendment process. The plan readoption process extends the life of the plan (the expiration date) while the plan amendment process does not. Both updates and amendments need to follow the same adoption process. ([24 V.S.A. section 4385 and 4387](#)). Though adopted in a similar manner, the plan readoption process extends the life of the plan (the expiration date); while the plan amendment process, as more limitedly applied, does not.

Plan amendments are used for a focused update of one or more sections of the plan — by topic (e.g., plan element, issue, or concern) or by planning area (e.g., neighborhood or land use district).

The amendment process can be used to update a section of the plan, to add new sections or policies, to incorporate supporting plans and information, and to address new statutory requirements. Plan amendments are most often made in response to proposed rezoning to ensure that zoning changes are consistent with the land use plan and map.

A plan amendment can be prepared by the planning commission, or a “person or body” other than the planning commission, for planning commission consideration ([24 V.S.A. section 4384](#)). When considering an amendment, the planning commission is also required to prepare a written report that addresses the extent to which the proposed amendment conforms to relevant state planning goals (under [24 V.S.A. section 4302](#)). If the proposed amendment would alter “the land designation of any land area” (for example a zoning reclassification), the report must also include written findings with regard to

- The probable impact of the proposal on the surrounding area, including the effect of any increase in traffic, and the overall pattern of land use;
- The long-term cost and benefit to the municipality, with regard to probable impacts to the municipal tax base and the need for public facilities;
- The amount of vacant land available (e.g., already zoned or designated), needed and proposed for the intended use or purpose;
- The suitability of the area in question for the intended use or purpose, with consideration given to appropriate alternative locations, alternative uses for the area under consideration, and the probably impact of the proposed change on other, similarly designated areas;
- Whether the size and boundaries of the proposed area are appropriate, with respect to the area required for the proposed use, the capability of the land to support it, and existing development in the area.

While this may seem like a routine administrative requirement, it’s important to take the written report seriously and develop findings and conclusions for each proposed amendment. The Vermont Superior Court’s Civil Division has ruled plan amendments to be invalid when reporting requirements have not been met (*Hawk Rock Holdings, LLC v. Town of Newark*, Aug. 5, 2015).

Review Before the Plan Expires

As you approach the eight-year expiration of the municipal plan, it's a good practice to conduct a comprehensive review or "audit" of the plan to determine whether it remains current. In Vermont, the planning commission must review and update the information upon which the plan is based before readopting. An in-depth review, conducted well in advance of the plan's expiration date, can help determine whether minor updates, plan amendments, or a more comprehensive update and rewrite are needed. The level of effort required for the update will depend on:

- The planning horizon and projections used to develop the current plan;
- The rate of growth and development within the community since the plan was last adopted;
- The extent of past and recent community engagement in the planning process;
- The degree to which the plan, and supporting information, data, and maps were updated the last time around;
- The degree to which the plan meets statutory requirements.
- The extent to which the plan has been amended since it was last adopted.

Barring a major event or other significant changes, a plan that previously underwent a comprehensive update, has a 20-year planning horizon, and was amended as needed will likely remain relevant at the eight-year mark, and will require only minor updates before being readopted. At this stage, it may be more useful for the planning commission to focus on the status of the plan's implementation program, which should be well underway.

RPC CONSULTATIONS

RPCs schedule municipal consultations or "check-ins" every two to three years so they can better understand the needs of your community. The RPC takes this opportunity to review your plan to ensure that it meets statutory goals and requirements, typically offering suggestions for ways to make it better. Once the plan is adopted, the RPC will periodically review your implementation efforts. Consultations provide a terrific opportunity for the municipality to discuss the implementation program, any anticipated plan updates, identify planning and training needs, and learn more about assistance programs and funding opportunities.



ADDISON

A more formal review process is recommended for plans that have not been updated in a while — one that involves the legislative body and regional planning commission — since both will be reviewing the plan prior to its readoption. It's suggested that the planning commission document its findings and conclusions with regard to the need for minor updates, strategic amendments, or a more comprehensive rewrite. Key considerations include

- The status of underlying assumptions, planning time frames, and projections (e.g., population, employment, development) in relation to observed rates of growth and development;
- The availability of new or more accurate data, information, and maps, including supporting plans, studies, or reports completed since the plan was last updated;
- Major events or developments locally, or in neighboring communities, that have impacted the community, or may affect long-term planning goals and objectives;
- The status of plan goals and objectives. (Are these still relevant, representative of the elected leadership and public opinion, and do they continue to provide adequate guidance?);
- The status of the plan's recommended implementation program, including specific action items;
- The extent to which recent development and infrastructure improvements have been consistent with, or deviated from, plan goals, policies, and objectives;
- Changes in the status or capacity of community services, facilities and infrastructure, and supporting revenue sources;
- The timing of planned infrastructure improvements in relation to observed rates of development;
- New or recurring issues and forms of development that are not addressed in the current plan or bylaws;
- Land use, service area, or zoning changes needed to accommodate new or expanded development;
- Changes in enabling legislation, statutory requirements, or state policies and programs that affect the local plan or planning process;
- Recommendations from the regional planning commission with regard to needed plan updates or amendments; and
- Recent legal cases that require changes to the plan, planning process, or implementing bylaws and ordinances.

If the planning commission concludes that only sections of the plan or implementation program are no longer relevant, a strategic update or amendment may be all that is needed. If the plan is outdated or clearly no longer representative of the community, a comprehensive rewrite — or entirely new plan — may be necessary. Regardless, the results of this review should be presented to the legislative body, along with specific recommendations for updating the plan. It should include a proposed update, hearing, and adoption schedule, and request for any needed financial resources or technical assistance.

Celebrate

Analyzing data and trends, creating a vision, actively engaging the community, developing a plan, and working to implement that plan: This is the work of more than 5,000 dedicated local volunteers, working with consultants and municipal and regional planning commission staff. It's challenging, sometimes confrontational and thankless, but critical to the future of our state. Municipal plans lay the foundation for where development will occur, protect key community assets, and determine how to expand needed infrastructure. They indicate to investors and developers where to buy and build and direct conservation organizations to key areas to conserve. These plans recognize where a community has been and create the road map for where it's going. Together, these plans define the landscape and impact the course of the entire state. Local municipal plans, policies, and programs shape how our children and grandchildren will experience Vermont.

You're not alone in this important work. State agencies, regional planning commissions, and neighboring towns are here to provide information, guidance, ideas and best practices. This important work is critical to the health of Vermont's economy and community. Thank you for your time, thought, dedication, and patience!

It is easier to find men who will volunteer to die, than to find those who are willing to endure pain with patience.

Julius Caesar

Appendix 1

Guidance and Information for Planning Commissions

90 Legal Framework

89 Chapter 117

90 Act 250

90 Section 248

91 Roles

91 The State

91 Regional Planning Commissions

92 Municipalities

93 Municipal Boards, Commissions, and Committees

93 Planning Commissions

96 Development Review Boards

96 Zoning Board of Adjustment

97 Advisory Commissions and Committees

97 Conservation Commissions

97 Municipal Energy Committee and Town Energy Coordinators

97 Other Commissions and Committees

98 Rules of Ethics and Conflicts of Interest

99 Preparation and Adoption of the Plan

99 Adoption Procedures for Planning Commissions and Selectboards

103 Regional Approval of the Municipal Plan

103 Maintenance, Amendments and Readoptions

105 Checklists and Certificate of Adoption

105 Required Plan Elements

107 State Planning Goals

109 Checklist: Municipal Plan Adoption (Planning Commission)

111 Checklist: Municipal Plan Amendment (Planning Commission)

113 Checklist: Municipal Plan Amendment / Adoption (Selectboard / City Council)

115 Checklist for Regional Approval of Municipal Plan

Familiarity with the history and structure of the laws that govern the planning process can help Planning Commissions navigate the process most effectively. This Appendix summarizes the relevant provisions of Vermont's Planning and Development Act and related statutes. It is intended to guide planning commissioners and others through the legal and technical requirements of developing, adopting, and updating a municipal plan.

Legal Framework

Vermont's legal framework for planning is established in the Vermont Planning and Development Act, which is codified in [24 V.S.A. chapter 117](#) and commonly referred to as "Chapter 117." The planning process is also influenced by [10 V.S.A. chapter 151](#), known as Act 250, which regulates land use and development projects, and by the certificate of public good process for approval of gas and electric facilities, commonly referred to as "Section 248" ([30 V.S.A. section 248](#)). These statutes are all available online and in hard copy with annotations at many public libraries and town offices.

Chapter 117

Chapter 117, which was enacted in 1967, allows the establishment of municipal and regional planning commissions and sets forth general purposes to guide them. Municipalities have the option to develop plans and implement them through regulations and a capital budget and program. Chapter 117 also sets out the standards and procedures that municipalities must adhere to in their planning programs. In 1988 the legislature adopted Act 200, Vermont's Growth Management Act. This amendment to Chapter 117 laid out specific land use goals, sought broader public participation in the planning process, and enhanced coordination among neighboring municipalities and across regions.

Chapter 117 provides a framework and procedures for municipalities to establish municipal planning commissions and sets forth the terms, method of appointment, powers, and duties of commissioners. It specifies the process to develop, review, and adopt municipal plans and includes guidelines and requirements for the content of plans and plan amendments. Communities that have prepared and adopted plans are authorized to adopt bylaws that conform with the plans. Chapter 117 spells out precise procedures for bylaw adoption, administration, and enforcement. It enables the adoption of capital budgets and programs for communities that have adopted facilities and services plans.

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 have in effect a municipal plan. According to Vermont law, plans are the basis for bylaws and bylaws must be consistent with the plan and must have the purpose of implementing the plan ([24 V.S.A. section 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. section 4404a](#)).

If a municipality does not have a solid basis in its plan for the regulations it puts into effect, the 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.

Act 250

Vermont's Land Use and Development Law, commonly known as Act 250, requires that certain categories of development obtain a state land use permit before beginning construction. For example, subdivisions of 10 lots or more, commercial development on more than one acre in towns that don't have permanent zoning and subdivision regulations, or on more than 10 acres in towns that do, and any development above 2,500 feet, all must apply for and receive an Act 250 permit. To obtain a permit, developers or landowners apply to the District Environmental Commission for that region of the state.

Projects that need an Act 250 permit must satisfy 10 criteria. The criteria focus on the impacts that the development or subdivision is expected to have on air and water quality, water supply, traffic, educational and municipal services, and historic and natural resources, including scenic beauty and necessary wildlife habitat. One of the criteria requires that the project conform to any applicable local or regional land use plan or capital plan. Appendix 2 of this manual details how plans are considered in the Act 250 review process.

The District Environmental Commission reviews each application and either grants a permit, typically with conditions, or denies it. The Commission may make specific findings of fact and conclusions of law that justify and explain its decision in detail. The parties to an Act 250 hearing include the applicant, the municipal legislative body and its planning commission, the regional planning commission, and affected state agencies. The Commission may also grant party status to adjoining property owners, and to other persons or groups who may be affected by the proposed project.

Section 248

Vermont requires approval from the Public Service Board (PSB) before beginning work on any electric transmission or generation facilities and certain gas pipelines. This approval is known as a certificate of public good. In addition to considering certain criteria that relate specifically to energy issues, the PSB considers whether the proposed project would have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety. These considerations are made with explicit reference to the Act 250 criteria.

Like the District Environmental Commissions in Act 250 proceedings, the PSB reviews each application and either grants a certificate of public good, typically with conditions, or denies it. Neither municipalities nor planning commissions are automatically granted party status in PSB dockets, but they may request to intervene in any proceeding in which they have a particular interest. They can also request that they be added to the PSB's mailing list as an interested party without formally intervening. Appendix 2 of this manual details how plans are considered in the PSB review process.

Roles

The State

Vermont is a ‘Dillon’s Rule’ state, which means that any powers and authority municipalities have must be granted to them by the State. Thus, when it comes to land use and planning, the State, through the legislative branch, establishes the authority for local and regional planning and sets forth planning policies and guidelines. The State also undertakes its own planning for state capital investments, transportation, housing, social services, economic development, and environmental protection. These actions can have a significant impact on the course of local and regional planning.

The Legislature also adopts laws that affect local and regional planning. Act 250 (the State Land Use and Development Law), environmental protection laws, taxation laws, and authorizations for grant and loan programs are examples of legislation that affect municipal planning. These statutes may contain standards, policies, and guidelines that affected or participating municipalities must follow.

The executive branch of state government is responsible for the development of the capital budget for state investments. These investments—including road improvements, municipal water pollution control and water supply facilities, local and state recreation land acquisition and development, and government buildings, such as courthouses, administrative offices and jails— affect both the way municipalities grow and the nature and pattern of their development.

Under Chapter 117, the Department of Housing and Community Development (DHCD) is required to periodically review the planning process of municipalities that don’t have approved plans, for the purposes of evaluating whether the municipality is complying with its obligations regarding affordable housing ([24 V.S.A. section 4351](#)). DHCD also provides funding and support to municipalities that are engaged in planning through its [Municipal Planning Grant Program](#), which is funded by revenue from the property transfer tax.

Regional Planning Commissions

There are 11 regional planning commissions (RPCs) in Vermont. The powers and duties of RPCs, listed in [24 V.S.A. section 4345\(a\)](#), include but are not limited to:

- Preparing regional plans and amending them when necessary;
- Promoting intermunicipal cooperation and coordinated development;
- Providing technical assistance to help municipalities prepare and maintain municipal plans, studies, bylaws, and other implementation activities;
- Preparing studies and recommendations on land development, hazard mitigation, brownfield mitigation, transportation, scenic preservation, and conservation of energy; and
- Implementing programs in cooperation with municipalities for appropriate development, improvement, protection and preservation of the region's physical and human resources.

RPCs help municipalities plan by providing data and maps; suggesting planning goals, objectives, and policies; proposing techniques for implementing plans; providing assistance in program development and administration; and developing and disseminating information on regional trends, development patterns, and issues.

RPCs also play a critical role in the municipal planning process. RPCs are required to review the planning process of its member municipalities at least twice during an eight-year period, or more frequently on request of the municipality. As part of the consultation, the RPC confirms if the municipality's process complies with the criteria listed in [24 V.S.A. section 4350\(a\)](#), which require that a municipality is (1) engaged in a continuing planning process that will result in a plan which is consistent with the goals contained in [24 V.S.A. section 4302](#); and (2) engaged in a process to implement its municipal plan consistent with [24 V.S.A. section 4382](#); and (3) maintaining its efforts to provide local funds for municipal and regional planning purposes.

For municipalities to obtain and retain regional confirmation they must request RPC review and approval of the municipal plan. Approval is granted if the plan:

- It is consistent with the state planning goals ([24 V.S.A. section 4302](#));
- That it is compatible with the regional plan;
- That it is compatible with approved plans of other municipalities in the region; and
- That it contains all the elements included in [24 V.S.A. section 4382\(a\)\(1\)-\(10\)](#).

Once a municipal plan is approved by the RPC, the next consultation will focus on assessing whether a municipality is actively engaging in implementing its plan including:

- preparing and adopting zoning bylaws and amendments;
- capital budgets and programs;
- supplemental plans;
- other actions, programs or measures.

The RPC will consider any additional factors that might have hindered or delayed the kind of implementation envisioned in the plan when determining if the municipal planning process can be confirmed.

A confirmed planning process makes a municipality eligible to apply for Municipal Planning Grants, other state grants, the state designation programs and to levy impact fees.

Municipalities

Any municipality may undertake a comprehensive planning program including related preliminary planning and engineering studies. They can prepare, maintain, and implement a plan within its jurisdiction. However, unlike regional planning commissions, municipalities are not required to prepare a plan.

In addition to undertaking local planning activities, and regardless of whether the municipality has a plan of its own, municipalities can participate in regional and state planning programs. As members of the regional planning commission, municipalities participate in the decisions of the commission, including the adoption of the regional plan. Through their legislative bodies and planning commissions, municipalities have 'party status' in the review of applications under Act 250. This confers the right to participate in Act 250 proceedings, including the right to appeal unfavorable decisions.

Municipal Boards, Commissions, and Committees

Planning Commissions

Membership

A municipality may establish a planning commission by resolution of its legislative body. The commission must have between three and nine members, a majority of whom must be residents of the municipality. Typically, the legislative body (selectboard, city council, aldermen, or trustees) appoints the members. Alternatively, the voters in a municipality may elect planning commission members. If the commissioners are elected, the legislative body may still fill a vacancy until the next municipal election, or a special election may be held. The legislative body may remove appointed commissioners at any time, by unanimous vote, but it may not remove elected planning commission members.

Planning commission members should represent all geographic areas of the municipality. They should express a variety of interests and bring a range of skills to the commission. The interests of any single group should not be favored.

Role of the Planning Commission

As leaders of the community on planning matters, the members of the planning commission have many important roles. One significant role is to represent all members and interests of the community. In this capacity, the commission should seek maximum participation in the planning process by other public officials, interest groups, civic groups, and citizens to discuss joint and competing interests. The commission must be willing to listen to ideas and to solicit comments. The commission must be cautious in weighing the comments of those who are active in the planning process with the interests of those who do not participate. Above all, members must put the general welfare of the community above any personal interests.

The planning commission is responsible for looking out for the general welfare of the community and for bringing a long-term perspective to short-term strategies and day-to-day decision making.

The planning commission must be careful not to devote all of its time to regulatory review when long-range planning and broader community interests also require its attention. To ensure that the planning commission has adequate time for these bigger picture issues, many communities have created a development review board. The development review board typically assumes responsibility for reviewing site plans and approving conditional use, variance and subdivision applications, which allows the planning commission to focus on developing, maintaining, and implementing the municipal plan and regulations.

One of the responsibilities of the planning commission is to educate the public about the purposes of planning and to publicize and seek comment on specific recommendations to address local planning issues. This educational process occurs through public hearings and informational meetings, through coordination with other local officials, through written materials and newspaper articles, and through day-to-day contact with the public. To be effective, commissioners must be well informed about the community, the content of planning documents, and the rationale for plans, implementation strategies, and regulatory decisions.

The commission should propose courses of action for the municipality, including the comprehensive plan. It also reviews and recommends actions on specific proposals put forth by public interest groups and the private sector. To carry out this role effectively, commission members need to inform themselves about the planning process, organize themselves, take advantage of training programs offered to them, and seek technical advice to further their understanding.

Powers and Duties of the Planning Commission

The powers and duties of the planning commission are set forth in [24 V.S.A. section 4325](#). These powers include major responsibilities such as preparing and implementing the municipal plan, as well as the authority necessary to carry out activities related to these responsibilities, including undertaking studies, entering upon land, and hiring technical assistance. The planning commission is specifically authorized, by [24 V.S.A. section 4325](#), to do the following:

- Prepare a municipal plan for review by the municipality's legislative body, and maintain and prepare amendments to the plan as needed;
- Prepare bylaws for review by the municipality's legislative body, and maintain and prepare amendments to the bylaws as needed;
- Administer any subdivision regulations and any bylaws adopted by the municipality, unless a development review board has that function;
- Undertake development review under the zoning regulations, including site plan review, planned unit and planned residential development plans, design review, and approval of rights-of way for parcels not having frontage on public roads, unless a Development Review Board has been created by the municipality to carry out this function;
- Participate in the review of Act 250 permit applications, including testifying on projects under review and appealing unfavorable decisions;
- Participate in the review of Section 248 certificate of public good proceedings before the Public Service Board;
- Prepare and update a five-year capital budget and program for consideration by the municipality's legislative body;
- Review adjacent municipal plans, the regional plan, and state agency plans for compatibility with their own municipal plan;
- Conduct studies and make recommendations on land development, urban renewal, transportation, community development, beautification, design, historic and scenic preservation, conservation of energy, development of renewable energy resources and wetland protection;
- Participate in regional planning programs; and
- Recommend codes and standards, including building, plumbing, fire, electrical and housing codes, and specifications for streets and related public improvements.

Organization and Procedures of the Planning Commission

Officers

The planning commission is required to elect a chairperson and a clerk ([24 V.S.A. section 4323\(b\)](#)). The chairperson is responsible for the overall organization and conduct of the commission. The clerk is typically responsible for minutes of meetings, filing of public notices, notification of applicants, and distribution of proposed documents in accordance with the provisions of Chapter 117.

Rules

The planning commission is required to adopt rules for the performance of its function ([24 V.S.A. section 4323\(b\)](#)). These rules should be adopted at the commission's organizational meeting by a majority vote of the members present. If a commission does not have a set of rules, it should adopt them as soon as possible. They are necessary to ensure the smooth operation of the commission.

Planning commission rules should cover the following:

- Powers and duties of the planning commission;
- Responsibilities of the officers;
- Procedures for scheduling and conducting regular commission meetings;
- Procedures for scheduling and conducting public hearings;
- Public notice for commission meetings and public hearings;
- Preparation of findings of fact for permit applications;
- Notification of applicants;
- Conflicts of interest;
- Minutes of meetings;
- Record-keeping;
- Handling of expenses;
- Annual reports; and
- Voting procedures.

Model rules are available on the [Vermont League of Cities and Towns](#) website: Except for the vote required for adopting rules, planning commissions must follow [1 V.S.A. section 172](#), which states that a majority of all of the commissioners must approve any action – not just a majority of those present.

Meetings

Planning commissions are subject to Vermont's Open Meeting Law ([1 V.S.A. section 310-314](#)). Every planning commission should be familiar with these provisions. All meetings of the planning commission are open to the public. The commission must inform the public when and where the meetings will occur. A schedule of regular planning commission meetings must be posted in a public place. Any changes to this schedule, or notice of special meetings, must be posted in the municipal clerk's office and at least two other designated places in the municipality at least 24 hours before the meeting.

Public Hearings have different notice requirements and can be found in [24 V.S.A. section 4444](#). Notice of the date, place, and purpose of the public hearing must be published in the newspaper at least 15 days before the hearing, and posted in three or more locations in the municipality as well.

Planning commission meetings, like all public meetings, must comply with the Americans with Disabilities Act (ADA) and Vermont's Public Accommodations Law found in [9 V.S.A. Chapter 139](#). Meetings, as well as written materials, must be accessible to all persons with disabilities. This means that a handicapped person must be able to enter the building and the meeting room, and have the use of a rest room. On request, people with hearing, speech, and visual impairments, as well as mobility difficulties, must not be denied participation in a planning commission meeting or hearing.

Records

The planning commission must keep a record of its business, including minutes that reflect all meetings, resolutions, transactions, and decisions. The records must be on file and available to the public within five days after each meeting. Most municipalities retain these records in the clerk's office or in the office of the planning department. If the municipality has a website, the minutes must be posted there as well ([1 V.S.A. section 312\(b\)](#); [24 V.S.A. section 4323](#) and [section 4326](#)).

In most municipalities, the development review board functions as the quasi-judicial body that approves and disapproves development applications. Some municipalities still have a zoning board of adjustment, which reviews variances, conditional uses, and appeals of the zoning administrator. In municipalities with zoning boards, the planning commission serves as a quasi-judicial body that reviews subdivisions and site plans. Planning commissions that serve a development review function must keep accurate records of evidence presented at hearings, resolutions of the commission, and findings of fact on which the decisions are based. The record must also include any conditions that are required in a decision.

Annual Report

Every planning commission must make an annual report to the municipality as noted in [24 V.S.A. section 4326](#). This report should summarize the commission's activities for the year, including current issues, trends, and needs for future action. These reports are often circulated to the residents through the town, village, or city annual report. The commission should produce a complete and informative statement.

Technical Assistance

Because a municipal planning commission usually is composed of volunteers, preparation of plans and bylaws often requires the assistance of others such as professional staff, regional planning commission staff, or private consultants who work under the commission's direction. Assistance may also be obtained from federal, state, county, and regional organizations and from educational institutions. [A list of helpful resources can be found on DCHD's website.](#)

Expenses

A planning commission may incur costs for the "necessary and reasonable" expenses of its members, for professional assistance, and for meeting notices and mailings. To cover these costs, the municipality is authorized to appropriate funds for the planning commission.

Many municipalities use permit application fees to cover costs for processing applications. The legislative body can set the fees, which must reasonably relate to the cost of administration ([24 V.S.A. sections 4440\(b\)](#)). The planning commission also may accept funds from federal or state governments and from private sources ([24 V.S.A. section 4322](#) and [section 4326](#)).

Development Review Boards

A development review board can be created to perform all the regulatory review functions for the town as set forth in [24 V.S.A. section 4460](#). It replaces the zoning board of adjustment and takes over the subdivision and site plan review role of the planning commission. This permits the planning commission to focus on the municipal plan.

Zoning Board of Adjustment

While most towns no longer have zoning boards of adjustment, some still do. The zoning board of adjustment reviews applications for conditional use approval, appeals from actions or decisions of the zoning administrator, and associated variance requests ([24 V.S.A. section 4461](#)).

Advisory Commissions and Committees

[24 V.S.A. section 4433](#) authorizes municipalities to establish “advisory committees” to assist the planning commission and selectboard with preparing, adopting and implementing the municipal plan. There are many types of advisory committees, with conservation commissions and energy committees being the most popular. Committees provide an important mechanism for involving more people in the planning process and providing an opportunity for citizens with special skills or interests to focus their attention on those topics. Advisory committees may be formed by a vote of the municipality, via a charter, or by action or resolution of a selectboard. The charter or resolution should contain a mission statement that defines the scope of the committee’s work and guides its actions. An advisory committee must have at least three members, all of whom must be residents of the municipality. Regardless of whether the committee is established by popular vote or by the selectboard, the selectboard determines how many members to appoint and their terms. The selectboard retains the authority to set term lengths and to appoint and remove members. As a public body, advisory committees must comply with the open meeting law and public records law.

Conservation Commissions

In 1977 Vermont passed legislation enabling towns to establish conservation commissions ([24 V.S.A. chapter 118](#)). Conservation commissions are local boards that are empowered to protect natural resources within their communities. However, they do not have regulatory powers. Commission initiatives can include: restoration, conservation, education, policy development, land management, proposed development review, and natural resource inventory and monitoring. Conservation commissions often participate in drafting municipal plans. Prior to the creation of a large number of energy committees over the past decade, conservation commissions helped shape municipal energy plans. The involvement of conservation commissions can be especially useful on energy issues that overlap with other plan considerations, such as forest and farmland conservation, renewable energy development in undeveloped high elevation locations, and bicycle and pedestrian path planning.

Municipal Energy Committee and Town Energy Coordinators

An energy committee provides a mechanism for involving more people in the planning process and providing an opportunity for citizens with special skills or interests in energy policies and programs to focus their attention on those topics. Municipalities may also appoint an energy coordinator if they wish. The energy coordinator is tasked with coordinating existing energy resources in the town and cooperating with the municipal planning commission as well as federal, state, and regional authorities that are responsible for energy matters ([24 V.S.A. section 1131](#)).

Other Commissions and Committees

Municipalities may create other advisory commissions or committees to assist with the preparation of municipal plans and bylaws, and to act in an advisory capacity to local review boards and applicants in local regulatory proceedings. Examples include: historic preservation commissions, design review committees, bicycle and pedestrian committees, and housing commissions. Advisory commissions or committees may be assigned a role in development review proceedings, as specified in the bylaw or by a resolution of the legislative body. Their function, however, is strictly advisory – they do not serve in a quasi-judicial capacity, nor may their recommendations be directly appealed to court ([24 V.S.A. section 4433](#) and [section 4464\(d\)](#)).

Rules of Ethics and Conflicts of Interest

All of the above mentioned boards, commissions, and committees should adopt conflict of interest policies. Conflict of interest policies have long been a best practice for managing conflicts. In small towns, where everybody knows everybody, these policies can be particularly useful for ascertaining whether a conflict exists and, if necessary, mitigating or eliminating the conflict.

Conflicts of interest can be broken down into four basic categories:

1. Those where a board member has a personal interest in a proceeding;
2. Those where a board member has a financial interest in a proceeding;
3. Those where a board member has exhibited bias or prejudice prior to hearing a case; and
4. Those where a board member has failed to disclose and/or rectify ex parte communications.

Powerful forces are at play in local zoning proceedings, such as constitutional rights and individual and community values regarding private property and environmental protection. With these issues on the table, transparency is crucial for maintaining public trust. Disclosure of a conflict (or a potential conflict) is one of the best ways to achieve that goal of transparency.

After disclosing a real or perceived conflict, a member may either choose to recuse him or herself or may choose to continue in the proceeding, provided the member provides a statement of why he or she is still able to act fairly, objectively, and in the public interest.

The Vermont League of Cities and Towns offers a model Conflict of Interest Policy for use by municipalities, available as Appendix 6 of the [Handbook for Vermont Selectboards](#).

Preparation and Adoption of the Plan

Adoption Procedures for Planning Commissions and Selectboards

Responsibilities 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 municipality's legislative body for consideration. (The legislative body refers to the selectboard, Board of Aldermen, City Council, or the equivalent.) 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. section 4384](#).

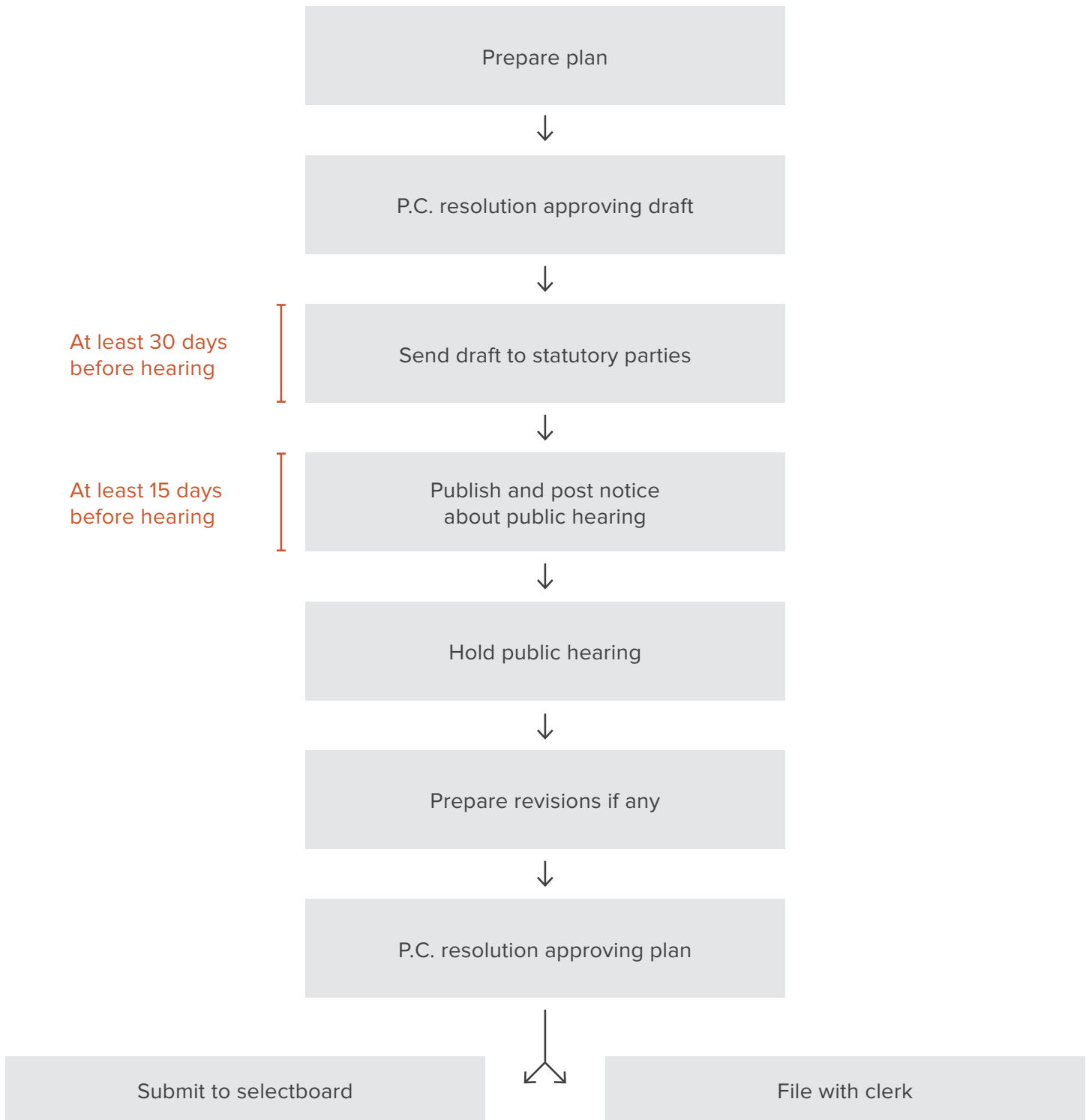
These requirements include soliciting the participation of local citizens and organizations by holding informal working sessions that suit the needs of local people.

The planning commission must hold at least one public hearing regarding the proposed plan or amendment. At least 30 days before the public hearing, a copy of the proposed plan or amendment must be delivered to the chairpersons of the planning commissions of each abutting municipality (or to the clerk of those municipalities if they do not have planning commissions), to the applicable regional planning commission, to the state Department of Housing and Community Development, and to any community groups or organizations that requested a copy ([24 V.S.A. section 4384\(30\)](#)).

THE IMPORTANCE OF 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. section 4384](#), [section 4385](#), and [section 4387](#). To determine how time is to be computed, refer to [24 V.S.A. section 4303a](#). Municipalities should utilize the [clerk's certification of adoption or amendment](#) 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.

Responsibilities of the Planning Commission Flowchart



Responsibility of the Legislative Body (Select Board, Aldermen, City Council, or Equivalent)

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 ([24 V.S.A. section 4385](#)).

More specifically, the legislative body is required to hold at least two public hearings between 30 and 120 days after receiving a proposed plan or amendment. Towns with fewer than 2,500 people need only hold one hearing. The legislative body may change the proposed plan or amendment, but any changes must be made at least 15 days before the last public hearing. A copy of the changed proposal must be provided to the town clerk, to anyone who has requested a copy in writing, and to the planning commission. The planning commission should analyze the change to evaluate whether the proposal is still consistent with the state's land use goals.

After the public hearing requirements have been satisfied, the legislative body may adopt the proposed plan or amendment by majority vote. Alternatively, the voters of the municipality may vote by Australian ballot at a meeting that has been properly warned in accord with [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. This is a two-step process. First, the voters must choose to use this method of adoption, and then they must vote whether or not to adopt the plan or amendment.

ADOPTION OF REGIONAL PLAN BY MUNICIPALITY

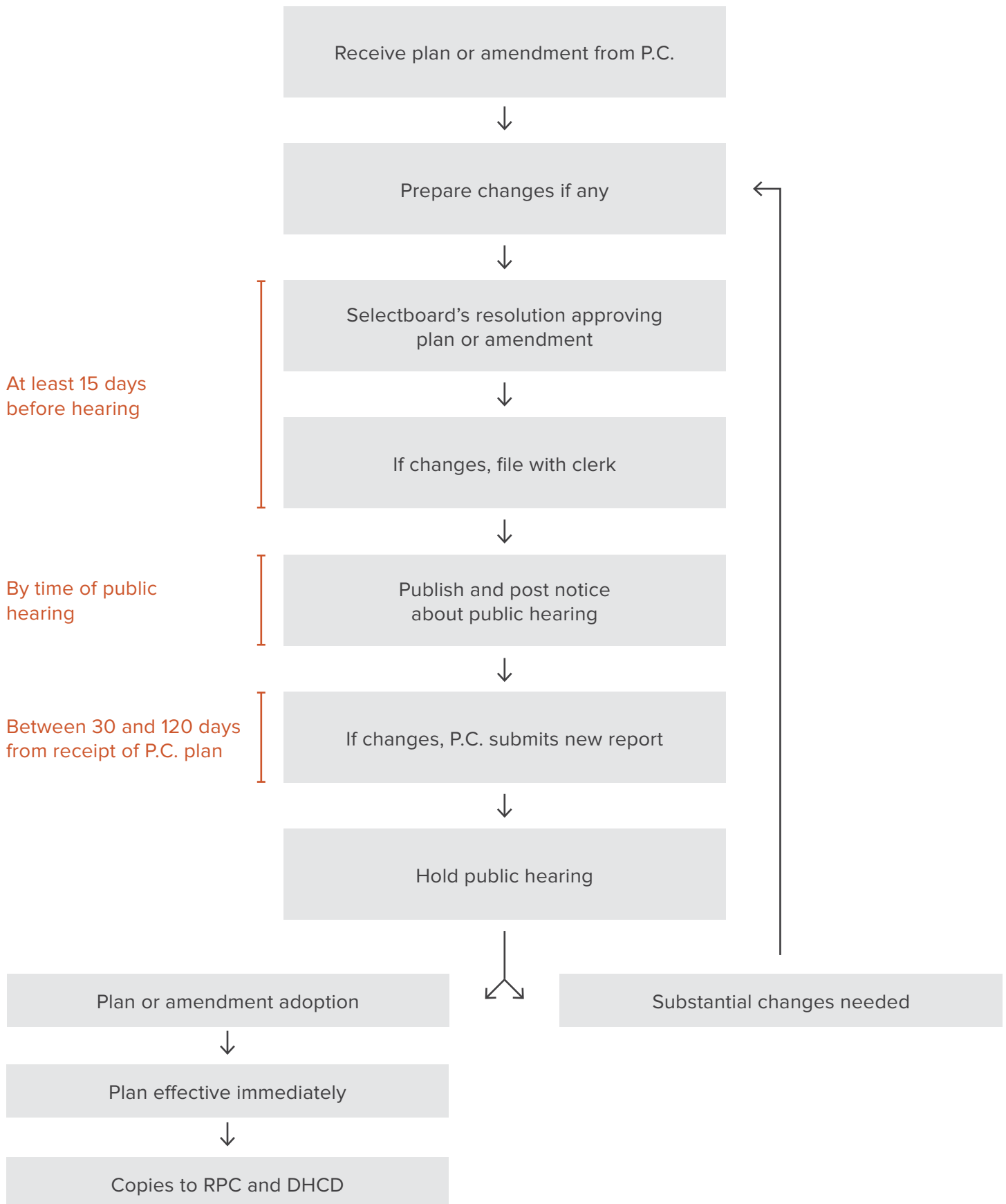
Chapter 117 enables a municipality to adopt a regional plan or a portion of a regional plan as its municipal plan. The regional plan must have been prepared and adopted by the regional planning commission before it can be adopted by a municipality. The adoption procedures are the same as for a plan prepared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

Effective Date

The plan becomes effective immediately upon adoption by the legislative body or voters ([24 V.S.A. section 4385](#)).

After the adoption of a plan or amendment it is good practice to have the municipal clerk prepare a certificate describing the publication, posting, consideration, and adoption. The certificate can be used as evidence that the municipality complied with these requirements ([24 V.S.A. section 4447](#)).

Responsibilities of the Legislative Body Flowchart



Regional Approval of the Municipal Plan

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 municipality must have an approved plan to be confirmed. Confirmation is required for a municipality to receive state planning funds or levy impact fees on new development ([24 V.S.A. section 4350](#)).

The law spells out the criteria under which the regional planning commission will conduct the review. To be approved, a municipal plan must be consistent with the state's land use goals as set forth in [24 V.S.A. section 4302](#), compatible with the regional plan and with approved plans of other municipalities in the region, and it must contain all of the required elements as set for in [24 V.S.A. § 4382\(a\)\(1\) to \(a\)\(10\)](#). The law requires that the regional planning commission make its decision on approval within two months of the municipality's last public hearing. The regional planning commission must hold a public hearing before rendering its decision ([24 V.S.A. § 4350\(b\)](#)).

If the plan is disapproved, the municipality's legislative body has two choices:

1. 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 must go through the full amendment process described in [24 V.S.A. section 4384](#) and [section 4385](#); if it had not yet been adopted, it would need to go through only the stage described in section 4385; OR
2. They can ignore the decision and adopt the plan anyway, if not already adopted.

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 Act 250 and Section 248 hearings unless the project has significant regional impact. If a municipality's plan is not approved, the municipality is not allowed to levy impact fees on new development within its borders under [24 V.S.A. chapter 131](#), and it is not eligible to receive municipal planning grants (except for grants to develop an approved plan) or grants from the Vermont community development program.

Maintenance, Amendments and Readoptions

The planning commission is responsible for maintenance and amendment of the plan. Plans automatically expire eight years after 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 and relevant or whether a major change is needed. If the plan is still relevant, the municipality may wish to readopt it rather than develop a new one. The readopted plan must incorporate updated data and report on any changes in the status of implementation strategies. It also must add any new required elements. The readoption process is the same as the procedure for adopting a new plan ([24 V.S.A. section 4387](#)).

During the eight years that the plan is in effect, the planning commission may find that it needs to modify the plan's findings, base data, and/or implementation strategies. These modifications are called amendments. Overall policies guiding the future direction of growth in the community usually do not require amendment during this time.

For any proposed amendment, the planning commission must prepare a written report. The report must address the extent to which the plan or amendment is consistent with the state's land use goals as set forth in [24 V.S.A. section 4302](#). In addition, if the amendment would alter the designation of any land area, the report must address the probable impact on the surrounding area, including any increase in traffic; the long-term cost or benefit to the municipality in terms of impact on the tax base and the need for public facilities; the amount of vacant land that is already subject to the proposed new designation, and the need for additional land for that purpose; the suitability of the area in question for the proposed purpose, in light of alternative locations and alternative uses for the area under consideration; and the appropriateness of the size and boundaries of the area proposed for change ([24 V.S.A. section 4384\(c\)](#)).

When an amendment is proposed, the planning commission holds a public hearing on just the amendment, not the whole plan.

Whether the amendment is adopted or not, the plan as a whole remains in effect, and remains on the original eight-year review cycle. 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 eight-year lifespan. The expiration date is extended another eight 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.

Amendments proposed by other parties

Persons or bodies other than the planning commission may propose amendments to the plan. The planning commission may decide whether to hold a hearing on an amendment and may make changes to the amendment. However, if the amendment is supported by a petition signed by five percent or more of the registered voters the planning commission must proceed promptly to hold a hearing on the amendment, prepare a report on the amendment, distribute copies of the amendment, and submit the amendment to the legislative body in accordance with Chapter 117. The planning commission may not alter an amendment supported by five percent or more of the registered voters except to correct technical deficiencies, such as, grammar, spelling and punctuation. The legislative body is also required hold a hearing on such an amendment, but is under no obligation to adopt the amendment ([24 V.S.A. section 4384](#) and [section 4385](#)).

The Plan for a Municipality: Required Elements

From Title 24 : Municipal And County Government, Chapter 117 : Municipal And Regional Planning And Development, Subchapter 005 : Municipal Development Plan, § 4382. The plan for a municipality

A plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan. A municipal plan must include all the following:

1. A statement of objectives, policies, and programs of the municipality 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 that:
 - indicates those areas proposed for forests, recreation, agriculture (using the agricultural land identification process described in 6 V.S.A. § 8), residence, commerce industry, public, and semi-public uses, and open spaces, areas reserved for flood plain, and areas identified by the State, the regional planning commission, or the municipality that require special consideration for aquifer protections, for wetland protection, for the maintenance of forest blocks, wildlife habitat, and habitat connectors, or form other conservation purposes.
 - sets 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 service.
 - identifies those areas, if any, proposed for state designation under chapter 76A of this title, together with, for each area proposed for state designation, an explanation of how the state designation would further the plan's goals and the goals of section 4302 of this title, and how the area meets the requirements for the type of designation to be sought.
 - indicates 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. A plan may include specific policies to encourage the active management of those areas for wildlife habitat, water quality, timber production, recreation, or other values or functions identified by the municipality.
3. A transportation plan, consisting of a map and statement of present and prospective transportation and circulation facilities showing existing and proposed highways and streets by type and character of improvement, and where pertinent, parking facilities, transit routes, terminals, bicycle paths and trails, scenic roads, airports, railroads, and port facilities, and other similar facilities or uses, with indications of priority of need;
4. A utility and facility plan, consisting of a map and statement of present and prospective community facilities and public utilities showing existing and proposed educational, recreational and other public sites, buildings and facilities, including hospitals, libraries, power generating plants and transmission lines, water supply, sewage disposal, refuse disposal, storm drainage, and other similar facilities and activities, and recommendations to meet future needs for community facilities and services, with indications of priority of need, costs and method of financing;
5. A statement of policies on the preservation of rare and irreplaceable natural areas, scenic and historic features and resources;
6. An educational facilities plan consisting of a map and statement of present and projected uses and the local public school system;
7. A recommended program for the implementation of the objectives of the development plan;

8. A statement indicating how the plan relates to development trends and plans for adjacent municipalities, areas and the region developed under this title;
9. An energy plan, including an analysis of energy resources, needs, scarcities, costs and problems within the municipality, a statement of policy on the conservation of energy, including programs, such as thermal integrity standards for buildings, to implement that policy, a statement of policy on the development of renewable energy resources, a statement of policy on patterns and densities of land use likely to result in conservation of energy;
10. A housing element that shall include a recommended program for addressing low and moderate income persons' housing needs as identified by the regional planning commission pursuant to subdivision 4348a(a)(9) of this title. The program should account for permitted accessory dwelling units, as defined in subdivision 4412(1)(E) of this title, which provide affordable housing;
11. An economic development element that describes present economic conditions and the location, type, and scale of desired economic development, and identifies policies, projects, and programs necessary to foster economic growth;
12. A flood resilience plan that:
 - identifies flood hazard and fluvial erosion hazard areas, based on river corridor maps provided by the Secretary of Natural Resources pursuant to 10 V.S.A. § 1428(a) or maps recommended by the Secretary, and designates those areas to be protected, including floodplains, river corridors, land adjacent to streams, wetlands, and upland forests, to reduce the risk of flood damage to infrastructure and improved property; and
 - recommends policies and strategies to protect the areas identified and designated under subdivision (12)(A)(i) of this subsection and to mitigate risks to public safety, critical infrastructure, historic structures, and municipal investments.A flood resilience plan may reference an existing local hazard mitigation plan approved under 44 C.F.R. § 201.6.

The maps called for by this section may be combined into one or more maps, and may be referred to in each separate statement called for by this section.

Where appropriate, and to further the purposes of subsection 4302(b) of Title 24 of the Vermont Statutes, a municipal plan shall be based upon inventories, studies, and analyses of current trends and shall consider the probable social and economic consequences of the proposed plan. Such studies may consider or contain, but not be limited to:

1. population characteristics and distribution, including income and employment;
2. the existing and projected housing needs by amount, type, and location for all economic groups within the municipality and the region;
3. existing and estimated patterns and rates of growth in the various land use classifications, and desired patterns and rates of growth in terms of the community's ability to finance and provide public facilities and services.

Where appropriate, a municipal plan may provide for the use of "transit passes" or other evidence of reduced demand for parking spaces in lieu of parking spaces.

State Planning Goals

From Title 24 : Municipal And County Government, Chapter 117 : Municipal And Regional Planning And Development, Subchapter 001 : General Provisions; Definitions, § 4302. Purpose; goals

Municipal plans should further the following specific goals:

1. To plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside.
 - Intensive residential development should be encouraged primarily in areas related to community centers, and strip development along highways should be discouraged.
 - Economic growth should be encouraged in locally designated growth areas, employed to revitalize existing village and urban centers, or both, and should be encouraged in growth centers designated under chapter 76A of this title.
 - Public investments, including the construction or expansion of infrastructure, should reinforce the general character and planned growth patterns of the area.
 - Development should be undertaken in accordance with smart growth principles as defined in subdivision 2791(13) of this title.
2. To provide a strong and diverse economy that provides satisfying and rewarding job opportunities and that maintains high environmental standards, and to expand economic opportunities in areas with high unemployment or low per capita incomes.
3. To broaden access to educational and vocational training opportunities sufficient to ensure the full realization of the abilities of all Vermonters.
4. To provide for safe, convenient, economic and energy efficient transportation systems that respect the integrity of the natural environment, including public transit options and paths for pedestrians and bicyclers.
 - Highways, air, rail, and other means of transportation should be mutually supportive, balanced, and integrated.
5. To identify, protect, and 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.
6. To maintain and improve the quality of air, water, wildlife, and land resources.
 - Vermont's air, water, wildlife, mineral and land resources should be planned for use and development according to the principles set forth in 10 V.S.A. § 6086(a).
 - Vermont's water quality should be maintained and improved according to the policies and actions developed in the basin plans established by the Secretary of Natural Resources under 10 V.S.A. § 1253.
 - Vermont's forestlands should be managed so as to maintain and improve forest blocks and habitat connectors.
7. To make efficient use of energy, provide for the development of renewable energy resources, and reduce emissions of greenhouse gases.
 - Specific strategies and recommendations for achieving these goals are identified in the State energy plans prepared under 30 V.S.A. §§ 202 and 202b.

7.^{cont.}

- General strategies for achieving these goals include increasing the energy efficiency of new and existing buildings; identifying areas suitable for renewable energy generation; encouraging the use and development of renewable or lower emission energy sources for electricity, heat, and transportation; and reducing transportation energy demand and single occupancy vehicle use.

8.

To maintain and enhance recreational opportunities for Vermont residents and visitors.

- Growth should not significantly diminish the value and availability of outdoor recreational activities.
- Public access to noncommercial outdoor recreational opportunities, such as lakes and hiking trails, should be identified, provided, and protected wherever appropriate.

9.

To encourage and strengthen agricultural and forest industries.

- Strategies to protect long-term viability of agricultural and forest lands should be encouraged and should include maintaining low overall density.
- The manufacture and marketing of value-added agricultural and forest products should be encouraged.
- The use of locally-grown food products should be encouraged.
- Sound forest and agricultural management practices should be encouraged.
- Public investment should be planned so as to minimize development pressure on agricultural and forest land.

10.

To provide for the wise and efficient use of Vermont's natural resources and to facilitate the appropriate extraction of earth resources and the proper restoration and preservation of the aesthetic qualities of the area.

11.

To ensure the availability of safe and affordable housing for all Vermonters.

- Housing should be encouraged to meet the needs of a diversity of social and income groups in each Vermont community, particularly for those citizens of low and moderate income.
- New and rehabilitated housing should be safe, sanitary, located conveniently to employment and commercial centers, and coordinated with the provision of necessary public facilities and utilities.
- Sites for multi-family and manufactured housing should be readily available in locations similar to those generally used for single-family conventional dwellings.
- Accessory apartments within or attached to single-family residences which provide affordable housing in close proximity to cost-effective care and supervision for relatives, elders, or persons who have a disability should be allowed.

12.

To plan for, finance and provide an efficient system of public facilities and services to meet future needs.

- Public facilities and services should include fire and police protection, emergency medical services, schools, water supply, and sewage and solid waste disposal.
- The rate of growth should not exceed the ability of the community and the area to provide facilities and services.

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.

14.

To encourage flood resilient communities.

- New development in identified flood hazard, fluvial erosion, and river corridor protection areas should be avoided. If new development is to be built in such areas, it should not exacerbate flooding and fluvial erosion.
- The protection and restoration of floodplains and upland forested areas that attenuate and moderate flooding and fluvial erosion should be encouraged.
- Flood emergency preparedness and response planning should be encouraged.

Checklist for Municipal Plan Adoption

Planning Commission Stage

DATE	ACTION
1. _____	Prepare Plan. Throughout process, solicit citizen participation. §4384(a)
2. _____	Adopt Planning Commission resolution approving Plan for public hearing, posting, publishing, and mailing.
3. _____	Prepare notice of public hearing. §§4384(d), 4447
4. _____	Deliver at least 30 days before the public hearing, with proof of receipt, or send by certified mail, return receipt requested, copies of the proposed Plan to the following • Chairpersons of abutting municipal planning commissions (where there is no P.C. to municipal clerk) • Executive Director of Regional Planning Commission • The Department of Housing and Community Development (electronic submissions requested) • Community organizations or interest groups that have requested notice in writing and document in records that this was done: §4384(e)
5. _____	At least 15 days before the public hearing, publish copy of date, place and purpose of hearing, along with full text of proposed Plan, or summary of text, in newspaper of general publication in municipality affected. §4444(a)(1) A summary of text must include the following: • A statement of purpose • The geographic areas affected • A table of contents or a list of section headings • A description of a place within the municipality where the full text may be examined. §4444(b)
	Published in: _____
6. _____	At least 15 days before the public hearing, post copy of date, place and purpose of hearing, along with full text of proposed Plan, or summary of text, in three or more public places within the municipality (document in records that this was done). §§4444(a) (2), 4444(b)(1)
	Posted at: _____

- | DATE | ACTION |
|-----------|---|
| 7. _____ | (Optional) As an alternative to publishing and posting full text or summary of text, at least 15 days before the public hearing mail or deliver full text or summary, along with copies of notice of the hearing, to each voter and landowner within the municipality (document in records that this was done). §4447(c) |
| 8. _____ | Hold Planning Commission hearing. §4384(d) |
| | Location: _____ |
| 9. _____ | Prepare revisions (if any) to proposed Plan. §4384(f) |
| 10. _____ | Adopt Planning Commission resolution approving Plan for submission to Selectboard and filing with municipal clerk. |
| 11. _____ | Submit copy of Plan to Selectboard and document in records. §4384(f) |
| 12. _____ | Simultaneously with submission to Selectboard, file a copy of proposed Plan with the municipal clerk for public review (document in records). §4384(f) |

Checklist for Municipal Plan Amendment

Planning Commission Stage

DATE	ACTION
1. _____	Prepare amendment (by the Planning Commission or any other person or body). §4384(a,b) If proposed amendment is supported by a petition signed by at least 5 percent of the municipal voters, the Planning Commission shall correct any technical deficiency and proceed with adoption with no future changes.
2. _____	Planning Commission must prepare a written report on the proposed amendment. §4384(c) If proposed amendment alters any land designation, the report should cover the following points: §4384 (c)(1)-(5) • Probable impact on the surrounding area, including traffic • Long-term cost or benefit to the municipality • Amount of vacant land already subject to new designation; need for additional land for that purpose; and amount of land available • Suitability of the area in question for proposed purpose • Appropriateness of the size and boundaries of the area in question
3. _____	Adopt Planning Commission resolution approving amendment and report for public hearing, posting, publishing, and mailing.
4. _____	Prepare notice of public hearing. §§4384(d), 4444
5. _____	At least 30 days before the public hearing, deliver, with proof of receipt, or send by certified mail, return receipt requested, copies of the proposed amendment and written report to the following, • Chairpersons of abutting municipal planning commissions (where there is no P.C., send to municipal clerk) • Executive Director of Regional Planning Commission • The Department of Housing and Community Development (electronic submissions requested) • Community organizations or interest groups that have requested notice in writing documenting in records that this was done: §4384(e)

6. _____

At least 15 days before the public hearing, publish copy of date, place and purpose of hearing, along with full text of proposed Amendment and the written report, or summary of text, in newspaper of general publication in municipality affected. **§4444**

A summary of text must include the following:

- A statement of purpose
- The geographic areas affected
- A table of contents or a list of section headings

A description of a place within the municipality where the full text may be examined. **§4447(b)**

Published in: _____

7. _____

At least 15 days before the public hearing, post copy of date, place and purpose of hearing, along with full text of proposed Amendment and the written report, or summary of text, in three or more public places within the municipality (document in records that this was done). **§§4444(a), 4444(b)**

Posted at: _____

8. _____

(Optional) At least 15 days before the public hearing, as an alternative to publishing and posting full text or summary of text, mail or deliver full text or summary, along with copies of notice of the hearing, to each voter and landowner within the municipality. Document in records that this was done. **§4444(c)**

9. _____

Hold Planning Commission hearing. **§4384(d)**

10. _____

Prepare revisions (if any) to proposed amendment and written report. **§4384(f)**

If a proposed amendment is supported by a petition signed by at least 5 percent of the municipal voters, the Planning Commission may correct only technical errors.

11. _____

Adopt Planning Commission resolution approving amendment and report for submission to Selectboard and filing with municipal clerk.

12. _____

Submit copy of amendment and report to Selectboard and document in records. **§4384(f)**

If proposed amendment is supported by a petition signed by at least 5 percent of the municipal voters, the Planning Commission may submit to Selectboard any appropriate recommendation or opinion along with the proposed amendment.

13. _____

Simultaneously with submission to Selectboard, file a copy of proposed amendment and report with the municipal clerk for public review (document in records). **§4384(f)**

Checklist for Municipal Plan Amendment/Adoption

Selectboard Stage

DATE

ACTION

The legislative body (Selectboard, Aldermen, City Council, etc.) must hold the first of one or more public hearings between 30 and 120 days after receiving the proposed Plan or Amendment from the Planning Commission. Municipalities with a population of more than 2,500 must hold at least 2 hearings.

1. _____

Acknowledge receipt of proposed Plan or Amendment from Planning Commission.

Actions 2 through 8 must be completed at least 15 days prior to the public hearing:

2. _____

Prepare changes (if any) to proposed Plan or Amendment. **§4385(b)**

3. _____

Adopt Selectboard resolution to hold a public hearing on the Plan or Amendment. **§4385(a)**

4. _____

File copy of changed Plan or Amendment with the Municipal Clerk, individuals or organizations requesting copy, and Planning Commission. [Not required if there are no changes.] **§4385(b)**

5. _____

Prepare notice of public hearing. **§4385(a)**

6. _____

Publish copy of date, place and purpose of hearing, along with full text of proposed Plan or Amendment and any written report, or summary of text, in newspaper of general publication in municipality affected. **§4444**

A summary of text must include the following:

- A statement of purpose
- The geographic areas affected
- A table of contents or a list of section headings
- A description of a place within the municipality where the full text may be examined. **§4444(b)**

Published in: _____

7. _____

Post copy of date, place and purpose of hearing, along with full text of proposed Plan or Amendment and any written report, or summary of text, in three or more public places within the municipality (document in records that this was done). **§§4444(a)(2)**

Posted at: _____

8. _____

(Optional) As an alternative to publishing and posting full text or summary of text, mail or deliver full text or summary, along with copies of notice of the hearing, to each voter and landowner within the municipality (document in records that this was done). **§4444(c)**

9. _____

Planning Commission must submit a written report at or prior to public hearing analyzing extent to which a changed proposal is consistent with the goals in 4302. **§4385(b)**

10. _____

Hold Selectboard's first public hearing not less than 30 nor more than 120 days after receipt of proposed Plan or Amendment. **§4385(a)**

Failure to hold a hearing within the 120 days does not invalidate the adoption of the Plan or Amendment.

If Selectboard makes substantial changes in concept, meaning or extent of the proposed Plan or Amendment after a public hearing, a new hearing must be warned and held and the procedures 2 through 9 must be followed.

11. _____

Adoption of Plan or Amendment either by a majority of the Selectboard at a meeting held after the final public hearing or by Australian ballot if a municipality has elected at a duly warned meeting to do so. **§4385(c)**

Within 30 days of Plan or Amendment adoption the following action must take place:

12. _____

Mail or deliver printed copies of the Plan or Amendment, as adopted by the Selectboard, to the following (document in records that this was done): **§4385(c)**

- The Regional Planning Commission
- [The Department of Housing and Community Development \(electronic submission requested\)](#)

Plan or Amendment becomes effective immediately upon adoption. **§4385(c)**

If proposed Plan or Amendment is not adopted so as to take effect within one year of the final Planning Commission hearing, it shall be considered rejected.

A Plan expires eight years from the date of its adoption, unless it is readopted, even if it has been amended within the eight-year period. **§4387(a)**

Optional: Checklist for Regional Approval of Municipal Plan

DATE	ACTION
1. _____	Either before or after plan adoption, the municipality may request approval of the plan from the Regional Planning Commission (RPC). If before, the Selectboard should submit plan after final public hearing. §4385
2. _____	The RPC must hold a public hearing which is noticed as provided in section 4444 and published in newspaper (s) of general publication in the region. §4350(b)
3. _____	To be approved, the RPC must find that the Plan: • is consistent with the goals in section 4302 • is compatible with the regional plan • is compatible with approved municipal plans of the region • contains all 10 required elements. §4350(b)
4. _____	Plan is approved or disapproved within 2 months of receipt. If plan is not approved, the RPC must provide a written explanation and, if appropriate, suggest acceptable modifications. §4350(c)
5. _____	Plan goes back to municipality's Selectboard for further action if necessary.

6. _____

If Plan has not been adopted and has been approved, it can be adopted either by a majority of the Selectboard or by Australian ballot if a municipality has elected at a duly warned meeting to do so. **§4385**

If Plan is not approved, municipality's legislative body has 3 choices:

- Modify Plan and resubmit to RPC,
- Adopt Plan despite non-approval, or
- Request review of decision through the regional review panel process provided in 24 V.S.A. section 4476.

If municipality **resubmits modified plan**, the RPC must approve or disapprove the Plan within 45 days. **§4350(c)**

If municipality adopts non-approved plan:

- the municipality can no longer receive state planning funds
- the municipality can not levy impact fees
- state agency plans need not be consistent with the municipality's Plan
- DHCD will review municipality's planning process for compliance with affordable housing criteria and shall issue a report to the municipality and RPC. Review includes a public hearing.

If municipality **requests review of the RPC's decision by a regional review panel**, the following actions must take place:

- The request for review must be filed within 21 days of the RPC decision. **§4476(a)**
- The review panel must hold a hearing within 45 days of the request, and must issue a decision approving or disapproving the RPC's decision within 20 days after the hearing. **§4476(c)**

Appeal of a review panel decision goes to the Supreme Court. **§4476(f)**

Appendix 2

Use of the Municipal Plan in Permitting

This appendix provides information about how municipal plans are used in local and state permitting processes. Municipal plans are primarily used in the review of development under municipally adopted bylaws; District Environmental Commission review of proposed subdivisions and development under Act 250; and Public Service Board review of public utility generation and transmission facilities under Section 248, and (through 2017) interconnected telecommunications facilities.

Planning in Advance of Permitting

The permitting process is no substitute for sound planning. The plan provides the larger context for the review of proposed development. It identifies what, when, where, and how development should occur in relation to available land, infrastructure, resources, and community objectives that have been established through extensive community outreach and discussion. While the permitting process can be used to identify and mitigate the impacts of a particular proposal; in the absence of clear policy guidance it cannot, on a case by case basis, address larger community concerns regarding the type, location, and cumulative impacts of development. A plan that is well-considered and vetted in advance of the permitting process will better inform and guide what happens on the ground.

Establishing and Amending Bylaws:

Under the Planning and Development Act ([24 V.S.A., Chapter 117](#)), a municipality must have a current plan in order to adopt and update local zoning, subdivision and other bylaws. These regulations must conform to and have the purpose of implementing the plan. The municipal plan's land use element and proposed land use map provide the template for local zoning regulations, including the zoning map. In fact, the land use map included in the plan can be designated as the zoning map, unless the planning commission determines that districts shown on the land use map are not described accurately or in sufficient detail ([24 V.S.A. § 4411\(b\)](#)).

Towns can, and should, control their own futures through comprehensive planning, zoning and subdivision regulations; reliance on Act 250 alone to address development places decisions on a town's future beyond its control.

EPE Realty Corp. and Fergessen Management, Ltd., Vt. Env. Bd. Decision #3W0865-EB, 11/24/04, p.43).

When a bylaw or zoning map is amended, the planning commission is required to consider whether the proposed change “conforms with or furthers the goals and policies contained in the municipal plan” – including how it is compatible with future land uses and densities of development described in the plan ([24 V.S.A. § 4441\(c\)](#)). For this purpose, “conformance with the plan” means that a proposed amendment:

- Makes progress toward attaining, or at least does not interfere with, the goals and policies contained in the municipal plan;
- Provides for proposed future land uses, densities, and intensities of development contained in the municipal plan; and
- Carries out, as applicable, any specific proposals for community facilities, or other proposed actions contained in the municipal plan ([24 V.S.A. § 4303\(6\)](#)).

Reviewing Development

A municipality may adopt bylaws that explicitly require that proposed subdivisions and development conform to the municipal plan. Although this is permissible, it's generally not considered to be a “best practice” because more specific bylaws are easier to administer and provide property owners with clarity regarding what they will or won't be allowed to do with their property. If a municipality chooses to regulate in this way, the definition of “conformance with the plan”, above, will guide the determination regarding specific development or subdivision proposals.

When drafting bylaws, it's good practice to translate plan policies and recommendations into bylaw standards that are consistent with the plan, but will more specifically apply to proposed development projects in particular locations. If drafting bylaws that call for project conformance with the plan, remember that applicants and review panels will then need to determine which plan elements and policies apply to a given project, and make findings accordingly. In this context, it's important to incorporate clear and consistent policy statements in the plan that can apply to the review of proposed development, along with mapped information that provides the spatial context for review—and to make sure that these are noted in the regulations. For example, bylaws may refer to natural or scenic resource maps found in the plan that identify specific resources for protection.

The municipal plan may be referenced in connection with conditional use decisions. In particular, the “character of the area affected” by a proposed project, as considered under conditional use review, is defined by the purpose of the zoning district in which it is located, and specifically stated policies and standards of the municipal plan that apply to that district or location (24 V.S.A. § 4414(3)).

Act 250 Review

Act 250, Vermont's state land use law ([10 V.S.A. Ch. 151](#)), involves the review and permitting of proposed land subdivision and development under ten statutory criteria. The state has declared a goal of planning for the use and development of Vermont's air, water, wildlife, mineral, and land resources according to the principles set forth in Act 250 ([24 V.S.A. § 4302\(c\)\(6\)\(A\)\(6\)](#)).

Criterion 10 of Act 250 specifically considers a project's conformance with the municipal and regional plan.

A project can be denied if it does not conform to the applicable municipal or regional plan.

Act 250 jurisdiction is generally separate from and does not preempt local regulation of land subdivision and development.

Municipal legislative bodies and municipal planning commissions are statutory parties in Act 250 proceedings for all 10 criteria. Participation in Act 250 is a fundamental form of plan implementation, particularly in communities without zoning or subdivision regulations. The hearings conducted by District Environmental Commissions are relatively informal and generally accessible to applicants and other parties, although municipalities without support staff may find it difficult to actively participate. If a municipality cannot actively participate in hearings, a well-developed plan is especially valuable. With or without active participation by the municipality, the District Environmental Commission must evaluate whether the proposed development conforms to the municipal plan, in order to conclude that the proposed development satisfies criterion 10. A plan that provides clear guidance – that can stand on its own, as interpreted by the District Environmental Commission – may also help resolve local differences over proposed development, preferably in advance of the hearing process.

Municipalities also have the option to adopt “local Act 250 review” under [24 V.S.A. § 4420](#). Any municipality that has a plan and bylaws may adopt the Act 250 criteria in their bylaws and authorize their development review board (DRB) to review the municipal impacts of a proposed development. The municipal impacts relate to educational facilities and municipal services. The DRB also evaluates whether a project conforms to the municipal plan. The DRB does not have party status in

ACT 250'S 10 CRITERIA

1. Will not result in undue water or air pollution. This criterion deals with water and air pollution generally and such specific matters relating to water pollution as: (A) Headwaters; (B) Waste disposal (including wastewater and stormwater); (C) Water Conservation; (D) Floodways; (E) Streams; (F) Shorelines; and (G) Wetlands.
2. Has sufficient water available for the needs of the subdivision or development.
3. Will not unreasonably burden any existing water supply.
4. Will not cause unreasonable soil erosion or affect the capacity of the land to hold water.
5. (A) Will not cause unreasonably dangerous or congested conditions with respect to highways or other means of transportation. (B) As appropriate, will incorporate transportation demand management strategies and provide safe access and connections to adjacent lands and facilities and to existing and planned pedestrian, bicycle, and transit networks and services.
6. Will not create an unreasonable burden on the educational facilities of the municipality.
7. Will not create an unreasonable burden on the municipality in providing governmental services.
8. Will not have an undue adverse effect on aesthetics, scenic beauty, historic sites or natural areas, and 8(A) will not imperil necessary wildlife habitat or endangered species in the immediate area.
9. Conforms with the Capability and Development Plan, including the following considerations: (A) The impact the project will have on the growth of the town or region; (B) Primary agricultural soils; (C) Productive forest soils; (D) Earth resources; (E) Extraction of earth resources; (F) Energy conservation; (G) Private utility services; (H) Costs of scattered developments; (J) Public utility services; (K) Development affecting public investments; and (L) Settlement Patterns.
10. Is in conformance with any local or regional plan or capital facilities program.

Act 250, but its determinations create the presumption that a project is or is not detrimental to public health and welfare, and does or does not conform to the municipal plan.

Regional planning commissions (RPCs) are required to aid the District Environmental Commission in their review of projects under each of the 10 criteria, including conformance with the regional plan. The extent of RPC participation in Act 250 hearings varies by region in relation to regionally-defined interests, the nature of a project, and available staff and resources.

Regional planning commissions are also required, in their regional plans, to define “substantial regional impact” as it applies to proposed development within the region. This definition should help resolve potential conflicts between regional and municipal plans in state regulatory proceedings. The policies or provisions of a regional plan are given effect to the extent that they do not conflict with the municipal plan; or when it is demonstrated that the project in question will have a substantial regional impact, as defined in the regional plan ([24 V.S.A. § 4348\(h\)](#)). It’s therefore good practice, when developing plan policies for consideration in Act 250 and other state regulatory proceedings, to identify where municipal and regional plans may conflict—especially with regard to the type and location of development that may have substantial regional impact.

As originally enacted in 1969, Act 250 anticipated legislative adoption of a state land use map to establish the context for the review of development. The land use map proved too controversial to enact and was finally repealed in 1983. In the absence of a state land use map, local and regional land use plans and maps, and related land conservation and development policies, are relied upon heavily in determining project conformance under criterion 10. Local agricultural land use policies are considered under criterion 9B. Written community standards as found in municipal plans and other supporting documents, are considered when evaluating the aesthetic impacts of a proposed development under criterion 8.

More specifically, aesthetic considerations are evaluated using the “Quechee Test”, named for the court case in which it was first enunciated. Under this test, the District Environmental Commission first determines whether a proposed project will have an adverse impact on aesthetic resources. If it does, the commission goes on to consider whether the adverse impact is “undue.”

To determine whether there is an adverse impact on aesthetics, a commission first looks at whether the proposed project will be in harmony with its setting—whether it “fits” its context. A number of factors are considered in making this determination, including the nature of the surroundings, whether the project has been designed to be compatible with its surroundings (e.g., with regard to the colors and materials used), whether it’s visible from public vantage points and neighboring properties, and how it may impact open space and scenic views.

If the project fits its context, it will have no adverse impact. If it’s clearly out of character, results in the loss of open space, or alters a scenic view, it will likely be found to have an adverse impact. The impact is considered “undue” if the commission then finds that:

- The project violates a clear, written community standard intended to preserve the aesthetics or scenic beauty of the area; or
- The project offends the sensibilities of the average person – that it is offensive or shocking because it is out of character with its surroundings or significantly diminishes the scenic qualities of the area; or
- The applicant failed to take generally available mitigating steps which a reasonable person would take to improve the harmony of the project with its surroundings.

In evaluating whether a project violates a written community standard, the District Environmental Commissions typically look to the municipal plan, supporting open space plans, and other municipal studies and documents to discern whether a clear, written community standard exists that can be applied in the review of a project's aesthetic impacts. The intent, as summarized by the former Environmental Board and frequently cited in subsequent decisions, is as follows:

In adopting the first standard in the Quechee analysis, the board intended to encourage towns to identify scenic resources that the community considered to be of special importance: a wooded shoreline, a high ridge, or a scenic back road, for example. These designations would assist the district commissions and the board in determining the scenic value of specific resources to a town, and would guide applicants as they design their projects.

Re: Town of Barre, Vt. Env. Bd. Decision #5W1167-EB (6/2/94, p.21)

As applied in this context the plan policy or “standard” must be specific to a particular scenic area or resource identified in the plan for protection (a map is especially helpful for this); or provide for project mitigation through related siting, screening, or design standards.

While specifically considered under criteria 8, 9B and 10, municipal and regional plans may also influence the review of development under the other criteria—for example to identify and address anticipated impacts to other resources of local or regional significance, traffic and transportation facilities, municipal infrastructure, services and facilities, and existing and planned settlement patterns.

QUECHEE TEST: CLEAR WRITTEN COMMUNITY STANDARD

The following from the Williston Town Plan is offered in the District Commissioner's Training Manual as an example of a clear, written community standard, as applied under criterion 8 to the review development at Taft Corners. The former Environmental Board, which rendered a revised decision on remand, found that the town plan clearly identified as “significant” the views of the mountains to the east and west and foreground views from I 89 of “the high ground at the water tower and other open spaces . . .”, and cited related standards from the town plan, as directly applicable to the project:

Taft Corners should feature quality design, compatible with its setting. Buildings should be architecturally compatible and should be enduring, not transient. Their siting should enhance the setting, and particularly the east-west views. The placement of buildings should define public spaces, such as the streets, courtyards and greens. The area should be well landscaped, and feature green spaces, open spaces, trails and other opportunities for human interaction.

Taft Corners Associates, Vt. Env. Bd. Decision #4C0696-11-EB (Revised, 5/5/95, p. 20-21).

The fact that a project can be denied if it does not conform to a local or regional plan has resulted in much scrutiny over the years—including several Vermont Supreme Court rulings—with regard to how plans are used and interpreted in Act 250. It's important to remember that the applicant has the burden of proof under criterion 10 to demonstrate that a project conforms to the local and regional plan. And, as parties to the proceedings, the municipality and the regional planning commission can offer their take on project conformance with their respective plans. The final determination, however – especially in the absence of a separate DRB determination under local Act 250 review – is solely the responsibility of the commission, or court on appeal. In this context, the plan itself is the evidence under consideration, and should be able to stand on its own.

Commissions and courts have acknowledged that plans are aspirational, advisory, abstract and generally not written in the same language as zoning; but have also consistently ruled that, as applied in a regulatory context, vague plan language cannot serve as the basis to deny a project. Any determination of nonconformity under Criterion 10 must be based on specific policies set forth in the plan, which are stated in language that is “clear and unqualified, and creates no ambiguity.” Broad policy statements do not create enforceable restrictions (In re John A. Russell Corp., 176 Vt. 520, 523 (Vt. Supreme Court, 2003)).

In reviewing plans to determine whether they offer sufficient clarity and specificity as applied to a particular project, the commission considers whether the applicable language in the plan is mandatory, or merely offers guidance. So, for example, where a plan stated that the purpose of a proposed residential district was to provide for “residential and other compatible uses,” and that “techniques for preserving the rural character of these areas are encouraged” the court interpreted these statements as guidance and held that they did not reflect a specific policy against industrial development in the area (In re John A. Russell Corp., 176 Vt. at 523).

Numerous decisions and court opinions have concluded that while words such as “encourage”, “promote”, “may” and “should” offer guidance in the interpretation of more specific plan policies, they are not mandatory or enforceable. “Should” is explicitly defined for use in plans and in development regulations as meaning that “an activity is encouraged but not mandated” ([24 V.S.A. § 4303\(26\)](#)). By contrast, “shall” is mandatory and enforceable, as are words such as “require” and “prohibit”. For plan policies specifically intended to apply to the review of development in local and state regulatory proceedings, the language used is a key consideration and may result in some policies that read more like zoning standards.

Plan policies that are broadly stated, generally applicable, contradictory or inconsistent are also considered ambiguous. A plan policy is specific enough for Act 250 consideration if the policy:

- Pertains to the area or district in which the project is located;
- Is intended to guide or proscribe conduct or land use within the area or district in which the project is located; and
- Is sufficiently clear to guide the conduct of an average person, using common sense and understanding.

A policy may also be considered unambiguous if prior municipal actions – which represent the community’s interpretation and response to broad plan language – with respect to a particular project (e.g., under other programs, regulations or ordinances) are clear. In similar measure, under Act 250, a commission is required to look to zoning bylaws that conform to and implement the plan, to interpret ambiguous plan language. This is in recognition that “Zoning bylaws are more than strong indications of legislative intent in determining the meaning of an ambiguous town plan; they are the specific implementation of the plan” (In re Molgano, 163 Vt. 25, 30 (Vt. Supreme Court, 1994)).

This assumes that the bylaws conform to the plan. If they don’t they can’t be considered. This also highlights the fact that, at the local level, development is reviewed under the bylaws, but in Act 250 it’s reviewed against the plan, with consideration given to bylaws only when the plan is ambiguous. This suggests the need to consistently update bylaws to conform to the plan, to avoid different or conflicting interpretations and outcomes. For example, when proposing an amendment to the zoning map that isn’t addressed in the plan, it’s good practice to concurrently amend the plan’s land use map to match—assuming this change is consistent with other plan goals, policies, and objectives.

Section 248 Public Utilities & Public Service Board

Public utilities in Vermont are regulated by the state's three-member Public Service Board (PSB), appointed by the Governor. PSB jurisdiction extends to the regulation of power generation and transmission facilities, under a process generally referred to as "Section 248" review (as authorized under [30 V.S.A. § 248](#))¹. The extent of a review under Section 248 varies based on the type and scale of a project; but all facilities regulated by the PSB – including all solar, wind, and other renewable energy facilities connected to the power grid – are exempt from municipal regulation under Chapter 117 ([24 V.S.A. § 4413\(b\)](#)).

The Section 248 process is also a more formal, legal process than Act 250. Applications for larger projects are presented as "petitions" to the PSB and projects smaller than 500 kW go through either a registration or an application process and benefit from certain criteria being conditionally waived and a more streamlined review process. Section 248 hearings are conducted "on the record," similar to court proceedings – with similar, potentially significant, costs to participants. Parties (either parties by right or intervenors) are typically represented by legal counsel. Technical (evidentiary) hearings are conducted by hearing officers or the board; related findings and determinations rely heavily on testimony and evidence presented by expert witnesses during these hearings. The PSB issues its findings in the form of a written decision (order) that supports the issuance or denial of a Certificate of Public Good. Given the legal status of Section 248 review, PSB decisions (unlike Act 250 decisions) are appealable directly to the Vermont Supreme Court. Given the legal nature of the 248 review process, the PSB has produced and periodically updates its "Citizens' Guide to the Vermont Public Service Board's Section 248 Process".

In a Section 248 proceeding the PSB is engaged in a legislative, policy making process in which it uses its discretion to weigh alternatives presented, using particular expertise and informed judgment.

In re Twenty-four Electric Utilities 159
Vt. 339, 357 (1992).

The Section 248 process is also a much more formal, legal process than Act 250. Applications for larger projects are presented as "petitions" to the PSB and projects smaller than 500 kW go through either a registration or an application process and benefit from certain criteria being conditionally waived and a more streamlined review process.. Section 248 hearings are conducted "on the record," similar to court proceedings – with similar, potentially significant, costs to participants. Parties (either by right or intervenors) are typically represented by legal counsel. Technical (evidentiary) hearings are conducted by hearing officers or the board; related findings and determinations rely heavily on testimony and evidence presented by expert witnesses during these hearings. The PSB issues its findings in the form of a written decision (order) that supports the issuance or denial of a Certificate of Public Good. Given the legal status of Section 248 review, PSB decisions (unlike Act 250 decisions) are appealable directly to the Vermont Supreme Court. Given the legal nature of the 248 review process, the PSB has produced and periodically updates its "Citizens' Guide to the Vermont Public Service Board's Section 248 Process".

The Department of Public Service (DPS) represents the public interest in Section 248 proceedings and is a statutory party, as is the Agency of Natural Resources. The host municipality and the regional planning commission, the Agency of Agriculture, Food & Markets, and adjacent regional planning commissions and municipal legislative bodies (if the distance of the facility's nearest component to the boundary is 500' or 10 times the height of the facility's tallest component, whichever is greater) have the right to participate by filing a motion to intervene. Other affected municipalities, other state agencies and adjoining property owners (outside of net metering cases) usually do not have statutory party status, but generally receive notice of upcoming petitions or applications, may participate in public meetings, and are invited to submit comments in advance of the technical hearing process. To intervene as formal parties under relevant criteria, they may also petition the board as required to participate and present testimony and evidence in technical hearings.

¹ The PSB also has jurisdiction over "networked" telecommunications facilities under 30 V.S.A. §248a, in support of current policies and programs to establish statewide broadband coverage. This authority was set to expire in 2014, returning sole jurisdiction for the review and permitting of telecommunications facilities back to municipalities, but was recently extended through 2017.

STATE V. LOCAL CONTROL OVER ENERGY FACILITY SITING AND DEVELOPMENT

There's often confusion regarding the ability of Vermont communities to plan for and regulate power generation and transmission facilities. This is due in part to the fact that, prior to Section 248 as enacted in 1969 and amended in 1971, jurisdiction over energy development was shared between the state and its municipalities. Chapter 117, enacted in 1968, gave municipalities limited authority to regulate generation and transmission facilities (under former § 4409(a)). This language remained in statute until 2003. Bylaws dating from this era often include provisions regulating energy facilities. As amended in 1979, Chapter 117 also requires that comprehensive plans include energy elements that address energy conservation and renewable energy development. More recently, questions of jurisdiction have been raised in response to Vermont's changing energy landscape, with regard to the extent, scale and siting of wind and solar energy development. Municipalities and RPCs may now adopt and obtain approval for enhanced energy plans to enable greater local input over electricity generating facilities.

An oft cited 1975 Vermont Supreme Court opinion, *City of South Burlington v. Vermont Electric Power Company* (133 Vt. 438), issued on appeal in response to the city's attempt to require a zoning permit for a proposed transmission line, clearly established that:

- Public service board orders preempt municipal orders. The municipal ability to regulate energy facilities – then with regard to size, height, bulk, setbacks, etc. – applies only where there is no relevant public service order for such facilities (e.g., to off-grid facilities).
- Where a clash of authority exists between state and municipal control of a public utility furnishing a statewide service, the municipality plays a secondary role.
- The Chapter 117 provision that the more stringent state or local regulation should apply, applies only to state statutes directly regulating land development –and generation and transmission facilities under Section 248 are not, by definition (under §6001(3) of Act 250) such development.
- The requirement under Section 248 for notice to municipalities, and that “due consideration” be given to their recommendations, implies that within the Section 248 process, municipal enactments, including municipal plan recommendations, are advisory rather than controlling.

Chapter 117 was finally amended in 2003 in response to this ruling, to more clearly prohibit municipal regulation of public utility power generation plant and transmission facilities regulated under 30 V.S.A. § 248 ([24 V.S.A. § 4413\(b\)](#)). Given that the PSB issues certificates of public good for even the smallest (<15kW) net-metered solar and wind installations connected to the utility grid, this precludes municipal regulation of installations through local zoning. Vermont municipalities are authorized (but not required) to adopt screening bylaws or ordinances for ground-mounted solar installations, only for consideration and application by the PSB to a particular project – they are not separately enforceable by the municipality.

Given that municipalities cannot directly regulate generation and transmission facilities, having clear plan policies for consideration by the PSB under Section 248 proceedings, and local participation in the Section 248 process, are the primary way to implement related plan goals and objectives for energy facility siting and development. As of 2016, municipalities and regional planning commissions have the option of adopting enhanced energy plans and obtaining an affirmative determination of energy compliance that will allow the Public Service Board to give “substantial deference” to the local or regional plan in decisions on electric generation facilities. Details on preparing enhanced energy plans are available from the [Department of Public Service](#) and from your regional planning commission.

Standards, recommendations and guidance on preparing an enhanced energy plan:

<http://publicservice.vermont.gov/content/act-174-recommendations-and-determination-standards>

Section 248 Criteria

“Public good” and “public interest” are not specifically defined in Title 30, but the PSB must review and weigh proposed projects under applicable statutory criteria and board rules. For larger projects, the PSB must consider a project in relation to:

- Orderly development of the region;
- Present and future demand for service;
- System reliability and stability;
- Economic benefits to the state; and
- Impacts to aesthetics, historic sites, air and water quality, the natural environment, and public health and safety ([30 VSA § 248\(b\)](#)).

Section 248 projects are exempt from both local and Act 250 review, but the PSB is required to consider most (though not all) Act 250 criteria, and local and regional plans with regard to how a project may affect the orderly development of the region, and in the evaluation of a project’s aesthetic impacts.

Before the PSB issues a Certificate of Public Good, it must find that a project:

Will not unduly interfere with the orderly development of the region, with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained within the plan of any affected municipality ([30 VSA § 248\(b\)\(1\)](#)).

Under Section 248, a proposed project is not required to conform to local and regional plans as it would under Act 250. Municipal and regional plans in effect at the time of an application can inform local and regional recommendations, and are more specifically considered by the PSB with regard to stated land conservation policies that can be applied to a particular project, in a particular location. “Due consideration” in this context, however, means only that the PSB must consider – essentially weigh and evaluate– relevant plan policies and associated recommendations. The PSB does not have to comply with them if outweighed by other considerations, including the overall benefit of a proposed project to the state. The Vermont Supreme Court has made it clear that, in the context of Section 248 review, municipal and regional plans, and any recommendations based on those plans, are advisory. They are not controlling.

Nevertheless, plans provide the larger context for PSB review of proposed energy facility development – and may result in the denial of a project that is found to interfere with the orderly development of the region. The PSB recently denied a proposed solar energy installation in Bennington, citing a clear, written community standard to preserve the aesthetics or scenic beauty of the area in the municipal plan. More often, plans and related recommendations are used by the PSB to help identify and mitigate the adverse impacts of facility development.

As part of its review, the PSB must find that a project will not have an undue adverse effect on “esthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety,” giving due consideration to several Act 250 criteria incorporated under Section 248. The PSB generally defers to the Agency of Natural Resources with regard to the evaluation of potential impacts to resources of state significance; but it also looks to local and regional plans for clear community standards in its evaluation of aesthetic impacts, using a modified version of the Act 250 Quechee Test. As in Act 250, the PSB will consider whether an adverse aesthetic impact is “undue” if it violates a clear, written community standard that can be applied to a particular location (e.g., a specific viewshed or ridgeline), and the standard clearly requires scenic resource protection. The PSB, however, may also determine that “the overall societal benefits” of a project (e.g., a reduction in greenhouse gas emissions) outweigh its aesthetic impacts, undue or not. As such, projects are rarely, if ever, denied based on aesthetic impact. More often, the PSB will require mitigation, as recommended by expert witnesses, or as negotiated between parties, including municipalities

and developers, in advance of or in association with the 248 process.

As in Act 250, to be given any consideration in Section 248 proceedings, plan policies and standards must be clear, consistent, unambiguous and mandatory (i.e. “shall” protect). The plan policies and standards must apply to specific resources within the proposed project area. Plan policies will not be considered if they are vague, contradictory, permissive (e.g., “should” protect) or generally apply to resources town wide; or if they have the effect of completely excluding all facility development. The PSB, however, will not refer to local zoning bylaws to interpret vague plan policies, as happens in Act 250, because projects subject to PSB review are exempt from zoning. Moreover, the PSB will not consider plan policies, such as recommended setback distances, that represent de facto zoning, since such standards would effectively function as zoning regulations that “would compel a specific outcome, contrary to Section 248” (Rutland Renewable Energy LLC, PSB Docket #8188, Order Denying Reconsideration, 5/6/2015, p.5).

The PSB offered towns the following guidance in understanding the level of detail in town plans that is useful and appropriate (Rutland Renewable Energy LLC, PSB Docket #8188, Final Order, 3/11/2015, p. 85):

Act 250 cases and Board precedent have provided towns with guidance on what sort of language would constitute a clear, written community standard that would not rise to the level of a de facto zoning bylaw. For example, we have stated: "In order for a provision to be considered a clear, written community standard, it must be 'intended to preserve the aesthetics or scenic beauty of the area' where the proposed project is located and must apply to specific resources in the proposed project area." Act 250 precedent directs that towns should draft language "to identify scenic resources that the community considered to be of special importance: a wooded shoreline, a high ridge, or a scenic back road, for example."

[Additional guidance](#) in this area is provided by the Department of Public Service in the context of preparing enhanced energy plans. All Vermont’s regional planning commissions are conducting more intensive, comprehensive energy planning and mapping to identify appropriate or high-potential sites for energy facility development, based on geographic analysis and local input. Towns will be able to work with RPCs to use this information and analysis of their energy demands, to produce enhanced energy plans in advance of the Section 248 permitting process to have a greater say in where and how electric generating projects are developed. More comprehensive and specific energy plans will help to inform energy developers before projects are proposed, and will provide PSB with helpful context and guidance in the 248 process.

Summary of Guidance on Use of the Municipal Plan in Permitting

Municipal plans play a critical role in local development review by setting the goals of development bylaws, and in Act 250 and Section 248 proceedings, by providing the framework – and basis in adopted public policy – for determining how land and resources important to the community should be developed or conserved. Municipal and regional participation in Act 250 and Section 248 proceedings is also recognized as an essential form of plan implementation – particular for development that is otherwise exempted from local review.

While aspirational in its vision and goals for the future, a municipal plan may also incorporate policies – including clearly stated directives – for achieving these goals. To be considered in a regulatory setting, plan policies, or written community standards, must:

- Be clear, consistent and unambiguous – for example, policies to protect all ridgelines from development, which may conflict with policies to promote renewable energy development, will not be considered.
- Use language appropriate for use in this context – that direct or mandates, rather than recommends or encourages (e.g., “shall” versus “should” or “may”).
- Apply to specific resources and locations – for example, as indicated on proposed land use, or scenic resource maps that show where resources identified for protection (e.g., a particular ridgeline or viewshed) are located.

Generally, with few exceptions, policies and maps, considered in regulatory reviews must be included in, appended to, or incorporated by reference in the adopted plan in effect at the time of application—to guide both applicants in siting and developing proposed projects, and boards that then review them. Regional planning commissions are the best source for information and technical assistance in developing policies and maps that will withstand regulatory scrutiny. Several have also produced guides to help communities navigate and more effectively participate in Act 250 and 248 proceedings.

Hyperlinks

Page 12 - American Planning Association guide:

<https://www.planning.org/ethics/ethicalprinciples.htm>

Page 13 - DHCD consultant list:

<http://accd.vermont.gov/sites/accdnew/files/documents/CD/CPR/MPG/CPR-MPG-Directory-PlanningConsultants.xls>

Page 13 - DCHD municipal planning grants

<http://accd.vermont.gov/community-development/funding-incentives/municipal-planning-grant>

Pages 18, 50 - Vermont Digital Economy Guides:

<http://vtrural.org/programs/digital-economy/guides>

Page 18 - Washington State Communication and Citizen Participation Techniques:

<http://mrsc.org/Home/Explore-Topics/Governance/Citizen-Participation-and-Engagement/Communication-and-Citizen-Participation-Techniques.aspx>

Page 18 - Participation Tools for Better Community Planning:

https://www.lgc.org/participation_tools/

Pages 19, 26, 92 - Municipal Planning Grant program:

<http://accd.vermont.gov/community-development/funding-incentives/municipal-planning-grant>

Page 22 - Vermont Center for Geographic Information:

<http://vcgi.vermont.gov/>

Page 22 - DHCD Planning Atlas

<http://maps.vermont.gov/ACCD/PlanningAtlas/index.html?viewer=PlanningAtlas>

Page 22 - DCHD data:

<http://accd.vermont.gov/community-development/town-future/data>

Page 22 - Vermont Municipal Plan examples

<https://outside.vermont.gov/agency/ACCD/bylaws/default.aspx>

Page 23 - ACCD population projections:

<http://accd.vermont.gov/sites/accdnew/files/documents/CD/CPR/ACCD-DED-VTPopulationProjections-2010-2030.pdf>

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AGENCY OF COMMERCE & COMMUNITY DEVELOPMENT
DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT

Municipal Planning Grant

Fiscal Year 2025 Program Description



Mount Holly Master Plan - MPG FY22

Vermont Agency of Commerce and Community Development
Department of Housing and Community Development
Community Planning + Revitalization Division
Issued: November 2024

Program Basics

In fiscal year 2025 (July 1, 2024 – June 30, 2025)¹, the Vermont Department of Housing and Community Development (DHCD) will grant funds to municipalities to promote planning, revitalization, and development activities that maintain Vermont's land use goal of compact settlements separated by rural lands.

The Municipal Planning Grant (MPG) Program funds a wide range of municipal planning projects as allowed by [Title 24 of Vermont Statutes Annotated \(V.S.A.\) Section 4306 \(b\) and \(c\)](#). Projects that promote Vermont's historic pattern of compact settlements surrounded by working farms, forest, and open space are given priority.

Each municipality may submit one application per year. The maximum grant amount is \$30,000 for individual municipalities and \$45,000 for group (consortium) applications. All applications are required to provide a minimum cash match of 10%, except for applications seeking funding for zoning/subdivision bylaws in municipalities without zoning/subdivision bylaws.

Grant funds are regionally apportioned based on the percentage of municipalities with confirmed planning processes within each of Vermont's [11 regional planning commission \(RPC\) regions](#). Municipal planning processes are confirmed by the regional planning commission. Eligible municipalities compete within their region for grant funding. Funding decisions are made by the DHCD Commissioner based on the competitive criteria listed under the *Grant Selection Process* later in this guide.

Grant Timeline

MPG projects must be completed within 24 months.

- December 31, 2024: Deadline for RPC confirmation of municipal planning process
- November 2024: Program announced
- January 27, 2025: Online application opens
- **March 31, 2025: Application deadline, 6 p.m.**
- April 30, 2025: Award decisions

Purpose of MPGs: To Carry out Statewide Planning Goals (24 V.S.A. § 4302)

b) It is also the intent of the legislature that municipalities... shall engage in a continuing planning process that will further the following goals:

(1) To establish a coordinated, comprehensive planning process and policy framework to guide decisions by municipalities, regional planning commissions, and state agencies.

(2) To encourage citizen participation at all levels of the planning process...

(3) To consider the use of resources and the consequences of growth and development...

(c) In addition, this chapter shall be used to further the following specific goals:

(1) To plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside...

¹ Act 74 <https://legislature.vermont.gov/bill/acts/2022>

- May 1, 2025: Start of grant term
- April/May 2026: Mid-project report due
- April 30, 2027: End of grant term; Project is complete, and all funds spent
- May 31, 2027: Final report and products submitted

Eligible Applicants

Single Municipality

Individual municipalities with a local planning process confirmed by the RPC (including an unexpired plan) on or before December 31, 2024, are eligible to apply. To be confirmed, a locally adopted plan must be approved by the regional planning commission, and the municipality must maintain efforts to provide local funds for municipal and regional planning purposes as required by [24 V.S.A. §4350](#). The Department does not require the submission of a plan confirmation letter from the Regional Planning Commission.

Municipalities without a confirmed local planning process may apply for funding only to create a municipal plan approvable by the RPC and must have voted to provide local funds for municipal and regional planning purposes. Grant proposals from municipalities that have received RPC recommendations to bring their plan into compliance with statewide requirements must propose to address the changes identified by the RPC.

Municipal organizations other than the governing body and the planning commission (such as the conservation or economic development commission) may also apply for a grant, but only with prior approval of the municipal governing body and planning commission.

Municipalities may not receive funding if they are suspended or debarred by the State or Federal Government; delinquent in submitting their subrecipient annual report; or delinquent in submitting their single audit reports (if required).

Consortium

Two or more municipalities may apply jointly for a consortium application (requests of up to \$45,000). The application must address a shared issue and identify a lead municipality for financial administration of the project. The RPC may serve as grant administrator for a consortium (see consultant selection below). All municipalities in the consortium must have a confirmed planning process by December 31, 2024, and each municipality must submit a separate resolution form in support of the project. The consortium may involve or benefit municipalities that are not identified as a consortium member in the application. No member of a consortium application may apply for an individual MPG the same year. A municipality can only serve as a lead municipality for one application but may be part of multiple consortia.

Eligible Municipalities

For the purposes of the Municipal Planning Grant Program, a municipality is defined by [24 V.S.A. §4303\(12\)](#). Under this definition an incorporated village is not considered a separate municipality unless the village adopts its own plan one or more bylaws either before, concurrently with, or subsequent to such action by the town.

Funding Amounts & Match

Single municipalities may apply for a grant of any amount between \$2,500 and \$30,000 with a minimum local cash match requirement of 10%, based on the total project cost. The local match is not required for applications seeking funding for zoning/subdivision bylaws in municipalities without existing zoning/subdivision bylaws

A consortium of municipalities may apply for a grant of any amount between \$2,500 and \$45,000 with a minimum local cash match of 10%, based on the total project cost. The local match is not required for applications seeking funding for zoning/subdivision bylaws in municipalities without existing zoning/subdivision bylaws

Any source of cash match funds may be used: federal, other state grants, municipal, private, or non-profit. Projects that demonstrate financial partnership with outside organizations or propose a local match that exceeds the minimum match amounts are considered to have higher levels of community support in the competitive criteria listed under the *Grant Selection Process* later in this guide.

In-kind contributions or contributions of municipal staff or others' time **cannot** be offered as a match. Documentation of total expenditures (including grant and match funds) are required at the close out of the grant. If a project is completed with less than the total project cost expended, the grant award and match funds required will be reduced proportionately.

Grant Amount	10% Match Amount	Total Project Cost
\$2,500 (Minimum)	\$278	\$2,777+
\$30,000 (Max. for Single Applicant)	\$3,333	\$33,333+
\$45,000 (Max. for Consortium)	\$5,000	\$50,000+

Municipalities seeking funds for large, multi-year projects are encouraged to separate projects into related, stand-alone phases, each with a defined product upon completion, and apply for a grant each year to complete the phases (See *Single Project Scope Requirement* below). Because funds are allocated competitively each year, MPG support for subsequent phases cannot be guaranteed.

DHCD reserves the right to award less than the amount requested, based on the availability of funds.

Note: Please keep in mind that municipalities that accept MPG funding are not eligible to apply for a [Better Connections Grant](#) for the same state fiscal year as the MPG award.

Eligible Activities

The Municipal Planning Grant Program supports a wide range of projects relating to planning, land use, and resilience and promotes cooperation, collaboration, and the exchange of ideas. Eligible projects must have a clear connection to planning and implementation of the municipal plan and will be reviewed for conformance with the

regional plan, as well as statewide smart growth principles, planning goals, and land use policies.

Funds *may* be used to:

- ✓ Underwrite expenses for public meetings and hearings, informational workshops, citizen surveys, outreach, and notification costs
- ✓ Support research, data collection, capacity studies, inventories, and mapping
- ✓ Pay consultants, interns, regional planning commission staff, or legal fees associated with the project
- ✓ Purchase development rights, easements, and titles of properties for housing and conservation purposes identified in the municipal plan
- ✓ Purchase materials needed to produce a plan, bylaw, or implement or administer the project -- like writing supplies, maps, and copies
- ✓ Conduct other non-prohibited activities
- ✓ Pay a Regional Planning Commission with 'agent' status for project management expenses up to 5% of sub-contracted (non-RPC) expenses. This must be disclosed in the application and be included as a line in the work plan and budget.

Funds *may not* be used to:

- ✗ Support political activities
- ✗ Support projects incompatible with the Regional Plan
- ✗ Pay regional planning commission dues
- ✗ Reimburse expenses incurred before the grant is awarded
- ✗ Subsidize tax mapping (see *Mapping Requirements* below)
- ✗ Pay municipal officials or municipal staff
- ✗ Capitalize a "reserve" fund for use beyond the grant period
- ✗ Purchase computer hardware, software licenses or subscriptions, or other equipment not related to a specific grant funded planning event
- ✗ Pay for the cost of administering the MPG grant such as municipal or regional staff time for documenting grant expenditures and submitting the progress report and close-out
- ✗ Support plans, bylaws and policies that violate the State or Federal Fair Housing Act. Fair housing training is available to all grantees and is encouraged for projects relating to housing and/or revisions to zoning bylaws. Please contact Shaun Gilpin, Housing Policy Specialist at shaun.gilpin@vermont.gov if you are interested in training opportunities.

Mapping Requirement

- All GIS mapping must follow applicable [VCGI data guidelines or standards](#).
- Parcel mapping projects may not be funded through MPGs.

Single Project Scope Requirement

MPG grants are limited to projects with a singular and well-defined focus – even if the proposal is part of a larger project (see example below). If multiple products or separate consultant projects are proposed for MPG funds, the application may not meet the single project scope requirement. This finding will result in a lower score and only one of the projects will be funded if a grant is awarded. Applicants with questions about scope should call the program’s staff.

Example: work on both a municipal plan and bylaws in the same application will usually be considered two separate projects and typically both are not funded. However, a focused issue-oriented amendment of a plan element and the associated bylaws to implement that section of the plan, can be proposed as one project. For instance, a housing element of a plan and a bylaw amendment to adopt housing-ready regulations may be considered one project.

Use of MPG as Part of a Larger Project

MPGs may be used as part of a larger or phased project. An MPG may also be used in conjunction with grants from other programs. If you propose to use the MPG for a larger project, begin by assigning a discrete part of the larger project to the MPG. Choose a component that best meets the competitive criteria and can easily be completed within the 24-month MPG timeframe. If applicable, applicants must explain use of an MPG as part of a larger project. Applicants may contact DHCD to ensure that the activity will meet the grant requirements.

Example: A municipality could use an MPG for the community outreach component of a major public project. In this instance, include the workplan for just the MPG portion of the project in the online application, explain the project in the application, and submit the overall work plan for the larger project as an attachment.

Coordination with State Agencies

Some local planning and regulatory projects require coordination with state agencies that have planning and regulatory authority over the project. For projects where state authority can be anticipated, applicants must identify the relevant agencies as project partners and include a task for coordinating with that agency in the work plan. Applicants are also encouraged to review the work plan with any such agency and include comments from the agency as an attachment to the application.

Example 1: Any project (streetscape, traffic calming, sidewalk, water, wastewater etc.) that proposes work within a state highway right-of-way must coordinate with appropriate sections at the Agency of Transportation. At a minimum, the District Transportation Administrator and the Permitting Services section should be involved. Early coordination will increase the likelihood that the work product(s) can be implemented in the future.

Example 2: A project to consider village wastewater solutions must coordinate with the [Department of Environmental Conservation \(DEC\) Water Infrastructure Financing Program](#) before submitting an MPG application, to ensure the work plan will result in a product that can be used to obtain state and federal infrastructure funding. The best evidence of this coordination is an email from DEC indicating review of the work plan. This can be attached to the application.

Grant Selection Process (Competitive Criteria)

DHCD uses competitive criteria to score and rank applications. The statewide priorities are updated annually to comply with policy initiatives, legislation, or current events. Grants are awarded based on the application's score and ranking compared to the scores from the other applications in the same region, as well as the amount of grant funds available. Applications scoring at or below 60 points will not be funded, and regional funds may be reallocated to high-scoring projects in other regions. The DHCD Commissioner reserves the sole right and responsibility to allocate grant funding. Applications are scored as follows:

Competitive Criteria Scoring Summary	Points
Project Readiness & Need	Section: 20
Issue & Urgency	5
Funding Need	5
Project Readiness	5
Project Management	5
Public Outreach & Project Partnership	Section: 15
Public Outreach	10
Project Partnership & Support	5
Statewide Priorities	Section: 40
Project Outcomes & Goal Consistency	5
Priority Projects	15
State Designated Area Projects	20
Project Approach	Section: 35
Work Plan	20
Budget & Cost Estimates	15
Application Quality & Past Performance	Section: 10
	TOTAL: 120

Project Readiness & Need (20 points)

Projects with a specific and documented problem the community is trying to solve, and a well-organized management team, demonstrate project readiness. Projects that are unable to qualify for funding through other sources demonstrate need, as well as projects that address an urgent matter.

Public Outreach & Project Partnership (15 points)

Planning projects are more successful: 1) when there is sustained public outreach throughout a project that involves those affected, including harder-to-reach and under-represented or under-served people, 2) when they begin with strong community support, and 3) when they are done in partnership with organizations outside the municipal government. Competitive applications will demonstrate how the project will outreach to the broader public and who supports and is part of the project from the outset. This includes necessary coordination with State agencies.

Statewide Priorities (40 points)

Each year the program recognizes projects with outcomes that meet statewide priorities. Projects that meet one priority receive 5 points. Projects meeting more than one priority score 10 points. Projects that relate to state designated areas receive priority in accordance with 24 V.S.A. Chapter 76A. Refer to the [Application Guide](#) for scoring specifics. Because housing continues to be a concern statewide, projects that implement [Zoning for Great Neighborhoods](#) will receive highest priority. Refer to the Application Guide for examples of diverse projects that meet these categories:

- Projects focused on the implementation of the Act 47 of 2023 and Act 181 of 2024
- Projects related to climate resilience and flood recovery
- Projects related to housing development
- Capital programs and plans for municipal improvements
- Physical improvement plans for a designated area, which may include pre-engineering water/wastewater visioning
- Pre-requisite planning to prepare for a center or center 'step-up' designation application (please coordinate with DHCD designation program staff)
- Projects that support communities for all ages and help implement [Age Strong Vermont: A Roadmap for an Age-friendly State](#)
- Innovative and statewide projects that serve as a replicable model for other communities

Project Approach (35 points)

Projects should have a well-considered work plan and budget. Once grants are awarded, the work plan can only be changed via a grant amendment, so the scope of work and tasks described should be as accurate as possible. The work plan and budget submitted with the application will become part of the grant agreement.

Application Quality & Past Performance (10 points)

Reviewers consider the overall quality and clarity of the application, as well as applicants past performance on timely grant reporting, accurate and complete closeout documentation, and completion of past projects that were awarded funds.

Application Guide

The [Application Guide](#) assists applicants in preparing a competitive application and allows applicants to prepare draft responses before submitting the application online.

Applicants can see each application question, read advice on answering the question, view how the response will be evaluated and scored by DHCD, and prepare a draft response -- all on one form. DHCD recommends applicants prepare their responses offline, and then applicants can later copy and paste their narrative responses into the online form. The GEARS system will time out after forty minutes on one-page, even if you are actively entering in information. Please “save” often so applicants do not lose their work.

Grant Awards and Administration

Award notices are sent via email to successful applicants through the online Grants Management System. In the event of partial funding, applicants are asked to submit a modified work plan and budget. Grant agreements and other required documents will be available shortly thereafter. Completion and electronic submittal of these forms will be required for payment. All grants management forms and instructions will be available through the Grants Management System. Grant payments and reporting requirements are as follows:

- **First Payment** – Upon execution of the grant agreement, a requisition may be submitted for an advance payment of 40% of the award amount.
- **Second Payment** – Mid-project reports are due April/May 2026. Requisition for 30% of the award may be submitted along with a progress report.
- **Final or Close Out Reimbursement** – Up to 30% of the award is made on a *reimbursement basis*. The reimbursement is made when the project and its deliverables, as detailed in Attachment A of the Grant Agreement, are complete, and the expenditures are properly budgeted and documented (copies of invoices and canceled checks or a detailed transaction report) showing that the funds were spent for the purposes specified in the grant agreement. Invoices must show that grantees have spent all grant funds and match funds, if applicable, no later than May 31, 2027. Funds that are unused as of that date, as well as expenditures that are ineligible or are not documented, must be returned to DHCD.

While grant activities must be completed by April 30, 2027, grantees have up to one month after that date to assemble a final report. Final reports must be submitted online no later than May 31, 2027.

Purchase of goods and services through the grant must conform with the procurement requirements defined in [Attachment D to the Grant Agreement](#). In most cases, consultants must be selected through a competitive process.

All final products and public communication must acknowledge funding from the Municipal Planning Grant Program, administered by the Vermont Department of Housing and Community Development, Agency of Commerce and Community Development. This means there should be a statement, usually on the cover page of the final plan or product, such as “*This project was funded in part by a Municipal Planning Grant, administered by the Vermont Department of Housing and Community Development.*”

Amendments

Amendments include the following options:

- 1) Minor alterations to the work plan or the approved budget may be allowed, but only upon request and approval from DHCD. Substantial alterations are not allowed, and the final product must remain the same.
- 2) Time extensions are offered for up to one additional year only. Projects that cannot be completed within the grant period under the terms of the grant agreement are closed out. The grant will cover eligible work completed for documented costs; however, ineligible or undocumented costs will not be funded, and associated funds must be returned.

Consultant Selection

The rules for consultant selection are detailed in the grant agreement’s procurement provisions (see [Attachment D of the MPG Grant Agreement](#)). A Regional Planning Commission may help a municipality prepare a grant application and bid on a grant-funded project; this is not a prohibited activity.

Pre-Application Process

Consultants may be selected before the application is submitted. If a municipality is engaged in a competitive procurement process while developing the grant application and selects a contractor at that time, there is no requirement to re-open the selection process if the grant is awarded, provided the scope of work remains substantially similar to what was in the contractor’s proposal.

Simplified Bid Process

For contracts up to and including \$10,000, the grantee is required to obtain price or rate quotations from a reasonable number of sources, but no less than two, and maintain a record of the same in its files.

Regional Planning Commission as Agent

For [rural towns](#) with a population of less than 2,500 as defined in [24 V.S.A. §4303\(25\)](#), the regional planning commission may serve as an agent of the town for the Municipal Planning Grant. The agent is expected to prepare the application, support grant administration and will be exempt from competitive selection if serving as a project consultant, but the municipality must remain the financial administrator. RPCs may also serve as the agent for any consortium project.

Competitive Bid Process

For contracts more than \$10,000, the grantee is required to use a competitive selection method, soliciting from an adequate number of sources. A Request for Proposals (RFP) or Request for Qualifications (RFQ) should be broadly publicized to permit reasonable competition. The grantee must maintain records in its files to document how the decision was made.

Exceptions

If the grantee is a “[rural town](#)” or a multi-town consortium and has identified the regional planning commission as its agent, the simplified bid and competitive processes for hiring the RPC are not required.

Consultants working on an earlier phase of a multi-phase project may be re-selected for the project phase funded by the MPG, to maintain continuity between phases.

Information

MPG Application Webpage - instructions and resources:

<https://accd.vermont.gov/community-development/funding-incentives/municipal-planning-grant/applicant-guidance>

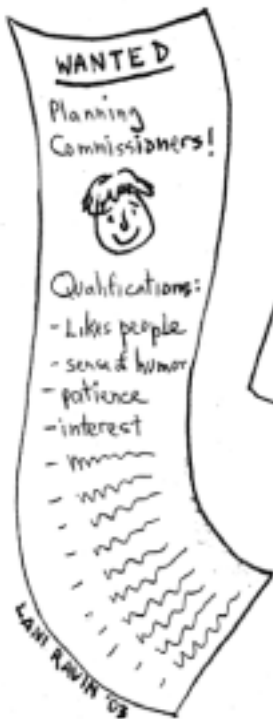
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So...

**you've just become a member of your town's
Planning Commission,
Zoning Board, or
Development Review Board**

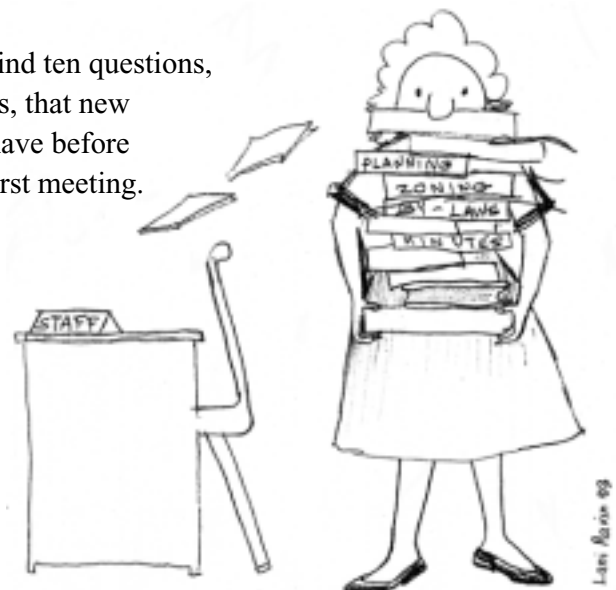
Welcome



Kudos to you for your willingness to serve! The future of our communities depends on people like you getting involved, taking your turn to volunteer time. It will keep you on your toes. You will learn a lot. It should be interesting.

Your central duty is a tough one: to determine how to balance the public good with private rights and interests. Being a good listener will help you to determine what the public good or interest is. You'll find, being on the front line, that it helps to follow standard meeting rules to create public meetings that feel fair and civil to all involved.

Inside you will find ten questions, and their answers, that new members often have before attending their first meeting. Good luck!



How did I get here?

A few towns in Vermont elect their Planning Commissioners. If you went through that, you know how you got here. Otherwise, you were appointed by the Selectboard to fill a specified term (planning commissioners have 4-year terms). Maybe you expressed interest or even applied and interviewed for the position. If not, take this appointment as a compliment that you have been recognized as someone who can serve the community well. If you don't get a letter from them notifying you formally on the length of your term, you may want to check on that. If you wish to continue after the term is up, you will need to request re-appointment.

What's expected of me?

- Follow the rules of procedure for your board/commission and contribute to meetings in a constructive way. If rules don't exist, meet with the chair to learn how meetings are conducted.
- Show up at meetings and arrive on time.
- Keep an open mind and treat your fellow board/commission members, staff and everyone who comes before you with respect.
- Listen.
- Display good ethical behavior by avoiding the pursuit of special privileges.
- Take advantage of training that is available (*see box "Where can I go for help?"*)
- Always seek to ascertain the public interest and how best to further the interests of the community as a whole.

What is the source of my authority?



In Vermont, all local powers are specifically granted to municipalities from the state. Local authority to plan and regulate land uses is defined in the Vermont State Statutes Title 24, Chapter 117. For example, the process for appointments is spelled out in sections 4323 for planning commissioners and 4460 for zoning board and development review board members.

Every town clerk has a set of these green books in the office for public use. When you use them, and you should, be sure to first check the pocket supplements in the back for recent revisions. You can get a reprint of just Chapter 117 from your regional planning commission or the Vermont Department of Housing &

Community Affairs. And you can find the up-to-date version of the state statutes online at www.leg.state.vt.us/statutes/sections.cfm?Title=24&Chapter=117.

Your municipal plan and bylaws, written in conformance with state statutes, further describes what local planning commission, zoning board or development review board members can and can't do.

What are my roles and responsibilities?

The responsibility for local land use decisions can be divided into two functions:

- planning (policy-making or “legislative function”) and
- regulation (development review or “quasi-judicial function”).

If the town has a Development Review Board, then the Planning Commission is only involved in planning. In towns with a Zoning Board of Adjustment or with a combined Planning Commission/Zoning Board of Adjustment, the Planning Commission may be involved in reviewing development projects (*see flow chart on page 7*).

In carrying out its planning functions, the Planning Commission should seek broad public involvement in the process and try to keep its activities open and inclusive. Members may discuss issues publicly and should seek all opportunities to inform interested parties and the public at large.

However, in carrying out the regulatory functions, the responsible board must ensure a fair and open process by following required procedures for public notice and decision-making. As the designated judges, members must scrupulously avoid taking sides on an application before the evidence is heard and must avoid discussing a pending application with an applicant, proponents or opponents outside the context of the hearing.

What are the limits to my authority?

In preparing plans and bylaws for adoption planning commissions must follow procedures for notice and public hearing established in Chapter 117. Plans and bylaws are adopted either by the citizens in an election or by the legislative body (which is the Selectboard, unless you have a city council).

As in any relationship, everything goes better if communication lines are open and active between the various municipal boards. Work together for the good of the community. At least exchange minutes. Some towns have at least one joint meeting each year with Selectboard, Planning Commission and Zoning or Development Review Board members getting to know each other and the

town's issues from others' perspectives. Eating something together helps create a good atmosphere at the meeting.

Boards reviewing development applications must follow the procedures set forth in the bylaws and decisions must be based on the standards for review established in the bylaws.

How do I make decisions?

- Work together as team with your fellow members and other town boards and officials.
- Try hard to decide what is in the public interest.
- Decisions made on amending the plan or by-laws need to be communicated broadly and open to public input.
- Read carefully, and make sure your decision is based on your town plan and bylaws.
- When acting in a regulatory capacity, follow the “rule of law”. This means that regulatory decisions must be based upon your bylaws and state statute, and not on personal feelings.

What do I need to know about Act 250 or other state permits?

Brochures providing general information about state permits are posted on town office walls, brochure racks or openly available in town clerk's office. The town Planning Commission and Selectboard are “statutory parties” to all Act 250 applications. The commission or board is considered a statutory party, not the individual members. The town can submit evidence at hearings and can appeal decisions. Try hard to work together to provide a unified voice for the town—it is difficult for the District Environmental Commission or other state decision-maker if the two town entities are not in agreement. Keep in mind that it is the Selectboard that decides whether to allocate funds to pay an attorney to represent the town's interest in such proceedings.

There is a Permit Specialist available in your District Environmental Office to answer your questions about state permits (see map with phone numbers or go to <http://www.anr.state.vt.us/dec/ead/pa/index.htm>). The applicants are responsible for obtaining all required permits—it is not your responsibility—but you can help guide them in the right direction by encouraging them to make contact with the District Environmental Office.

Are our meetings supposed to be “public?”

You are a member of a ‘public body’. Under Vermont law all meetings of a public body must be open to the public at all times. A meeting is defined as a gathering of a quorum (i.e., majority of the total membership) of the board or commission for the purpose of discussing the business of the public body or for taking action. The Secretary of State’s Office has some resources that help explain the open meeting law available on the web:

www.sec.state.vt.us/municipal/pubs/quickguide_open_meetings.doc (quick guide)

www.sec.state.vt.us/municipal/pubs/open_meetings.doc. (full brochure)

There are two exceptions to the open meeting law. The first is when a board, acting in its quasi-judicial capacity, elects to go into a deliberative session to consider evidence presented during a public hearing on a permit application. Because the law expressly excludes the taking of evidence and arguments of parties to the matter in deliberative session, the public may be excluded from this meeting. A decision may be made in deliberative session provided that a written decision by the board is subsequently issued.

The second exception to the open meeting law is when a board elects to go into executive session to discuss a specific matter, such as personnel issues. Vermont law is very explicit about which topics may be discussed in an executive session, and the courts lean very heavily in favor of conducting business in the open. Thus, before using executive session, be sure to check the statutory exemptions and seek legal advice when in doubt.



The open meeting law also applies to any subcommittees of the planning commission, zoning board and development review board. All meetings of a public body must be noticed and minutes must be kept except when the public body is in deliberative or executive session. The specific notice and minute-keeping requirements for meetings is found in 1 V.S.A. §312. Individual boards may adopt rules of procedure for the conduct of meetings and quasi-judicial proceedings. If your town has elected to conduct quasi-judicial hearings under the Municipal Administrative Rules of Procedure, your board must follow the rules provided for in 24 V.S.A. Chapter 36.

When reviewing an application for development, avoid discussing the project with the applicant or any interested party outside the public hearing. It is important to maintain impartiality until all evidence has been heard.

Who will I work with?



Hopefully you like people, because you will interact with a lot of them. The “public”, or citizens who will attend controversial or interesting meetings, the media, private developers and landowners along with their consultants. Lawyers. All kinds of characters, all of whom deserve respect. The Zoning Administrator should be of major assistance in providing information. You may be in a town lucky enough to have a town planner or other staff. Sometimes you will interact with other local officials, regional and state employees. A good source of background on who does what in town can be found in a publication by the Secretary of State’s Office titled *Who’s Who in Local Government* found at www.sec.state.vt.us/municipal/pubs/who'swho.html.

Where can I go for help?

Your regional planning commission (see attached map with phone numbers):
www.access-vermont.com/vapda/

Dept. of Housing & Community Affairs on planning issues: 800-622-4553 or
www.dhca.state.vt.us/planning

Secretary of State’s Office or civil procedures: 828-2363 or www.sec.state.vt.us

On-line Resources

Planning Commissioner’s Journal: www.plannersweb.com/

People Can Plan Website: www.peoplecanplan.org/

Vermont Planning Information Center, an on-line information clearinghouse on local planning and regulation: www.vpic.info

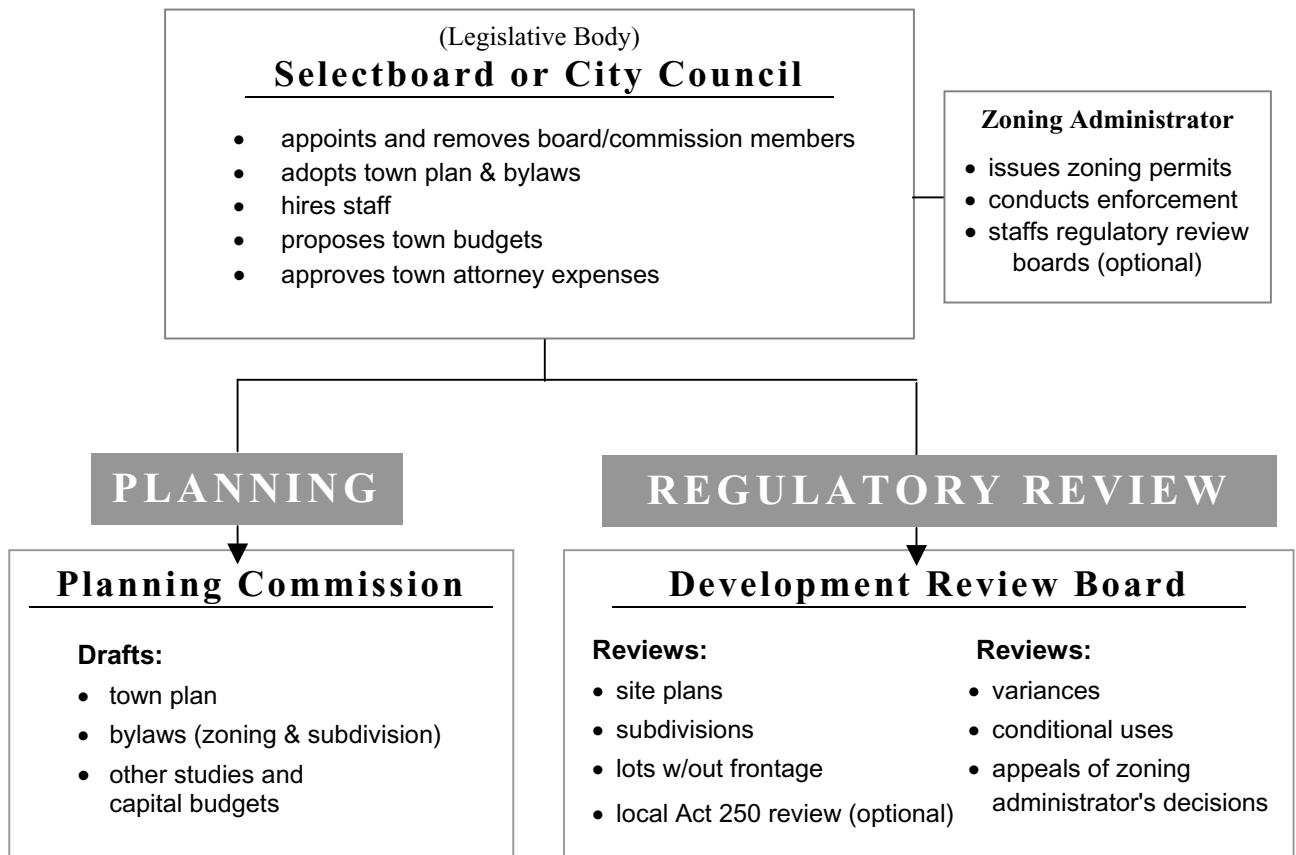
Vermont League of Cities & Towns: Municipal Assistance Center: www.vlct.org/law.htm

UVM Extension Service through the UVM Center for Rural Studies:

–data for planning and analysis: www.maps.vcgi.org/indicators/profiles.cfm

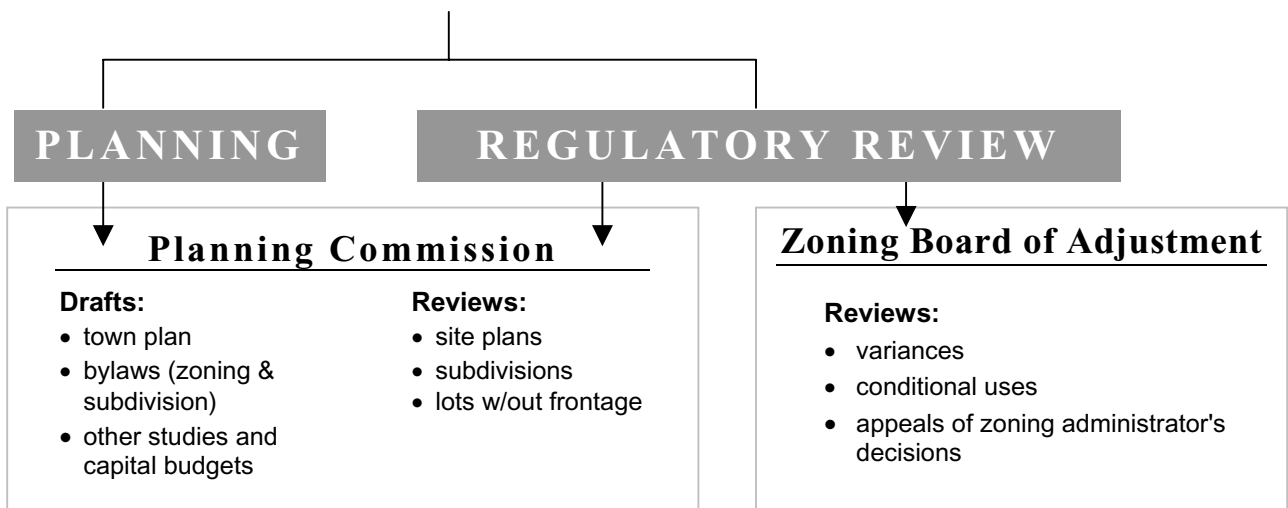
–help in preparing a town plan: www.crs.uvm.edu/cpdp/planner/index/cfm

Roles and Responsibilities of Local Land Use Officials

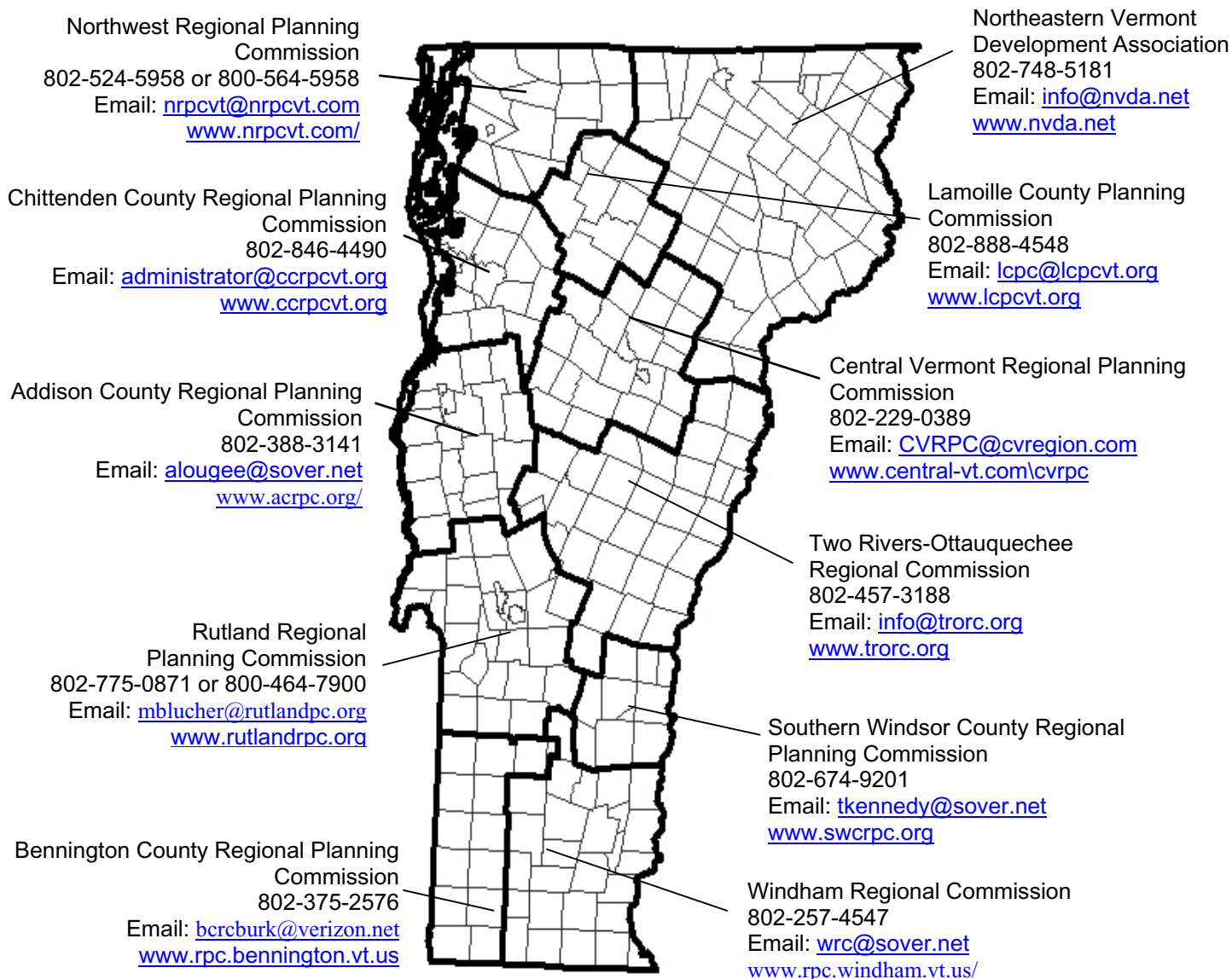


OR

In municipalities with a zoning board of adjustment instead of development review



Regional Planning Commissions



Agency of Natural Resources (ANR) District Environmental Commissions (Act 250)

REGIONAL OFFICES

DISTRICTS 1 & 8

450 Asa Bloomer State Office Bldg.
Merchants Row
Rutland, VT 05701-5903
Permit specialist..... 786-5907
Regional Engineer 786-5900
Act 250 (Dist #1 & 8)..... 786-5920
Act 250 (Dist #9) 879-5614
River Management..... 786-5906

DISTRICTS 2 & 3

100 Mineral St., Suite #303
Springfield, VT 05156
Permit specialist..... 885-8850
Regional Engineer 885-8855
Act 250 (Dist #2, 3 & 3A) ... 885-8855
River Management..... 786-5906

Districts 4 & 6

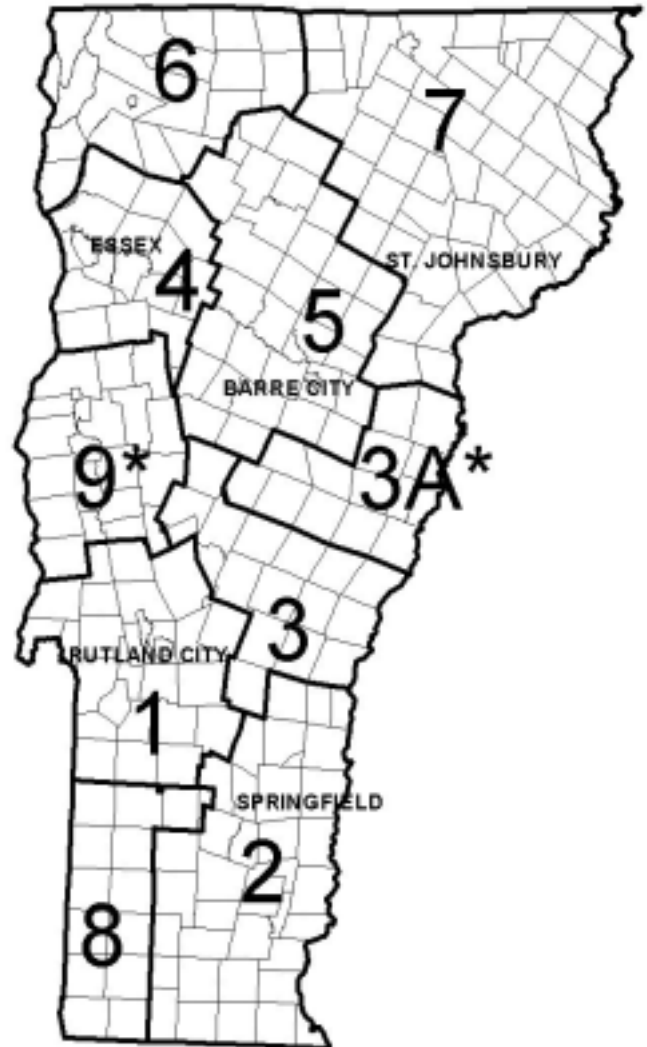
111 West St.
Essex Junction, VT 05452
Permit specialist..... 879-5676
Regional Eng (Dist #4 & 6). 879-5676
Regional Eng (Dist # 9) 786-5900
Act 250 (Dist #4, 6 & 9) 879-5614
River Management..... 879-5631

DISTRICTS 3A & 5

5 Perry Street, Suite 80
Barre, VT 05641
Permit Specialist 476-0195
Regional Engineer 476-0190
Act 250 (Dist #3A)..... 885-8855
Act 250 (Dist #5) 476-0185
River Management..... 879-5631

DISTRICT 7

1229 Portland St., Suite 201
St. Johnsbury, VT 05819
Permit specialist (Tues.) .. 751-0127
Regional Engineer 751-0130
Act 250..... 751-0120
River Management..... 751-0129



3A* Note:

Towns in District 3A must contact the Springfield office for Act 250 Permits. For Water Supply, Wastewater Disposal and Subdivision permits, District 3A must contact the Barre Office.

9* Note:

Towns in District 9 must contact the Essex Junction office for Act 250 Permits. For Water Supply, Wastewater Disposal and Subdivision permits, District 9 must contact the Rutland Office.

Produced by

**The Vermont Department of Housing & Community Affairs, as part
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With assistance from the following:

VTrans

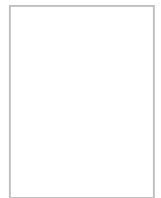
Vermont League of Cities & Towns

UVM Center for Rural Studies

Northwest Regional Planning Commission

Vermont Secretary of State

Planning Commissioners Journal



To:

Essentials of Local Land Use Planning and Regulation

May 2007



VERMONT LAND USE
Education & Training Collaborative

Dedicated

to all the local volunteers

who work to improve our communities by
serving on municipal planning commissions,
zoning and development review boards, and
other related boards and commissions.

Thank you for your service.

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National Life Building, Drawer 20
Montpelier, VT 05620-0501
802-828-3211
800-622-4553
www.dhca.state.vt.us/Planning

**Vermont Planning Information
Center**

Website of the Vermont
Land Use Education and
Training Collaborative
www.vpic.info



Table of Contents

	Page
CHAPTER 1. Introduction	1
A. Origins of Land Use Planning and Regulation.....	1
B. Land Use Planning and Regulation in Vermont.....	2
C. Today's Legal Structure.....	3
D. A Practical Introduction.....	4
CHAPTER 2. Roles and Responsibilities in Municipal Land Use	5
A. Planning Commission	5
B. Appropriate Municipal Panel.....	6
C. Administrative Officer.....	9
D. Staff Planner	10
E. Selectboard, City Council or Village Board of Trustees (Legislative Body).....	10
F. Municipal Manager/Administrator.....	11
G. Municipal Clerk.....	12
H. Regional Planning Commission.....	13
I. Consultants	13
J. Advisory Commissions and Others	13
K. Municipal Attorney.....	14
CHAPTER 3. Planning For a Vibrant Community	15
A. The Municipal Planning Process	15
B. Public Participation in Local Planning	16
C. State Planning Goals	17
D. Required Elements of a Municipal Plan	18
E. The Regional Planning Process.....	19
CHAPTER 4. Implementing The Plan: Regulatory and Non-Regulatory Options	21
A. Non-Regulatory Implementation of the Municipal Plan.....	21
B. Regulatory Implementation of the Municipal Plan.....	22
1. Zoning Regulations	22
2. Site Plan	25
3. Subdivision	25
4. Required Provisions and Limitations on Authority.....	26
5. Flood Hazard Regulations.....	27
CHAPTER 5. Procedural Issues: Adoption, Amendment, Enforcement and Appeals	28
A. Adoption and Amendment of The Municipal Plan	28
B. Adoption and Amendment of Bylaws (Regulations).....	29
C. Enforcement of Local Bylaws.....	30

Table of Contents *(continued)*

D. Appealing a Local Land Use Decision	31
1. Appeals of Administrative Officer Decisions	31
2. Appeals to Environmental Court	32
3. The Role of The Legislative Body in the Appeal Process	33
E. On the Record Review	33
CHAPTER 6. Conducting Effective Meetings and Hearings	35
A. Conducting Effective Meetings.....	35
1. Requirements of the Open Meeting Law.....	35
2. Minutes and the Open Meeting Law.....	36
3. Public Notice for Meetings.....	36
4. Executive Session	37
5. The Role of the Chair and the Public in Public Meetings.....	37
B. Conducting Effective Legislative Hearings.....	38
1. Notice Requirements for Legislative Hearings	38
2. The Role of the Chair and the Public in Legislative Hearings.....	38
3. Alternative Public Hearings	39
C. Conducting Effective Quasi-Judicial Hearings.....	39
1. Notice Requirements for Quasi-Judicial Hearings.....	40
2. An Opportunity to Be Heard	40
D. Rules of Procedure and Ethics for Appropriate Municipal Panels (AMPs)	41
1. The Role of the Chair in Quasi-Judicial Proceedings.....	42
2. The Role of the Public in Quasi-Judicial Proceedings	42
3. The List of Interested Persons.....	42
4. Managing Conflicts of Interest.....	43
5. Disclosure and Recusal	44
6. Removal of Board Members	44
7. Ex Parte Communication.....	44
8. Deliberations and Decisions.....	45
9. Public Deliberations	45
10. Deliberative Session.....	45
11. Rules of Procedure and MAPA	46
12. How to Craft a Legally Sustainable Decision.....	46
13. Drafting the Decision: Whose Job Is It?.....	46
14. Decision-making Timelines.....	47
CHAPTER 7. Conclusion	48
INDEX	49

1

Introduction

Essentials of Local Land Use Planning and Regulation seeks to provide an “operator’s manual” for the volunteer officials who willingly dedicate their time in service to their community. It is designed for all local officials involved in municipal land use. In addition to this manual, an accompanying CD features an audio recording of much of this material. Sample documents and other related material are also available on the website of the Vermont Land Use Education and Training Collaborative: www.vpic.info.

Community planning as a democratic exercise takes time and effort. It involves reflecting on history, current assets and challenges, accurately identifying trends and agreeing on a vision for the future. Further work is required to implement creative responses that will help maintain and enhance the community's strengths. Knowing the rules and the context for planning and regulation, as presented in this manual, can help local board and commission members meet these challenges.

This chapter introduces the history of land use planning and regulation and discusses the legal foundation for land use planning and regulation in Vermont.

Community planning as a democratic exercise takes time and effort.

A. Origins of Land Use Planning and Regulation

Land use planning is not a new idea. The ancient Romans designed their cities with two major streets that intersected at the “forum,” which was the center of commerce in the city. In the United States, the earliest municipal plans were created for the cities of Philadelphia (1682), Annapolis (1685), Colonial Williamsburg (1699) and Savannah (1733).¹ While these plans are still widely admired, they typically reflected the vision and aspirations of only a few people. Today, developing a comprehensive plan for a municipality involves extensive citizen participation and is a prerequisite to adopting most land use regulations.

Contemporary land use planning and regulation in the United States originated in the social welfare movements at the beginning of the 20th Century that sought to address the environmental and public health problems resulting from heavy industries in urban areas. Responding to exploding growth and diversity of land use in Lower Manhattan, the New York City Council established some of the first land use regulations in 1916. These early regulations established height and setback controls, and separated uses that were seen as functionally incompatible, such as factories and residential neighborhoods. Across the country, cities and towns that were dealing with many of the same burgeoning land use issues began to adopt comparable regulations.

It wasn’t long before landowners began to challenge the constitutionality of land use regulations in the courts. In 1926, the U.S. Supreme Court upheld the zoning ordinance of Euclid, Ohio, in a case that is still cited today as the prime example of a community’s legal authority to plan for development and regulate land use.²

¹ “Back to the Land,” Chet Boddy, *Mendocino Coast Real Estate Magazine*, 1995.

² *Village of Euclid v. Ambler Realty*, 272 U.S. 365 (1926) “There is no serious difference of opinion in respect of the validity of laws and regulations fixing the height of buildings within reasonable limits, the character of materials and methods of construction, and the adjoining area which must be left open, in order to minimize the danger of fire or collapse, the evils of overcrowding and the like, and excluding from residential sections offensive trades, industries and structures likely to create nuisances.”

Brief History of Settlement in Vermont

1600's - mid 1700's: Native American tribes cultivated river valleys with 5-10 acre fields of corn, squash and beans.

1760's: Pioneers settled in isolated farmsteads. Any social or commercial transactions occurred in dispersed sites such as taverns, homes or grist mills.

1780 - 1810: As population grew, village centers developed around busy crossroad taverns and manufacturing sites, or grew in a linear pattern along the most well-traveled rivers and roads, usually in valley locations.

Mid 1800's: The coming of the railroads shifted commercial activity to the rails and stimulated growth of new industrial villages. Some new railroad towns such as Lyndonville and South Royalton were built according to carefully designed plans, with a central green surrounded by impressive public and commercial buildings.

Late 1800's - early 1900's: Village improvement societies were formed to spruce up the general appearance of towns, provide improvements in lighting and public water and sewage systems, and turn empty lots into town commons and parks. Grand civic buildings, extravagant homes and summer camps were built during these prosperous times.

1930's - 60's: The Depression, followed in Vermont by decades of economic stagnation, reduced the rate of change in Vermont landscapes in spite of the rapid pace of technological transformations resulting from the introduction of electricity, telephones and automobiles.

1970 - 2000: The pace of growth accelerated rapidly and communities struggled to deal with the many social and technological changes. Automobile use caused major shifts in settlement patterns, luring commerce away from the downtowns to highway strips. The ability to commute long distances enabled widely scattered residential development.

The regulations in Euclid, which sought to separate uses based on their relative compatibility, were typical of the time. One of the primary concerns was that certain uses could be so incompatible with adjacent uses as to amount to a “nuisance.”

“Euclidian” zoning has since fallen out of favor, in part because it uses more land and encourages automobile reliance by segregating uses, such as residential neighborhoods and necessary services. Nonetheless, Euclid established the now settled principle that land use planning and regulation is a legitimate use of the governmental police power. Vermont courts have followed this same general rule, holding that they will not “interfere with zoning unless it clearly and beyond dispute is unreasonable, irrational, arbitrary or discriminatory.”³

B. Land Use Planning and Regulation in Vermont

Contemporary land use planning in Vermont (like most states) was initiated in the 1920s and has been evolving ever since. In 1921, the Legislature authorized municipalities to create planning commissions that could propose comprehensive plans “for the future development of the municipality which shall be based primarily upon public welfare.”⁴ Once a plan was adopted, no public improvement could be constructed within the municipality until the proposed location had been submitted to the planning commission. The commission had 30 days to object in writing to the selectboard, city council, or village trustees, who could overrule the objection by majority vote.⁵ This early enabling legislation, however, only applied to public improvements and did not yet apply to private projects.

Ten years later, the General Assembly enacted enabling legislation permitting Vermont

municipalities to regulate land use in their communities through zoning. This new law authorized the legislative body to appoint two boards: a zoning commission, to recommend bylaws and boundaries for districts to the legislative body (and eventual adoption by the voters), and a board of adjustment that would

³ City of Rutland v. Keiffer, 124 Vt. 357, 367 (1964).

⁴ 1921, No. 107.

⁵ *Id.*

deal with appeals of the decisions of the administrative officer and grant special exceptions “subject to appropriate conditions and safeguards,” while respecting the “general harmony and intent” of the regulations. It was another 47 years until the Legislature completed a comprehensive revision.⁶

When construction of the interstate highway system fueled economic development in the 1960s, land use planning in Vermont began to focus on environmental protection and growth management. In 1968, the Legislature enacted enabling legislation, which began with a list of the purposes planning and zoning should achieve. The new law also prescribed the contents of municipal plans as well as the process for adoption. Under the new law, the planning commission would hold hearings and send the plan to the legislative body for additional hearings and ultimate adoption. Plans would expire every five years, and any regulations that were adopted could not be amended until the plan was re-adopted or amended.⁷ Many of these requirements remain today.

In recent years, there has been a renewed integration of social concerns in planning for both economic development and environmental protection with the goal of creating healthy communities. Act 183, the 2006 Growth Centers legislation, reflects this trend by providing incentives for development in and around compact, mixed-use town and village centers. Challenges such as the dependence on the automobile, a rapidly aging population, and a lack of affordable housing will continue to drive many of the planning processes in the state.

C. Today’s Legal Structure

As provided in the Vermont Constitution, local governments are creatures of the state and may only undertake those activities that are enabled by state law.¹⁰ This is called Dillon’s Rule, which strictly vests the powers of government with the state, and, in practical effect, strictly limits municipal powers. The Vermont Supreme Court, interpreting the Vermont Constitution, has stated, “We have consistently adhered to the so-called Dillon’s Rule that a municipality has only those powers and functions specifically authorized by the legislature, and such additional functions as may be incident, subordinate or necessary to the exercise thereof ... Dillon’s Rule calls for the strict construction of municipal function: If any fair, reasonable, substantial doubt exists concerning the question, it must be resolved against the [grant of power] ...”¹¹

Significant Vermont Legislation

Act 250 (1970) was enacted to provide regulatory review by the state for major developments. To this day, in order for a project to be approved under Act 250, the district commission must find, among other criteria, that the subdivision or development is in conformance with the duly adopted municipal plan.⁸

Act 200 (1988) contained a substantial update to the statutes governing the local land use planning process and focused on increasing coordination between the planning efforts of municipalities, the regions, and the state. Act 200 also began to assist municipalities with those efforts by providing funding from the Property Transfer Tax.

Act 115 (2004) focused on improving the appeals process, improving opportunities for affordable housing, and increased the linkage between planning and regulation by requiring any regulations to be in conformance with the municipal plan by 2011.⁹

⁶ *Vermont By Design*, Vermont Council on Rural Development, 2006.

⁷ 1967, No. 334 (adj. Sess.).

⁸ 10 V.S.A. § 6086 (a)(10).

⁹ 24 V.S.A. § 4481.

¹⁰ Vermont Constitution, Ch. II, § 6, 69.

¹¹ Petition of Ball Mountain Dam Hydroelectric Project, 154 Vt. 189 (1990).

Fortunately, Vermont law provides extensive enabling legislation for municipalities to conduct a wide range of activities related to local land use planning and regulation. The statutes that enable local land use planning and regulation have been codified in Chapter 117 of Title 24. Often cited as the Vermont Planning and Development Act¹² (or “the Act”), Chapter 117 serves as a guide to the local process in addition to providing the requisite (and wide-ranging) legal authority to act. The chapter is organized into 12 subchapters, each of which addresses specific subject matters such as municipal planning commissions (subchapter 2), bylaws (subchapter 7), and adoption, administration, and enforcement (subchapter 9). The Department of Housing and Community Affairs regularly publishes a copy of the Act, which is available by contacting the municipality’s regional planning commission.

... in the Vermont Constitution, local governments are creatures of the state and may only undertake those activities that are enabled by state law.

D. A Practical Introduction

This manual seeks to provide a practical introduction to local land use planning and regulation. It does not cover all of the issues one may encounter, but it is intended to provide local officials with a solid grounding in the fundamentals of land use planning and regulation in Vermont. It begins with one of the most crucial elements: understanding roles and responsibilities. From there, the manual moves on to discussions of planning fundamentals, implementation of the municipal plan, procedural issues, and conducting effective meetings and hearings.

¹⁰ Vermont Constitution, Ch. II, § § 6, 69.

2 Roles and Responsibilities In Municipal Land Use

Most municipal officials have distinct roles that are delineated both by statute and by function. Within the local land use system, there are three primary functions: legislative, quasi-judicial, and administrative.

The broadest function is *legislative* and involves not only drafting and approval of the municipal plan and bylaws, but also conducting public hearings to determine the future direction of the community. The

Within the local land use system, there are three primary functions: legislative, quasi-judicial, and administrative.

legislative function is shared by the planning commission and the legislative body (selectboard, city council, or village trustees).

In contrast, the *quasi-judicial* function involves interpreting and applying the land use regulations. It is occupied by the appropriate municipal panel (AMP), which may be the planning commission, development review board, or zoning board of adjustment, depending on the structure established by the municipality.

The *administrative* function involves mostly non-discretionary acts such as issuing permits, enforcing bylaws and assisting applicants. The administrative function is occupied by the administrative officer, often known as the zoning administrator (ZA).

These distinctions are important because unique ground rules apply depending on whether one is acting in a legislative, quasi-judicial, or administrative capacity. This chapter contains a brief discussion of those ground rules and how they impact the roles and responsibilities of the officials listed above, as well as a discussion of the role of community planners, regional planning commissions, consultants, and others who play pivotal roles in local land use planning and regulation.

A. Planning Commission

A planning commission can be created at any time by the selectboard, village trustees or city council. Planning commissions must have at least three but no more than nine voting members, the majority of whom must be residents of the municipality.¹³ Most planning commissions are appointed by the selectboard, city council, or village trustees, which are also responsible for fixing the length of term. As an alternative, state law also permits municipalities to have voters elect planning commissioners for terms of four years.¹⁴

Whether elected or appointed, the primary function of the planning commission is to prepare and amend the municipal plan and bylaws (and advise on amendments prepared by others.) Planning commissions also engage in many other activities related to their role as leaders of the community on planning matters, including holding public hearings to determine future needs of the town, conducting surveys, holding discussion forums and educating the public about current issues facing the municipality.

The planning commission is charged with bringing a long-term perspective to day-to-day decision-making. As such, it must take care to represent all members and interests of the community. To this end, the board should seek maximum feasible participation by other public officials, interest groups, civic groups, and citizens. Above all else, planning commission members must always act in the public interest and put the general welfare of the community above any personal interests.

¹³ 24 V.S.A. § 4321(a).

¹⁴ 24 V.S.A. § 4323(c).

State law provides planning commissions with broad authority to plan for the future needs of their communities. In addition to drafting and maintaining a current municipal plan and tools that implement the plan, the planning commission also has the following powers:¹⁵

- Prepare and present a capital budget;
- Undertake capacity studies and make recommendations on matters of land development, urban renewal, transportation, economic and social development;
- Require information from other departments of the municipality that relates to the work of the planning commission;
- Participate in a regional planning program;
- Retain staff and consultant assistance; and
- Perform such other tasks as it may deem necessary or appropriate to fulfill the duties and obligations imposed by Chapter 117 of Title 24.

Above all else, planning commission members must always act in the public interest and put the general welfare of the community above any personal interests.

In all of the above duties, the planning commission is functioning in a *legislative* capacity. Like a selectboard or city council, the planning commission is soliciting public input, weighing options and making policy decisions, some of which will chart the future of the community and which may eventually have the force and effect of law.

However, state law also allows planning commissioners to convene as an “appropriate municipal panel” to review development applications under the land use bylaws. When reviewing development applications, the planning commission is acting in a *quasi-judicial* capacity. This distinction is important because what is appropriate in the legislative context is often inappropriate in the quasi-judicial context. For example, when planning (which is a legislative function), it is important to reach out both formally and informally to citizens, developers, town officials, neighboring towns, and local interest groups. However, when considering a development application, it is inappropriate to discuss the substance of an application, except in a public hearing or when deliberating on the application. For a more thorough discussion of this issue, see “Appropriate Municipal Panel” below.

Definition of Appropriate Municipal Panel (AMP):

**A planning commission,
board of adjustment,
development review
board, or a legislative
body performing
development review.**

B. Appropriate Municipal Panel

An “appropriate municipal panel” (AMP) is defined as “a planning commission performing development review, a board of adjustment, a development review board, or a legislative body performing development review.”¹⁶ When performing development review, the panel is acting in a *quasi-judicial* capacity because it is applying the bylaws to a specific application and, in many ways, acting like a court.

The two most common organizational models consist of either a planning commission and a zoning board of adjustment (PC/ZBA), or a planning commission and a development review board (PC/DRB).

Under the PC/ZBA model, planning commissions have both legislative and quasi-judicial responsibilities. The legislative responsibilities involve drafting the municipal plan and creating the tools that implement the plan, such as bylaws, capital budgets, etc. The quasi-judicial responsibilities involve review of applications for land development (usually applications for site plan and

¹⁵ For the full list of planning commission powers and duties, see 24 V.S.A. § 4325.

¹⁶ 24 V.S.A. § 4303(3).

Conversations About Development

A planning commissioner might run into a citizen at the local market who says, *“that Wildwood subdivision is really going to ruin that part of town.”*

“Why?” says the planning commissioner.

“Well, it’s going to break up a large area of winter deer habitat, and you’ll be able to see all those houses from miles away.”

If the planning commissioner serves in a municipality where a development review board conducts all of the quasi-judicial proceedings, the commissioner might reply, *“We might not be able to do anything about this project, but perhaps we need to write some regulations that impose stricter controls on sensitive wildlife areas in town.”*

These are the types of conversations that planning commissioners need to have with their constituents in order to plan for the future. Part of planning for the future involves keeping land use regulations current with trends in land development and with the desires of the community.

However, if that same commissioner will be reviewing the case as a member of an AMP (which could be the planning commission, or another board), the above conversation would be wholly inappropriate. In that context, the commissioner should simply say, *“I’m sorry, I can’t discuss this with you unless we’re in an open public hearing. It’s not fair to others who may be interested in the case for me to speak about it with you.”*

This conversation might be difficult for members of appropriate municipal panels, particularly in small towns; nevertheless, it’s the only proper way for a member of an AMP to handle the situation should it arise. (See Chapter 6, D. “Rules of Procedure and Ethics for AMPs”)

subdivision review). Under this model, there is also a zoning board of adjustment, which has no legislative authority but exercises quasi-judicial authority in reviewing applications for conditional use, appeals of administrative officer decisions and requests for variances. Many municipalities operate under the planning commission/zoning board of adjustment model, though an increasing number are seeking to separate the legislative and quasi-judicial functions through the creation of a development review board.

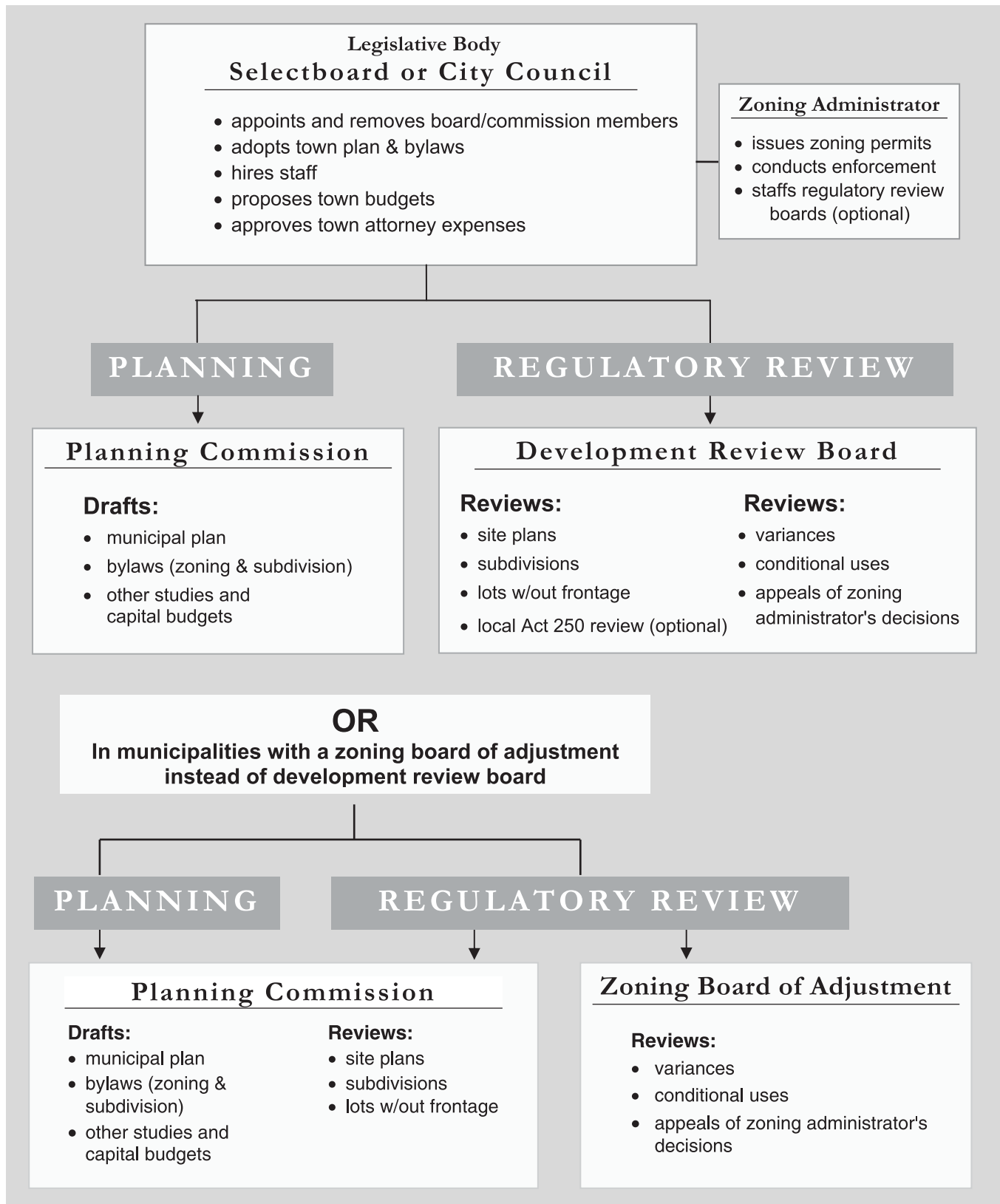
Under the PC/DRB model, the planning commission becomes a purely legislative entity, with authority to draft the municipal plan and create both regulatory and non-regulatory tools that implement the plan. The development review board becomes the quasi-judicial entity responsible for hearing all applications for development review, including applications for site plan, subdivision, variance, conditional use, administrative officer appeals, and any other reviews authorized by the bylaws.

A strength of the PC/DRB model is that it vests all legislative functions with a planning commission, and all development review functions with a development review board. Separating the legislative and quasi-judicial functions allows more planning to occur, simplifies the process for applicants, and makes it easier for members to distinguish between actions that are appropriate in the legislative and planning context but not in the quasi-judicial context (such as speaking to a party about a particular application).

Other than time, there is no conflict for members who wish to serve on both a planning commission and an AMP. Municipalities with low levels of development activity may wish to appoint the same members to both the planning commission and AMP.

Regardless of which local board is serving as the appropriate municipal panel, the role of the AMP is to hear and review applications for development under the applicable regulations. The AMP can only approve applications that comply with the applicable

Roles and Responsibilities in Municipal Land Use



The AMP can only approve applications that comply with the applicable bylaw or state law, and the board can only levy conditions that are permitted under the bylaw.

bylaw or state law, and the board can only levy conditions that are permitted under the bylaw. By the same token, if a project meets the applicable bylaw criteria, the AMP is bound by law to grant the approval. The opinions of individual members about the general level of development in the municipality must not affect the decision-making of the board when acting in a quasi-judicial context. At all times, AMP members must take steps to ensure that the board is perceived as a neutral entity or its credibility will evaporate.

In addition, members of appropriate municipal panels must take care to avoid conflicts of interest and refrain from discussing an application

with any of the parties to the proceeding except as part of a properly warned hearing. For example, when serving on an AMP, it is improper for a member to express an opinion about a project or a type of project (e.g., “I really hate clustered development.”) prior to hearing the evidence in a particular case. Like a judge, an AMP member must never prejudge a case. (For more on this topic, see Chapter 5, “Conducting Effective Meetings and Hearings.”)

C. Administrative Officer

The administrative officer (also known as the zoning administrator or ZA) is the face of local land use regulation, and is the primary point of contact for those affected by local regulations. Though not explicit in statute, the administrative officer has great influence over the integrity of the regulatory program.¹⁷

An administrative officer must be appointed for a three-year term promptly after the first bylaws are adopted or when a vacancy exists. State law requires the officer to administer the bylaws literally and prohibits the officer from permitting any land development that does not conform with the bylaws.

A primary function of the administrative officer is to review applications that do not require action by the appropriate municipal panel. Typically, these applications are for uses or structures that are permitted so long as they comply with the dimensional and performance standards of the district such as single-family dwellings and accessory structures. Applications that require AMP approval are referred to the AMP by the administrative officer, who may only issue a permit if the AMP approves the application. Any action or inaction by the administrative officer may be appealed to the AMP.

In addition to reviewing and referring applications, the administrative officer plays a vital customer service role by providing the public with the necessary forms and applications and being responsible for “coordinating a unified effort” to administer the municipality's development review program.¹⁸ At many points in the review process, the administrative officer will work with applicants, neighbors, representatives, board members and other municipal officials.

Many administrative officers also play a broader role in staffing the planning commission or appropriate municipal panel. For those staffing AMPs, the role of the administrative officer is varied and may include guidance in the review process, keeping minutes for the board, preparing staff reports on an application or even drafting the written decision for the board. Of course, it would be inappropriate for the administrative officer to write a decision in an appeal of his or her action or decision.

Hiring an administrative officer is a two-step process that requires two boards to work well with each other. The first step is for the planning commission to nominate a qualified candidate, after which it is up to the selectboard, city council or village trustees to appoint the candidate. Statute provides that the administrative

¹⁷ 24 V.S.A. § 4448(a).

¹⁸ 24 V.S.A. § 4448(c).

officer is an employee of the municipality, subject to the municipality's personnel policies, and is only removable for cause by the selectboard, city council or village trustees after consultation with the planning commission.

In addition to administering the land use regulations at the front end of the process, the administrative officer plays a large role in enforcement of violations. For example, the administrative officer often receives the complaint that initiates violation proceedings, and often works closely with the selectboard, city council, or village trustees, and the municipal attorney in any necessary court action. For more on enforcement, see *Enforcement of Local Bylaws* in Chapter 5.

For more information on the role and function of the administrative officer, see 24 V.S.A. §§ 4448, 4449 and the *Zoning Administrators Handbook*, Vermont Land Use Education and Training Collaborative (2005). available at www.vpic.info.

D. Staff Planner

A growing number of Vermont municipalities have dedicated resources to hire a staff planner. The role of the planner, as with many other staff positions, can vary significantly from one municipality to another. Some municipalities have staff planners with professional degrees in planning and certifications in planning (such as the AICP designation from the American Institute of Certified Planners). Other municipalities have planners who have learned about planning through experience or have degrees in a related field.

A professional planner can make a significant contribution to a successful land use planning and regulation program. Planners are trained in facilitating good public processes when updating the municipal plan or land use regulations. In addition, a planner can provide in-depth analysis of development applications, which ensures a consistent and efficient review process. Planners bring the professional knowledge that is so vital in a unique and rapidly changing field. Oftentimes, a planner's professional expertise can help find solutions that a volunteer board may wrestle with for quite some time.

Many planners also work closely with applicants to help them craft the best possible application prior to formal submission to the administrative officer or AMP. This informal process of working with the applicant can help create a thoughtfully designed project, and will facilitate an efficient and more positive review process.

Some municipalities have agreed to pool resources and share a planner with another municipality. This can be quite useful for municipalities that see the need for some professional planning, but can't afford to commit the resources to hiring a full-time planner.

E. Selectboard, City Council or Village Board of Trustees (Legislative Body)

The selectboard, or other legislative body, such as the city council or village board of trustees, plays an important role in developing a successful land use program in any municipality. Many important land use decisions - including the location of infrastructure such as water supply and wastewater disposal, appointment and removal of officers, and adoption of the municipal plan - are vested with the selectboard, city council or village trustees.

As the elected and most visible board, the legislative body plays a critical role in setting a tone that supports an effective land use planning and implementation program. There are many opportunities for the

legislative body to show its support, including: incorporating the municipal plan into decisions regarding public investment (such as sidewalks); including the planning commission in discussions of ordinances and policies with land use implications (such as those concerning roads or sewers); including reasonable budget requests from the planning commission and AMP; ensuring that the various boards and commissions are comprised of able volunteers and are appropriately staffed; and providing funding for training and education.

One of the legislative body's most important functions is to appoint and remove members of the planning commission¹⁹ and appropriate municipal panel, the administrative officer, and key advisory commissions, such as the conservation commission. In this capacity, the legislative body represents the voters, serves as the accountability mechanism, and ensures that the expectations of the position are being fulfilled.

In addition to managing the people involved in the land use program, the legislative body retains much of the final authority over the adoption of the various regulatory and non-regulatory documents, including the municipal plan, capital budget and any regulatory tools such as zoning and subdivision regulations.²⁰

As the elected and most visible board, the legislative body plays a critical role in setting a tone that supports an effective land use planning and implementation program.

Finally, it is crucial for the legislative body to maintain an ongoing relationship with the various land use officials. This open dialogue will foster a better understanding of land use planning and implementation in a community, and will help keep difficult situations from becoming outright political battles. Some municipalities have instituted annual or other regular meetings between the legislative body and the various boards and commissions in order to foster strong relationships and open communication. To this end, it is worth noting that the selectboard members of a rural town, or two appointees of the legislative body in an urban municipality, are “ex-officio members of the planning commission.”²¹

F. Municipal Manager/Administrator

Appointed by the legislative body, the municipal manager is the chief administrative officer of the municipality and is responsible for discharging the duties specified in Chapter 37 of Title 24 and as augmented by a job description. Some municipal managers also serve as administrative officers, though most focus on oversight of municipal departments, including police, fire, public works, finance, etc. In the land use realm, the municipal manager often advises the legislative body on appointments, supervises and manages all land use staff, interacts with the municipal attorney, and develops and administers the budget.

Many managers also assist with coordinating communications between the various boards, and serve as the municipality's media contact – a role that allows the manager to frame the discussion about land use planning and regulation in a community, under the direction of the legislative body.

Some municipalities have adopted municipal charters that transfer some of the duties of a municipal manager to a municipal administrator. Others have written job descriptions that specify that the municipal administrator serves as the chief administrative officer of the municipality and supervises all staff. Still other municipalities have written job descriptions that do not establish the administrator as the chief

¹⁹ Planning commissioners may also be elected.

²⁰ As an alternative, state law also allows voters to act on municipal plan and bylaw adoption and amendments, as discussed in chapter IV.

²¹ 24 V.S.A. § 4322.

Accountability of Land Use Officials

While removal of local land use officials is not common, it happens from time to time, and there are various rules on removal that board members should be aware of.

Rules for Removal

Most board members are appointed for a set term. If there is no re-appointment at the expiration of such term, the board member is technically no longer a member of the board. This, however, does not constitute “removal.” Actual removal of board members is subject to the requirements of state law.

- Appointed planning commissioners can be removed at any time, for any reason, or for no reason at all, so long as there is a unanimous vote of the legislative body.²² Elected planning commissioners cannot be removed from office.
- The legislative body may only remove Development Review Board or Zoning Board members for cause, after notice and a hearing.²³
- The legislative body may only remove the administrative officer for cause and after consultation with the planning commission.²⁴
- The requirement that there be cause to remove the administrative officer or a member of an appropriate municipal panel requires the legislative body to hold a hearing where the individual has an opportunity to present his or her side of the story.²⁵

administrative officer, but rather as the principal assistant to the legislative body without the day-to-day management responsibilities. Unlike the municipal manager form of government, which is statutory, the administrator form varies significantly among municipalities.

G. Municipal Clerk

In many Vermont municipalities, the municipal clerk is the most visible elected official. As such, he or she is expected to understand all aspects of municipal business, from dogs running at large to land use. The municipal clerk is required by law to be the receiver and recorder of the town’s archives. The clerk records deeds related to real estate and private property transactions and files vital statistics information records relating to municipal business. Municipal clerks are elected by the voters and are independent of the legislative body, the AMP, and the municipal manager.

While many of the municipal clerk’s duties and responsibilities are clearly defined in state statute, others, such as receiving telephone inquiries dealing with anything from the next selectboard meeting to landfill hours, are a result of custom. Within the land use realm, the municipal clerk’s duties include conducting votes on plans and bylaws when required, certifying plans and bylaws, and serving as the custodian of public records such as subdivision plats and hearing minutes. For a checklist on certifying the municipal plan and bylaws, see www.vpic.info under “Plan and Bylaw Adoption Tools.”

When a local land use decision is appealed, the clerk is also responsible for supplying the list of interested persons to the appellant unless the administrative officer has been designated in the bylaws.²⁶ For more information on appeals, see Chapter 5: “Procedural Issues.”

²² 24 V.S.A. § 4323(a).

²³ 24 V.S.A. § 4460(c).

²⁴ 24 V.S.A. § 4448(a).

²⁵ *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985).

²⁶ 24 V.S.A. § 4471(c).

H. Regional Planning Commission

The General Assembly first envisioned the creation of regional planning commissions (RPCs) in 1957²⁷ and RPCs now serve every town in the state. Regional planning commissions play a critical role both in land use policy and implementation at the local, regional and state levels. They are staffed by professionals with training in land use, transportation, emergency management and watershed planning, as well as geographic information systems mapping, brownfields planning and other areas of expertise. Each commission is governed by a board of commissioners comprised of representatives from each participating municipality.

The RPCs have multiple roles in the context of local planning. In order to qualify for some state grant funding, municipal plans must be approved by the regional planning commission. In addition, regional commission staff frequently provide extensive technical assistance to local planning commissions in drafting municipal plans and bylaws as well as other local regulatory and non-regulatory documents. Other tasks regional planning commissions may perform include coordination of local and regional mapping projects, and participation in state-level reviews, such as Act 250 or Section 248 proceedings (the certificate of public good process for electric generation and transmission facilities).²⁸ For a link to each of the eleven regional planning commissions, visit www.vapda.org.

I. Consultants

An often significant player in community land use planning is the expert consultant. Planning consultants play a valuable role in providing expert drafting of municipal plans, bylaws and other regulatory documents. Local land use officials often look to planning consultants to deal with unique planning issues in their municipalities, such as putting together a master plan for a piece of property, traffic planning for a failing intersection or finding creative ways to revitalize a downtown.

Typically, consulting planners work closely with the local planning commission. The planning commission's role in this context is to understand the community, what its needs are, and to hold public hearings to solicit public input in the planning process. The planning consultant can then distill this information into a usable municipal plan or regulatory document to fit the community's vision for its future. An effective consultant will be able to work well with the planning commission, the legislative body and with the public, and will have the ability to translate information gleaned from this collaborative process into a municipal plan, bylaw or other implementation tool. For a list of planning consultants, contact the Vermont Department of Housing and Community Affairs (see contact information on back cover).

J. Advisory Commissions and Others

Another type of municipal body that can play an important role in local planning and regulation is the advisory commission. An advisory commission may counsel the appropriate municipal panel, legislative body, applicants, and interested parties on matters ranging from municipal plan and bylaw amendments to development applications. Oftentimes, communities with historically significant properties, important natural features, unique housing pressures, or other special concerns create an advisory commission to assist the legislative and quasi-judicial boards with their functions.

Advisory commissions (sometimes called committees) have broad authority and may engage in any activity that assists the legislative body or planning commission with preparing, adopting, and implementing the

²⁷ 1957, No. 286.

²⁸ 24 V.S.A. § 4345a.

municipal plan.²⁹ Advisory commissions must have at least three members, all of whom are appointed by the legislative body.

The most common advisory commissions are conservation commissions, historic preservation commissions, design review commissions, and housing commissions. More than a third of Vermont towns have established conservation commissions, which have authority to educate and plan for, protect and administer the public lands and natural resources of the municipality.³⁰ Many advisory commissions have also been established to deal with historic districts or areas designated as “design control districts,” which are areas of unique historic, cultural or architectural value that the community has decided (or may be in the process of deciding) should be subjected to more intensive planning and regulatory review.

Regardless of which type of advisory commission is being created, the role of the commission must be carefully delineated by the legislative body in the resolution or bylaw creating the entity.

K. Municipal Attorney

While the municipal attorney is not a mandatory position, most municipalities find that the position plays a key role in the local land use planning and regulation process. The municipal attorney can guide the municipality through the labyrinth of laws and cases that impact municipal decision-making in both the planning and regulatory phases of the land use program. In particular, the attorney can review proposed plan and bylaw amendments for consistency with state and federal law, and make recommendations based on trends in land use law. Finally, the municipal attorney plays a key role in enforcing any regulatory tools that may be adopted and advising the legislative body on litigation that arises from the bylaws.

²⁹ 24 V.S.A. § 4433.

³⁰ 24 V.S.A. Ch. 118.

3 Planning for a Vibrant Community

In its most basic form, municipal planning is the process of assessing current conditions in the community, envisioning a desired future, and charting a course towards that desired future. Just as we plan as individuals, families, and businesses, it is likewise important to plan as a community.

Many municipalities discover the need to plan when changes are occurring. While there is no bad time to begin planning for your community's future, many local officials have found that some of the best opportunities exist when changes are pending but have not yet begun in earnest.³¹ Whenever the planning process occurs, a well-facilitated process will offer participants unique opportunities to influence changes in the appearance, economy, and quality of life in their community.

Just as we plan as individuals, families and businesses, it is likewise important to plan as a community.

Both challenges and opportunities will vary from community to community. While some communities experience development pressure, others struggle to attract employers; some communities seek to protect an active and historic downtown, while others propose new growth centers. Thus, whether a community is in a period of expansion, retraction, or relative stability, establishing an engaging, participatory planning process is critical to its long-term vitality. To this end, this chapter explores both the legal and practical requirements for facilitating an effective municipal planning process

A. The Municipal Planning Process

The municipal plan³² is the visionary document that assesses the current status of a community and lays out a vision for the future. Although the plan itself is the final document, there is as much or more value in the process of engaging stakeholders along the way. One way to analyze the local planning process is to view it as a series of steps.³³ Those steps include the following.

1. **Formulating the planning program**, where planners design the program for seeking public participation, developing or amending the plan and identify sources for technical assistance.
2. **Collecting and analyzing background information**, which is a preliminary assessment of the community's aspirations, problems, and opportunities.
3. **Establishing goals and objectives** related to housing, transportation, public infrastructure and more;
4. **Outlining recommended actions** to achieve the goals and objectives.
5. **Creating an implementation program**, which defines the specific actions the community will take to achieve the plan's goals and objectives, which may include both non-regulatory and regulatory activities.
6. **Adopting the plan**, which usually occurs by vote of the municipality's legislative body.
7. **Implementing the plan**, where both regulatory and non-regulatory measures are implemented to carry out the goals and recommendations of the plan.
8. **Evaluating the plan and planning program**, which results in the cycle starting anew.

³¹ *The Small Town Planning Handbook*, Thomas L. Daniels, American Planning Association, 1995.

³² The municipal plan is also sometimes termed the town plan, comprehensive plan, or master plan.

³³ For more information, see the *Planning Manual for Vermont Municipalities*, Vermont Department of Housing & Community Affairs (2000).

Municipal Plan:

...the visionary document that assesses the current status of a community and lays out a vision for the future.

Although these steps appear very linear and orderly, all planners must accept that, by design, the planning process requires a lot of participation by diverse stakeholders and is inherently a political process. Land use issues evoke strong emotional responses about the rights of property owners and the rights of governments to regulate the use of private property in order to protect the public interest. Moreover, land use planning is frequently intertwined with other public policy issues, such as tax policy, transportation policy, and aesthetic considerations. As a result, land use planning can sometimes

challenge the patience of those involved. Those who engage in the process, however, have a unique opportunity to ensure their community remains (or becomes) a vibrant and livable community.

Given the weight of matters under consideration, and the vigor with which individuals may respond to issues in their community, it is important for local planners to provide ample and creative opportunities for community members to weigh in. A golden rule of community planning is to include the public and interested parties at every possible step in the process. Even if certain constituencies are not happy with the final plan, they will be much more satisfied if they feel their opinions have been heard during development of the plan.

B. Public Participation in Local Planning

The planning commission is not the only entity that plans. Others can and should be involved in the process, which means the planning commission must actively solicit input and assistance from others, including members of the public, the local legislative body, other municipal officials such as the AMP and administrative officer, the local chamber of commerce, citizen groups, etc. Vermont's planning processes place a significant emphasis on the involvement of citizens in local, regional, and state planning.

... by design, the planning process requires a lot of participation by diverse stakeholders and is inherently a political process.

While not everyone will be interested in contributing to the planning process, the planning commission should foster an attitude of openness and be creative in developing methods that will encourage as many people as possible to participate. One of the most effective strategies for engaging the public in the process is the community visioning session.

A community visioning session brings large numbers of community members together to involve the public, facilitate collaboration, and provide local planners with valuable input on the values, priorities, needs, and concerns of the community. Often such an event will find planners and citizens working together in groups, conversing in an unstructured manner about important community issues.³⁴ A unique strength of the visioning process is that it provides the direct face-to-face communication that can be hard to find in other forms of citizen participation. A visioning session is most effective at assessing community values and other broad themes and is best used when the objective is determining broad goals and directions for the community.

Another strategy for public participation is the community planning survey. Planning surveys offer local planners a number of strengths that are not found in the community visioning sessions, including: a higher degree of control over the subject matter, increased confidentiality, and an opportunity to hear from

³⁴ *Community Visioning Events*, Center for Rural Studies, University of Vermont, 2004. Available at www.vpic.info.

individuals who were not able to attend a public hearing or community visioning session. A weakness is the lack of face-to-face communication and an inability of participants to benefit from the perspective of others.

In addition, technology can help engage citizens in the process. A virtual bulletin board, an email listserv of people interested in the process, web posting of the latest drafts of documents and an email address or website where citizens can send comments can significantly enhance the ability of citizens to participate in the process. (Note, however, that Vermont's Open Meeting law does not allow a website to serve in place

Community Visioning Event Example: Randolph, Vermont

Vital Communities' Community Profile Process was used in Randolph, Vermont in 2001. Approximately 150 people attended the visioning weekend entitled, *Our Town, Your Town*. Planning for the event was guided by a local steering committee of as many as 40 community members.

The professional facilitators from Vital Communities were obtained with the help of a grant from the Vermont Department of Housing and Community Affairs.

During the event, participants enjoyed the following:

- Free lasagna and other food
- Local speakers
- Town data presented by the regional planning commission
- A barbershop quartet
- Various door prizes

After ten hours of discussion, the following concerns emerged:

- improving the downtown
- getting more tourist dollars
- keeping young people involved
- more community information
- developing options around the interstate

By the end of the event, dates for committee meetings on each of these topics had been decided.³⁵

of a bulletin board or newspaper for public notice; therefore, you can use a website *in addition to* the primary methods of notice for public hearings, but not *instead of*.)

While there are many different strategies for including the public, involving the public early in the process is critical for the credibility of the program. A citizenry that feels involved in the planning process will have a greater stake in the outcome, which will give legitimacy and public confidence to the process.

For more information on citizen participation strategies, visit www.vpic.info or contact UVM's Center for Rural Studies. For additional information on conducting public hearings, see Chapter 6: "Conducting Effective Meetings and Hearings."

C. State Planning Goals

As discussed above, the local planning process should include all stakeholders and truly reflect local needs and priorities. However, municipal plans are also creatures of statute and are a prerequisite to adopting any land use regulations. Accordingly, state law establishes goals for both the process and content of municipal planning.³⁶ (These same goals apply to both the regional and state planning processes as well.)

Chapter 117 also contains 13 specific "content" goals (often referred to as the State Planning Goals) that reflect policy objectives that should be pursued throughout the local and regional planning process.

³⁵ *Id.*

³⁶ See 24 V.S.A. § 4302 for the complete text.

The State Planning Goals can be summarized as follows.

1. Plan development to maintain historic settlement pattern of compact village and urban centers.
2. Provide a strong and diverse economy.
3. Broaden access to educational and vocational training opportunities.
4. Provide safe, convenient, economic, and energy efficient transportation systems.
5. Identify and preserve important natural and historic features.
6. Maintain and improve quality of air, water, and wildlife, and land resources.
7. Encourage efficient use of energy and development of renewable energy resources.
8. Maintain and enhance recreational opportunities for Vermont residents and visitors.
9. Encourage and strengthen agricultural and forest industries.
10. Provide wise and efficient use of natural resources.
11. Ensure availability of safe and affordable housing.
12. Provide an efficient system of public facilities and services.
13. Ensure the availability of safe and affordable child care.

The Process Goals

The “process” goals reflect “... *the intent of the Legislature that municipalities, regional planning commissions, and state agencies shall engage in a continuing planning process that will further the following goals:*

1. *To establish a coordinated, comprehensive planning process and policy framework to guide decisions by municipalities, regional planning commissions and state agencies.*
2. *To encourage citizen participation at all levels of the planning process, and to assure that decisions shall be made at the most local level possible commensurate with their impact.*
3. *To consider the use of resources and the consequences of growth and development for the region and the state, as well as the community in which it takes place.*
4. *To encourage and assist municipalities to work creatively together to develop and implement plans.”³⁷*

Throughout the statutory language and procedural requirements of Chapter 117, these process goals continually emerge and serve as reminders of the General Assembly’s aspirations for the local planning process.

These 13 goals are designed to steer planning activities at all levels of government, from local and regional to state agency planning. On a practical level, state law requires local plans to be consistent with the state planning goals in order to be approved by the regional planning commission.³⁸

D. Required Elements of a Municipal Plan

While the municipal plan is written and adopted by local officials with community goals in mind, Vermont law establishes ten elements that, at a minimum, must be included in the plan in order for the plan to be approved by a regional planning commission.³⁹

Beyond these ten elements, municipalities have significant flexibility in determining the scope and content of the plan. For example, additional topics may address health care facilities, community “walkability,” economic development strengths and weaknesses, redevelopment of contaminated properties and others.

³⁷ 24 V.S.A. § 4302(b).

³⁸ See 24 V.S.A. § 4302 for the complete text.

³⁹ Municipal plans must be approved by the regional planning commission for the municipality to be eligible to receive municipal planning grants through the Vermont Department of Housing and Community Affairs. 24 V.S.A. § 4350(b).

Municipal Plan - Required Elements

1. A statement of the objectives, policies and programs of the municipality
2. A land use plan (map and statement)
3. A transportation plan (map and statement)
4. A utility and facility plan (map and statement)
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)
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
10. A housing element⁴⁰

While municipalities are not required to adopt a municipal plan, a plan is required prior to the adoption of any land use regulations.⁴¹ Once adopted, the plan will expire after five years unless readopted or amended. Upon the expiration of a plan, all bylaws and programs shall remain in effect but may not be amended until a plan is adopted.⁴²

For more information on the process of adopting and amending the municipal plan, see Chapter 5: “Procedural Issues.”

E. The Regional Planning Process

In addition to providing technical assistance to local planning commissions and appropriate municipal panels, regional planning commissions are charged with preparing and updating a regional plan every five years. The regional plan must address the same planning goals as local plans, and has similar required elements.⁴³

Regional plans are approved by each region’s board of commissioners for the general purpose of “guiding and accomplishing a coordinated, efficient and economic development of the region which will, in accordance with the present and future needs and resources, best promote the health, safety, order, convenience, prosperity and welfare of the inhabitants as well as efficiency and economy in the process of development.”⁴⁴

One of the regional planning commission’s most important planning functions is to harmonize local plans with the regional plan. The regional planning commission must approve a plan if it finds that the plan is compatible with the planning goals established in 24 V.S.A. § 4302, is compatible with the regional plan and the approved plans of other municipalities in the region, and contains all of the

Regional Plan - Required Elements

1. A statement of the basic policies of the region
2. A land use element
3. An energy element
4. A transportation element
5. A utility and facility element
6. A statement of policies on preservation of rare natural areas
7. A program for the implementation of the plan
8. A statement indicating how the regional plan relates to development trends
9. A housing element that identifies the need for housing for all economic groups within the region⁴³

⁴⁰ See 24 V.S.A. § 4382(a) for a complete list of plan elements required by State law.

⁴¹ 24 V.S.A. § 4410.

⁴² 24 V.S.A. § 4387(c.)

⁴³ 24 V.S.A. § 4348a.

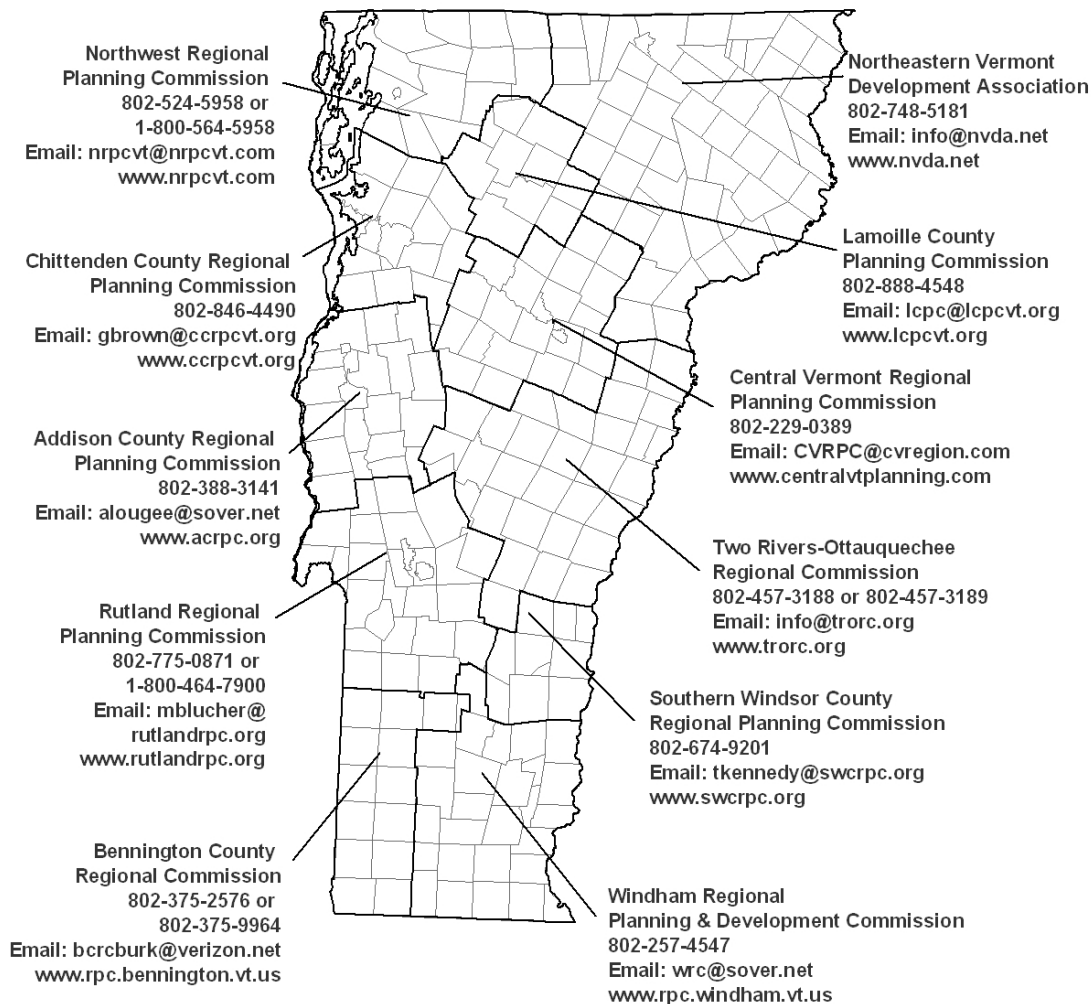
⁴⁴ 24 V.S.A. § 4347.

required elements discussed above. If the plan is not approved, it is still in effect.⁴⁵ However, an approved plan allows the municipality to attain village or downtown designation⁴⁶ and requires state agencies to consider the municipal plan in their planning and development efforts.⁴⁷

For more information on the connections between the local, regional, and state planning processes, contact the municipality's regional planning commission.

Contact Information

Regional Planning Commissions



⁴⁵ 24 V.S.A. § 4387(d).

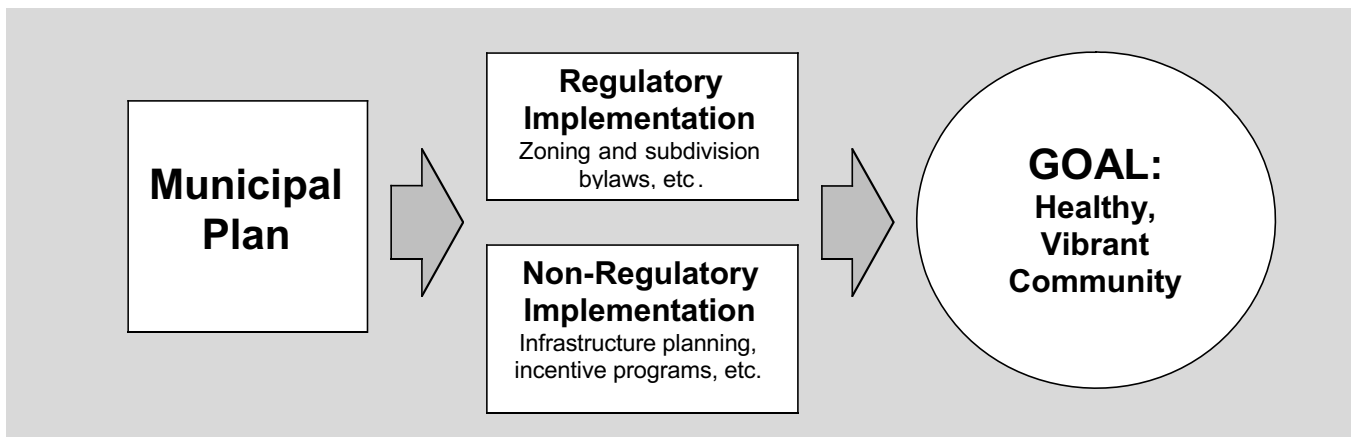
⁴⁶ 24 V.S.A. Chapter 76A.

⁴⁷ 3 V.S.A. 4020(a).

4

Implementing the Plan: Regulatory and Non-Regulatory Options

Any municipality that has created a planning commission and has a municipal plan in effect may implement the plan by adopting both regulatory and non-regulatory tools. Though the most common method of implementing the plan is to establish regulations, over-reliance on regulatory methods can hinder positive measures to shape the pattern of development. This chapter explores both non-regulatory and regulatory options for implementation of the municipal plan.



A. Non-Regulatory Implementation of the Municipal Plan

Either in addition to or instead of using a regulatory hook, municipalities can use non-regulatory tools to implement the plan. Chapter 117 lists some possible non-regulatory tools, including capital budgeting and tax increment financing districts, but municipalities are not limited to the statutory list; any program or initiative that furthers the purposes of the plan is an implementation tool. For example, if expanding business opportunities in a downtown is a goal of the plan, the planning commission might work with local businesses to develop a common marketing theme or work with the legislative body to appropriate money for sidewalks in the downtown.

A land use program can reach its fullest potential by incorporating non-regulatory options in addition to regulatory programs.

One very effective non-regulatory tool is planning for capital improvements. Capital improvement planning is the process of planning for necessary investments in public infrastructure (land, buildings, facilities, and equipment) in order to continue to provide the desired level of service.

Though capital planning is arguably as much about financial management as it is about land use planning, its inclusion in Chapter 117 as a non-regulatory tool serves a prominent reminder that the placement of public infrastructure is a powerful tool for shaping land

development and must be done with consideration of the municipal plan. For example, municipalities can significantly influence where development occurs by planning for the wastewater treatment needs of future development. Wastewater treatment continues to be an expensive component of land development; thus, developers will be more likely to build in areas where municipal wastewater treatment is either available or is planned.

Chapter 117 defines a capital budget as the set of capital projects proposed for the coming fiscal year and a capital program as the plan of projects to be undertaken during each of the following five years. Together, they are frequently referred to as a Capital Improvement Program (CIP), which has a combined six-year cycle. Chapter 117 requires that the CIP indicate the order of priority of each capital project and state each project's estimated cost, proposed funding source, and whether or not it will have an impact on annual operating costs.⁴⁸

Non-regulatory components are essential tools for effective land use planning. A land use program can reach its fullest potential by incorporating non-regulatory options in addition to regulatory programs like zoning and subdivision regulations.

For more information on additional non-regulatory tools that can help implement the municipal plan, see the *Implementation Manual* published by the Vermont Land Use and Education Collaborative. It's available at www.vpic.info.

Examples of Non-Regulatory Tools

Tax increment financing – can be used to fund projects within a discrete area of the municipality, such as sidewalks, increased police presence, or a parking garage.

Tax stabilization contracts – can help a municipality promote development in the community by certain businesses or types of businesses.

Purchase or acceptance of development rights – can assist a municipality in preserving undeveloped land.

Plans supporting the municipal plan – sub-plans providing greater detail about issues of particular concern such as affordable housing or particular locations such as a village or growth center.

Advisory commissions – can assist other municipal officials in addressing issues like affordable housing, historic preservation, design review and conservation.

B. Regulatory Implementation of the Municipal Plan

The method most often employed for implementing the plan is to establish regulations that carry out the plan's goals. However, many local planning commissions find they can improve their effectiveness through a combination of both regulatory and non-regulatory tools. This section will focus on some of more familiar regulations enacted by municipalities across the state. Other regulatory tools, including unified development bylaws that combine all regulations such as zoning and subdivision into one document, are further detailed in the *Implementation Manual*.

1. Zoning Regulations

The most common regulatory tool used by local governments throughout the country to manage land use and development is zoning. State law authorizes zoning regulations that “govern the use of land and the placement, spacing, and size of structures and other factors specified in the bylaws related to public health, safety, or welfare.”⁴⁹

Typically, zoning bylaws will delineate one or more “zones” or districts within a community, as depicted on a zoning map. Zoning districts normally include dimensional and density standards that apply district-wide, or to particular types of use allowed within the district. Common district standards include minimum lot size, maximum density, minimum frontage, minimum setbacks, maximum height or maximum lot coverage. In addition, many zoning bylaws contain general standards that apply to any development regardless of the district in which it is located. General standards often include access and frontage requirements, parking requirements and sign requirements.

⁴⁸ 24 V.S.A. § 4430(b).

⁴⁹ 24 V.S.A. § 4411.

Within each district, bylaws will typically define the types of development (uses) and provide dimensional standards for structures that are allowed within the district. Listed uses typically include a mix of compatible, mutually supportive uses, which may be quite extensive in mixed-use districts. A few districts, however, may severely restrict allowed uses in order to avoid hazards, conserve natural resources or to accommodate resource-based industries such as agriculture and forestry. State law authorizes a wide range of zoning districts - including downtown and village center, rural residential, agricultural and shorelands districts - all of which may contain unique requirements as permitted by law and as necessary to implement the municipal plan.

In Vermont, nearly all zoning bylaws rely on categorizing uses in each district as either *permitted* or *conditional*, depending on their potential compatibility with the stated purpose of the district. “Permitted” uses only need to obtain a zoning permit from the administrative officer. “Conditional” uses must first obtain approval from the appropriate municipal panel as designated in the bylaws, after which the administrative officer must issue a permit.

Permitted Uses

A permitted use is often defined as any use that is or may be lawfully established in a particular district, provided it conforms to all of the requirements applicable to a district.⁵⁰ A common example of a permitted use is a single-family dwelling in a residential district. Many bylaws create districts where single-family homes are encouraged, and thus applications for single-family homes are not subjected to further development review. In such a case, the homebuilder still must go to the administrative officer to apply for a permit.

In reviewing such an application, the administrative officer has little discretion - the permit must be granted unless the proposal would violate dimensional requirements or other quantifiable standards in the bylaw, such as a setback requirement. Requiring a zoning permit for permitted uses not only helps ensure compliance with the municipal plan, it helps keep a record of land development for property assessment and taxation as well as for planning and policy-making purposes, and helps ensure clear title to property for conveyances.

Conditional Uses

Conditional uses must be reviewed by the appropriate municipal panel. The AMP will consider whether the proposed use will conform to the standards in the district and whether the proposal will have an “undue adverse affect” on the district and the community. State law provides general standards for making the undue adverse effect determination.

In addition to the general standards, conditional use bylaws may be supplemented by more specific criteria defined by the municipality, such as increased setbacks from streams in sensitive areas, and “any other standards and factors that the bylaw may include.”⁵² Unlike a permitted use, which must

General Standards - Conditional Use Review

The proposed conditional use shall not result in an undue adverse affect on any of the following:

- the capacity of existing or planned community facilities, such as schools or wastewater facilities;
- the character of the area affected by the proposal, which should be considered through the lens of the district purposes, and from the vision laid out by the town plan;
- traffic on nearby roads; and
- performance standards, such as restrictions on noise, odor, vibration, dust, and other standards specified in the bylaws.⁵¹

⁵⁰ *A Planner's Dictionary*, Davidson, Michael, and Fay Dolnick, American Planning Association (2004).

⁵¹ 24 V.S.A. § 4414(3)(A).

⁵² 24 V.S.A. § 4414(3)(B)(v).

be approved unless it violates one of the dimensional requirements of the district, a conditional use can only be approved if the AMP determines that the project will not have an undue adverse affect on the concerns listed above and described in greater detail in the local regulations.

Variances

Notwithstanding all of the hard work that goes into writing local regulations, state law requires appropriate municipal panels to hear requests for variances, which would grant permission to vary from the requirements of the bylaw in limited circumstances. State law allows variances to be granted only if all of the following five conditions are met:

Requests for variances are common... granting such requests should not be.

- there are unique physical circumstances or conditions;
- because of these physical circumstances, the property cannot be developed in strict conformance with the bylaws;
- unnecessary hardship has not been created by the applicant;
- the variance will not alter the essential character of the neighborhood; and
- the variance represents the minimum alteration that will grant the relief requested.⁵³

Requests for variances are common; nevertheless, granting such requests should not be. It is difficult to meet the variance criteria, and few applicants can actually satisfy them, which puts boards in the

Boards faced with frequent requests for variances should consider whether the requirements of the bylaw are too restrictive... Such a situation should be communicated to the planning commission...

uncomfortable position of denying an otherwise worthwhile project. Sometimes variances are granted because board members feel that a project is valuable, and the variance criteria are swept under the rug. This isn't good for the integrity of the zoning bylaw, or for the board granting the variance. Boards that seek a lower threshold for allowing applicants to depart from bylaw requirements should consider adopting waiver provisions, as discussed below. Boards faced with frequent requests for variances should consider whether the requirements of the bylaw are too restrictive, forcing frequent applications to be made for variances to make reasonable use of land. Such a situation should be communicated to the planning commission so that its members can determine whether an amendment to the bylaw is necessary.

Waivers

Legislation adopted in 2004 allows municipalities to grant “waivers” to reduce dimensional requirements in accordance with specific standards in the bylaw.⁵⁴ As envisioned, waivers would be used only to provide relief from dimensional requirements in certain situations spelled out in the bylaws and would permit mitigation of a compliance problem through screening, design, or other remedy. Enacting waiver bylaws allows municipalities to preserve the integrity of their bylaws and avoid the pressure to approve an otherwise valuable project by issuing a variance. In order to enact a waiver provision in a local bylaw, the municipality must define the process by which waivers may be granted and appealed.

Zoning bylaws work well for many communities and are a common regulatory tool for implementing the municipal plan. However, many other regulatory tools may be used in addition to or instead of zoning to implement the plan. Some communities, particularly those without significant growth pressure, may choose

⁵³ 24 V.S.A. § 4469(a).

⁵⁴ 24 V.S.A. § 4414(8).

not to adopt zoning bylaws, and adopt only those regulations that address their unique challenges. Two of the most common regulations are site plan review and subdivision, which may be adopted with or without zoning.

2. Site Plan

Site plan review is conducted by an appropriate municipal panel and typically focuses on commercial and industrial development projects. Site plan review is not intended for evaluating the suitability of the use but rather on how the exterior improvements will fit in with the surrounding properties and plan for the area. State law provides authority to impose appropriate conditions on applications, so long as those conditions are consistent with the local regulations.

Site plan review may be required for all uses, including permitted uses, except for single- and two-family dwellings which, by statute, are exempt from site plan review.⁵⁵ If a municipality has adopted zoning, site plan criteria can also be incorporated into the conditional use review so that a project that normally would have been required to undergo both site plan and conditional use review will only go through one consolidated review process.

Site Plan Review Standards

In reviewing site plans, the appropriate municipal panel may impose conditions consistent with the following:

- adequacy of parking;
- traffic access;
- circulation for pedestrians and vehicles;
- landscaping and screening;
- the protection and utilization of renewable energy resources;
- exterior lighting;
- the size, location and design of signs, and
- other matters specified in the bylaws.⁵⁵

3. Subdivision

While site plan regulations address the way a particular lot is developed, subdivision regulations control the pattern of development - the way land is divided up to accommodate uses and supporting infrastructure such as roads and utilities. Subdivision review is conducted by the appropriate municipal panel as specified in the regulations. Subdivision regulations may be adopted in the absence of zoning, but are most effective when tied to related dimensional and density requirements typically found in zoning regulations.

In the simplest sense, subdivision regulations are meant to ensure that the division of land into smaller units results in lots or parcels that are useable, safe and reflect the physical characteristics of the site. In practice, subdivision regulations can be used to ensure that:

- new lots are laid out according to local standards - to avoid the creation of nonconforming or oddly shaped lots and, where appropriate (e.g., within downtown, village or historic districts), to reflect traditional settlement patterns;
- each lot has adequate access for its intended use and, where appropriate, for emergency vehicle access;
- new roads, sidewalks and pedestrian paths, whether public or private, effectively connect to existing and planned roads in the surrounding area;
- there is adequate provision for potable water supply, wastewater treatment/disposal and stormwater management systems, and park or recreation areas, and that these and other utilities and improvements are provided in a timely and efficient manner; and
- significant natural, cultural and scenic features are protected.

It's not uncommon for subdivision regulations to differentiate between small or "minor" subdivisions (e.g., of fewer than four lots) and larger, "major" subdivisions; and to establish abbreviated review procedures for smaller projects.

⁵⁵ 24 V.S.A. § 4416.

Many subdivision regulations call for a two- or three-step process that includes the following.

Sketch Plan Review, an informal, conceptual or pre-application review that allows the subdivider and review panel to explore different approaches to subdivision design, and to offer some indication that a proposal can be developed in conformance with applicable local regulations.

Preliminary Subdivision Review, intended to provide the review panel with more specific information to determine conformance with local regulations, and to provide additional guidance to the subdivider before the submission of a final application.

Final Subdivision Review, to include final subdivision plan and plat approval, to ensure that the proposed subdivision conforms to all applicable regulations and, where applicable, adequately addresses issues raised during preliminary review.

Subdivision regulations typically refer to applicable zoning standards to regulate lot size and density. In some cases, however, a municipality will decide that effective implementation of its municipal plan calls for more flexibility in the design of subdivisions - for example, to conserve open space, protect natural or scenic resources or to allow for higher densities of development to make affordable housing viable. For this purpose, state law allows local bylaws that include provisions for “planned unit developments” which, when applied concurrently with zoning regulations, allow for the modification or waiver of applicable dimensional requirements. Planned unit development provisions may include additional density and design standards that vary by the type(s) of development proposed, or the zoning district(s) in which developments are located.

Required Provisions for Subdivision Review

State law specifies that subdivision bylaws must contain the following:

- procedures and requirements for design, submission and processing of plats;⁵⁶
- standards for the design and layout of all public facilities;
- standards for the design and configuration of parcels or lots; and
- standards for the protection of natural and cultural resources and open space.⁵⁷

4. Required Provisions and Limitations on Authority

Chapter 117 grants municipalities broad authority to regulate land development in local bylaws. However, such authority is not limitless. Chapter 117 also contains certain “required provisions and prohibited effects.”⁵⁸ These provisions require equal treatment of housing, prescribe procedures for small lots, and define how municipalities may regulate childcare homes and facilities, among others.⁵⁹ In addition, state law specifies that certain uses may only be subjected to limited types of regulations and only to the extent that regulations do not interfere with the intended functional use. Some of these uses include educational institutions, hospitals, and solid waste management facilities.⁶⁰

⁵⁶ Though not defined in Chapter 117, the most relevant definition for a “plat” can be found in Act 250, which defines it as “a map or chart of a subdivision with surveyed lot lines and dimensions.” 24 V.S.A. § 6001 (12).

⁵⁷ 24 V.S.A. § 4418(1).

⁵⁸ 24 V.S.A. § 4412.

⁵⁹ *Id.*

⁶⁰ For more information on required provisions and prohibited effects and the limitations on local bylaws, see 24 V.S.A. §§ 4412, 4413.

More on Regulatory Options

For more information on regulatory tools for implementing the municipal plan, see the *Implementation Manual* published by the Vermont Land Use and Education Collaborative, available at www.vpic.info.

5. Flood Hazard Regulations

As discussed above, some municipalities choose not to adopt zoning or other regulations. Nevertheless, the Federal Emergency Management Agency requires that there be municipal flood hazard regulations before insuring properties located in flood hazard areas. Therefore, many municipalities without regulatory implementation tools will have a freestanding flood hazard bylaw, which allows flood insurance for properties located within flood hazard areas.⁶¹ Some provisions of zoning, such as variance provisions, must be applied to Flood Hazard Regulations and other freestanding bylaws. Municipalities with a zoning bylaw commonly incorporate flood hazard regulations into the bylaw.

⁶¹ For more information on flood hazard regulations, see 24 V.S.A. § 4424.

5 Procedural Issues: Adoption, Amendment, Enforcement & Appeals

Local officials are typically drawn to land use matters because of a concern over outcomes; they see an unmet need in the community or are concerned over a pattern of development. However, local officials must also have a firm understanding of procedural issues as well. Many legal appeals and local conflicts among boards turn (or are overturned) on questions of procedure. For this reason, it is critical that local boards and officials follow protocol and are mindful of their distinct roles throughout the process.

This chapter will explore the procedural issues related to adoption and amendment of the municipal plan and bylaws, enforcement of bylaws, appeals of administrative officer decisions, and appeals of AMP decisions.

A. Adoption and Amendment of the Municipal Plan

State law strictly prescribes the process that municipalities must go through to adopt a plan. Any plan must be prepared by the planning commission, which is required to “solicit the participation of local citizens and organizations by holding informal working sessions that suit the needs of local people.”⁶² When considering an amendment to a plan - either of its own creation or as submitted by a person or body other than the commission - the planning commission must prepare a written report on the proposal which addresses the extent to which the proposed amendment complies with the planning goals found in 24 V.S.A. § 4302 and discussed in Chapter 3 of this manual.⁶³

The planning commission is required to hold at least one public hearing on the proposed plan or amendment after public notice.⁶⁴ At least 30 days prior to the first hearing, a copy of the proposed plan or amendment and the written report must be delivered (with proof of receipt or certified mail) to the individuals listed in 24 V.S.A. § 4384(e). After holding one or more hearings, the commission may forward the plan or amendment to the legislative body (selectboard, city council or village trustees).⁶⁵ Once the planning commission has sent the plan to the legislative body, the legislative body has between 30 and 120 days to hold at least one public hearing. If a town has more than 2,500 residents, the legislative body must hold at least two hearings.

... municipalities are encouraged to involve the public from the beginning of the process through various informal means rather than waiting for the statutory public hearings.

While the statutes require minimal hearings for both the planning commission and legislative body, many municipalities choose to hold multiple hearings in order to obtain the participation and buy-in they desire from the community. As discussed in Chapter 3, municipalities are encouraged to involve the public from the beginning of the process through various informal means rather than waiting for the statutory public hearings.

After receiving the plan from the planning commission, the legislative body has the authority to make any change it wants to it.

⁶² 24 V.S.A. § 4384(a).

⁶³ 24 V.S.A. § 4384(c).

⁶⁴ 24 V.S.A. § 4384(d).

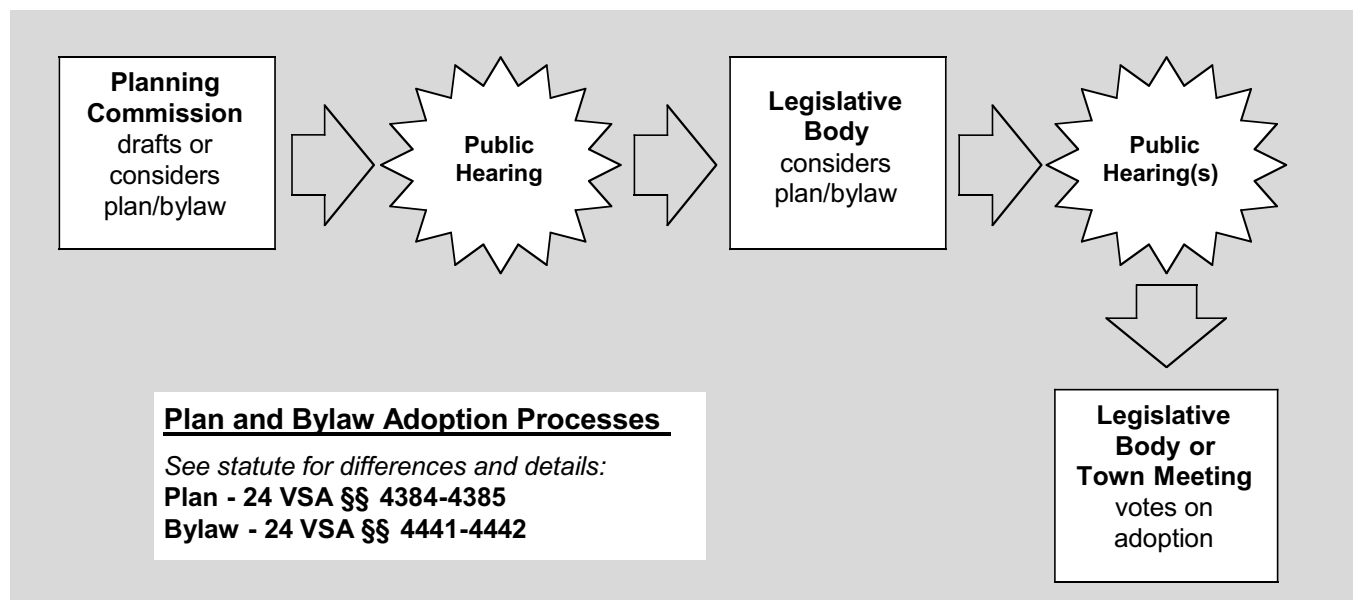
⁶⁵ 24 V.S.A. §§ 4384(d) and (f).

However, if the legislative body seeks to change the plan, it cannot do so fewer than 15 days prior to the final public hearing. Additionally, if the legislative body makes any changes in the proposal, it must file a copy of the changed proposal with the municipal clerk, with any member of the public requesting a copy, and with the planning commission. At this point, the planning commission must draft a report for the legislative body - to be presented at or before the public hearing - that analyzes the extent to which the changed proposal is consistent with the municipal plan and the required elements.⁶⁶

After the public hearing, the legislative body may vote by a majority of its members to approve the plan. Unlike the adoption of bylaws (see below), there is no authority for the voters to petition for a vote on the plan after the legislative body has acted. However, the voters can decide to approve municipal plans by Australian ballot if they decide to do so at a regular or special town meeting which occurs before the legislative body has voted on the plan. An Australian ballot is a uniformly printed ballot, typically confined to a secret vote on a specified office or question.⁶⁷ The Australian ballot procedure then applies until rescinded by the voters at a regular or special municipal meeting.⁶⁸

B. Adoption and Amendment of Bylaws (Regulations)

If regulatory tools are needed to implement the municipal plan, the planning commission drafts the bylaws much like it does the municipal plan. When considering an amendment to a bylaw, the planning commission must prepare and approve a written report on the proposal. The written report must include findings regarding the proposed bylaw's furtherance of the goals of the municipal plan, its compatibility with proposed uses and densities and how it carries out specific proposals for any planned community facilities. This report is important because it demonstrates the required conformance between the plan and proposed bylaw. At least 15 days prior to the first hearing, a copy of the proposed bylaw and the report must be delivered to the planning commission chair of each adjoining municipality, the executive director of the regional planning commission, and to the Vermont Department of Housing and Community Affairs.



⁶⁶ 24 V.S.A. § 4385(b).

⁶⁷ 17 V.S.A. § 2103(4).

⁶⁸ 24 V.S.A. § 4385(c).

After holding at least one hearing on the proposed bylaw, the bylaw is then forwarded to the legislative body for further review and adoption. Once this happens, it becomes the legislative body's role to hold at least one (in municipalities with a population of 2,500 or less) public hearing on the proposed plan or amendment. For municipalities with more than 2,500 residents, the legislative body must hold at least two public hearings. The legislative body has the authority to make "minor" changes to the proposal, but cannot do so fewer than 14 days prior to the final public hearing. (Note that the term "minor" is not defined.) Any time the legislative body makes "substantial" (another undefined term) changes in the proposal, it must hold a new public hearing on the proposal. A copy of the changed proposal must also be filed with the clerk of the municipality and with the planning commission, which is then charged with amending its final report to the legislative body concerning the proposal's conformance with the municipal plan.

After the final public hearing, the legislative body may adopt the bylaw at a meeting. It takes effect 21 days after adoption, unless the electorate files a petition for an Australian ballot vote within 20 days. As an alternative to adoption by the legislative body, the legislative body or the electorate may vote to adopt bylaws via Australian ballot.⁶⁹

Help with Plan and Bylaw Adoption

Plan and bylaw adoption tools including checklists, clerk's certificates and reporting forms are available at www.vpic.info.

C. Enforcement of Local Bylaws

The only local official directly responsible for enforcing local bylaws and regulations is the administrative officer (zoning administrator, or ZA). Vermont law requires the officer to "administer the bylaws literally and [the officer] shall not have the power to permit any land development that is not in conformance with those bylaws."⁷⁰

The enforcement process is often initiated when neighbors call the municipal office to complain. This phone call does not impose a mandate on the administrative officer to investigate, but it does call for the officer to take appropriate action in light of the office's staffing capacity and the municipality's resources to pursue violations. The administrative officer should keep in close contact with the legislative body (selectboard, city council or village trustees), which provides the funding for the land use program, to keep that board apprised of the need for enforcement in the community. Having initiated a regulatory program, it is important that the legislative body adequately fund the program, including paying for enforcement proceedings.

Once the administrative officer has initiated the enforcement process, the landowner will hopefully come into compliance with the permit or bylaw without any further municipal action. Nevertheless, the administrative officer may need to pursue further enforcement to bring a violator into compliance. Before pursuing enforcement, the administrative officer should contact the town attorney for guidance in how to proceed. The attorney will counsel the officer on whether to continue with the administrative enforcement process, or whether it is appropriate to bring an enforcement action in the Environmental Court (or in the Vermont judicial bureau, if enabled by the bylaw). If bringing a claim in court is likely, the administrative officer and the attorney will need to involve the local legislative body, as only the selectboard, city council or village board of trustees has the authority to pursue the action on behalf of the municipality at this point.

Occasionally, legislative bodies will designate the administrative officer to represent the municipality in the Environmental Court or the judicial bureau, sometimes with the assistance of the municipal attorney. For

⁶⁹ The complete bylaw adoption process is described in 24 V.S.A. §§ 4441, 4442.

⁷⁰ 24 V.S.A. § 4448(a).

Initiating Enforcement Proceedings

After receiving several calls from neighbors alleging that an illegal business was being operated out of a garage, Gary, the administrative officer went out to investigate. Sure enough, the property owner appeared to be operating a significant landscaping business. There were several large trucks parked outside the garage, a large pile of stumps, and a young man was operating a chipper to dispose of material in the back of one of the trucks.

Gary returned to his office and examined the town's bylaws. The bylaws require operators of home occupations to obtain a permit from the administrative officer and prohibit home occupations that result in the outside storage or display of materials or create objectionable noise, vibration, or smoke. Gary drafted a notice of alleged violation, and called the town attorney. The town attorney agreed that a permit was required and reminded Gary to copy the Selectboard in the notice. Gary mailed the notice of alleged violation and began taking some notes for what seemed a likely appeal to the development review board.

more information on enforcement, see the *Zoning Administrator's Handbook*, Vermont Land Use Education and Training Collaborative, 2005, available at www.vpic.info.

A Word about Certificates of Compliance

A certificate of compliance is a tool a municipality can use to ensure compliance with the local bylaw. Different from a certificate of occupancy, a certificate of compliance is typically something that a buyer's attorney or lender's attorney asks for when a property is to be conveyed. That attorney has likely done a title search of the property to ensure that the seller has "clear title" to the property. The goal in asking for

the certificate of compliance is to make sure there are no pending unrecorded violations on the property. Because violations must be recorded in the land records, the attorney is looking to make sure there is nothing coming down the pike that has yet to be recorded. The administrative officer should be certifying that there are no pending unrecorded violations in the office, and nothing more. Administrative officers should never do detailed title research about the status of a particular property - that's a job for the title examiner.

The certificate of compliance is a valuable tool for a municipality in ensuring that violations are corrected since it is virtually impossible for a buyer to secure financing for a property with a violation. This process allows the real estate market to correct a violation without requiring any expenditure of town monies.

Call the Vermont League of Cities and Towns (VLCT) Municipal Assistance Center (802-229-9111) or your municipal attorney for a sample certificate of compliance or for assistance in drafting one.

D. Appealing a Local Land Use Decision

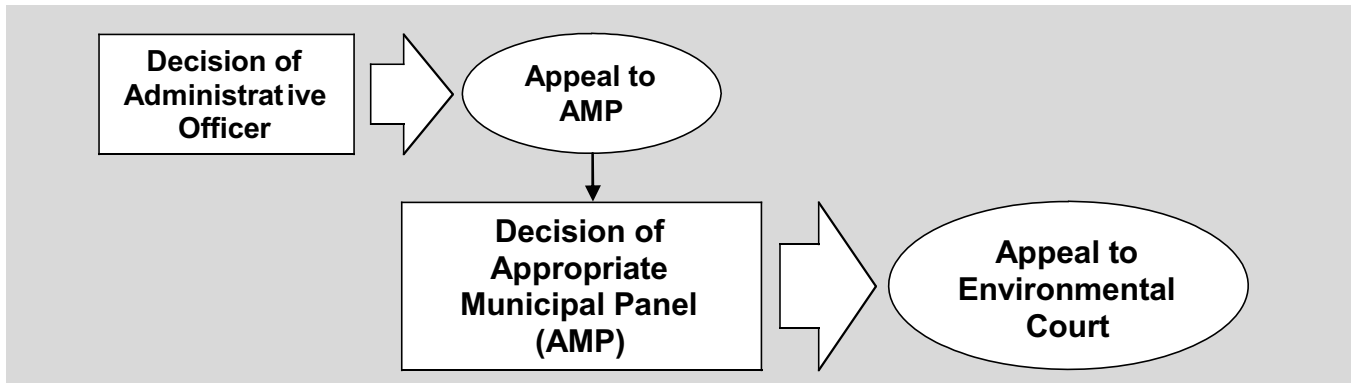
Local land use decisions may be appealed at every level, all the way up to the Vermont Supreme Court. However, not just anyone can appeal. State law provides that only an "interested person" may appeal a decision or action of an administrative officer or appropriate municipal panel. For a list of who can qualify as an interested person, see 24 V.S.A. § 4465(b). The two different appeal processes we'll examine are the appeal of the administrative officer's decision and the appeal of an appropriate municipal panel's decision.

1. Appeals of Administrative Officer Decisions

Virtually any decision or act of the administrative officer is appealable, including decisions to refer an application to a particular board, or the decision not to act on a violation. When someone appeals an act of the administrative officer, the zoning board of adjustment or development review board must schedule a

hearing, which must be held within 60 days of the filing of the notice of appeal.⁷¹ As part of the hearing, the appropriate municipal panel must determine if the appellant is an “interested person” as defined by 24 V.S.A. § 4465(b).

At the hearing, the appellant should be allowed to present his or her case first, after which the administrative officer must have an opportunity to defend his or her action. The board is not required to defer to the administrative officer, but rather may ask questions of both the appellant and the officer to determine who is correct. A written decision must follow within 45 days of the close of the final public hearing.⁷²



2. Appeals to Environmental Court

Appeals of cases that have been heard by an appropriate municipal panel are taken to the Environmental Court, a trial-level court that has many of the same powers as a county superior court. There are currently two judges in the Environmental Court. The court is governed by the Vermont Rules for Environmental Court Proceedings, which are similar to the Rules of Civil Procedure governing traditional court proceedings.

Appeals in Environmental Court are heard by the judges as if there were no proceeding at the municipal level; this is called a *de novo* appeal. The parties are entitled to present entirely new evidence, and the court makes a decision as if the appropriate municipal panel had never considered the case.⁷³

Practically, however, there will be some inquiry into the municipal proceeding. The court will want to know what was decided and why such a decision was made. One issue that may be relevant in the Environmental Court is whether there were any glaring procedural problems that prevented the appellant from receiving a fair trial. For example, if there was a significant conflict of interest or if the case was decided by an insufficient number of board members, the court will want to consider those issues when making a decision in how to proceed with the case. The Environmental Court has stated that where there has been a showing of impropriety or conflict of interest, the court has the authority to remand (return) the case to the appropriate municipal panel and require the local board to conduct a new proceeding clear of such problems.⁷⁴

Notwithstanding the consideration given to the local proceeding, there is no obligation for municipalities to participate in an Environmental Court proceeding where a decision of an AMP has been appealed.

⁷¹ 24 V.S.A. § 4468.

⁷² 24 V.S.A. § 4464(b)(1).

⁷³ 24 V.S.A. § 4472(a).

⁷⁴ *In re Appeal of Janet Cote*, No. 257-11-02 (2003).

Municipalities may choose to participate in Environmental Court proceedings to defend the AMP's decision, or may choose *not* to participate and instead allow the Environmental Court to address the issues raised in the appeal. As discussed below, there are limited circumstances when the legislative body has standing to appeal a decision of an AMP.

Finally, local officials should be aware that the Environmental Court is increasingly turning to mediation to resolve cases before them. Parties to a local proceeding (including the municipality) may wish to consider involving a mediator in order to resolve local land use disputes. For more information on mediation, contact the Environmental Court at (802)828-1660 or go to www.VermontJudiciary.org.

Appeals in Environmental Court are heard by the judges as if there were no proceeding at the municipal level; this is called a *de novo* appeal.

3. The Role of the Legislative Body in the Appeal Process

When an administrative officer's decision is appealed, the appeal is heard by the AMP. The legislative body's role is minimal at this point, and primarily focuses on clarifying expectations for all involved, including the municipal attorney. The legislative body may have to coordinate with the municipal attorney to clarify who the client is and define the scope of the attorney's services.

When a case is appealed from the appropriate municipal panel to the Environmental Court, the AMP's role ends. It has no authority to appeal, to participate in an appeal, or to represent the municipality.⁷⁵ However, the legislative body may appeal a decision of the appropriate municipal panel if "the plan or bylaw is at issue."⁷⁶ While this statute may seem to grant broad authority to participate, case law has limited that right to those cases where the legislative body believes there has been an illegal or unconstitutional interpretation of a bylaw.⁷⁷ Nevertheless, a legislative body may participate in an appeal that has been initiated by another appellant.

E. On the Record Review

As an alternative to *de novo* review, municipalities may choose to have their decisions heard *on the record*. When a decision from a municipality that has adopted on the record review is appealed to the Environmental Court, the court only examines whether the AMP misinterpreted the bylaw or state law. The court does not hold any new factual hearings and any questions as to the facts will be resolved by looking at the record developed by the appropriate municipal panel. A basic requirement, therefore, is an audio recording of the proceedings.⁷⁸

The first step prior to adopting on the record review is to adopt the Municipal Administrative Procedure Act (MAPA). MAPA may be adopted either by the voters or by the legislative body. The benefit of

As an alternative to *de novo* review, municipalities may choose to have their decisions heard *on the record*... the court only examines whether the AMP misinterpreted the bylaws or state law ... and does not hold any new factual hearing.

⁷⁵ The legislative body appoints a designee to act on its behalf at Environmental Court proceedings. This could be the municipal attorney, a member of the legislative body, or perhaps the zoning administrator. The appropriateness of all of these potential designees should be considered. It would not be appropriate for a member of the AMP to serve as the selectboard's designee.

⁷⁶ 24 V.S.A. § 4465(b)(2).

⁷⁷ *In re 232511 Investments, Ltd.*, 2006 VT 27.

⁷⁸ 24 V.S.A. § 1205(c).

Municipal Administrative Procedure Act (MAPA)

24 V.S.A. Chapter 36, § 1205

Any municipality that chooses to have local decisions appealed to Environmental Court to be heard “on the record” (rather than anew), or to conduct local Act 250 reviews, must adopt the Municipal Administrative Procedure Act to apply to specified development review proceedings. MAPA provisions include the following:

- Conflicts of Interest
- Notice Requirements
- Hearing Procedures
- Evidence
- Ex Parte Communications
- Qualification of Members (in rendering decisions)
- Decisions
- Appeals (per Chapter 117)

adopting on the record review is that the municipality retains stronger local control in the outcome of the case. Why go through the effort of holding a hearing if an appeal is going to be heard anew, without any consideration of the proceedings below? On the record review allows local decisions to stay local. The parties have the right to participate at the Environmental Court, but they will only have the right to question whether the AMP made a mistake in interpreting the law. The facts found by the AMP will stand as the facts on which the case is built.

However, there are downsides to adopting on the record review as well. The biggest problem is that, in all matters, the expectations are greater. From managing evidence to finding facts, writing adequate decisions, and managing conflicts of interest, the Environmental Court has higher expectations. As such, the chairperson must run a very orderly proceeding and continually reinforce such matters as requiring speakers to repeat his or her name prior to speaking so that those reviewing the audio can discern the speaker. Municipalities considering adopting on the record review may wish to schedule a workshop with a knowledgeable expert to help determine if on the record review is a good fit with their municipality.

6 Conducting Effective Meetings & Hearings

Believe it or not, there is a difference between conducting a *meeting* and holding a *hearing*. A meeting occurs when a quorum (a majority of the members) of a public body convenes to discuss the business of the body or for purposes of taking any action. Meetings are usually conducted by boards acting in a legislative capacity, such as a planning commission discussing amendments to the municipal plan or by quasi-judicial boards holding an organizational meeting or workshop.

Hearings are more nuanced, and there are two types of them: *legislative* hearings and *quasi-judicial* hearings. A legislative hearing occurs when a board, acting in a legislative capacity, convenes for the purpose of receiving public comment on a proposed course of action, such as a bylaw amendment. This type of hearing is often statutorily mandated, such as the requirement for the planning commission to hold a hearing on the municipal plan, but may also occur when the board desires more public input.

A quasi-judicial hearing occurs when a board, acting in a quasi-judicial capacity, convenes for the purpose of hearing the arguments of parties who seek the board's approval and the board subsequently issues a written decision, which either grants or denies the request. An appropriate municipal panel that convenes for purposes of conducting development review is conducting a quasi-judicial hearing. This chapter will discuss the rules and best practices which apply to meetings and both types of hearings.

A. Conducting Effective Meetings

Open Meeting Law:

... the meeting must be open to the public, minutes must be taken and notice must be given.

1. Requirements of the Open Meeting Law

The Open Meeting law⁷⁹ governs the conduct of meetings by public bodies in Vermont, and defines a meeting as “a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action.”⁸⁰ Under this definition, when a majority of the members of a board have gathered and are discussing the business

of the board, they are conducting a meeting. This is the trigger for complying with the requirements of the law.

The salient features of the Open Meeting law are that the meeting must be open to the public, minutes must be taken, and notice must be given. In order to ensure the meeting is truly open to the public, meetings should be held somewhere accessible to the public. Preferably, this should be in the municipal offices, in a school, or in some other neutral location (as opposed to a board member's home).⁸¹ If possible, keep the door to the meeting room open. Boards should demonstrate that the public is welcome, and that the board's policy is an open-door policy. Remain tolerant of members of the public who need to come and go at various times during a meeting. They have busy lives and may only be able to attend for a portion of the meeting. If possible, visit the Vermont Statehouse in Montpelier. Walk down the main hallway and look at the agendas of the various committees along the hallway. Stop in and watch a

⁷⁹ 1 V.S.A. §§ 310 et seq.

⁸⁰ 1 V.S.A. § 310(2).

⁸¹ It's also useful to meet at a municipal facility because municipal properties typically are more accessible to everyone in town, particularly those with special access needs.

committee meeting. Visitors are often pleasantly surprised by how easy it is for the public to watch legislators in action. While one may not always agree with the substance of the discussion, the open nature of the meeting can be a refreshing parallel for a local board.

2. Minutes and the Open Meeting Law

The Open Meeting law also requires minutes to be kept at all meetings. If possible, hire a board assistant, or have someone other than a board member take minutes. This allows board members to focus on the business at hand. Minutes do not have to be a complicated affair (the law sets a very low bar for what they must contain), but nonetheless require the following:

- all members of the public body present;
- all other active participants in the meeting;
- all motions, proposals and resolutions made, offered, and considered, and what the disposition of those were; and
- the results of any votes, with a record of the individual vote of each member if a roll call is taken.⁸²

These requirements are minimal. Minutes do not have to be a verbatim transcript of the meeting. They should read more like an outline of what happened.

3. Public Notice for Meetings

The law puts meetings into three different categories: regular, special and emergency. These categories are important for properly noticing the meeting.

Regular meetings are to be publicly noticed in the following manner: “The time and place of all regular meetings subject to this section shall be clearly designated by statute, charter, regulation, ordinance, bylaw, resolution or other determining authority of the public body and the information shall be available to any person upon request.”⁸³ The best way to comply with this is to hold an organizational meeting at least once a year at which the board determines by resolution when it will regularly meet. The minutes from that organizational meeting serve as the public notice for future regular meetings. The board can provide additional notice beyond the basic requirements of the statute, if appropriate. This could be done by posting notice around town, in the town clerk’s office, in the local newspaper, or on the municipal website.

Special meetings are to be publicly announced at least 24 hours before the meeting by posting notices in or near the municipal clerk’s office and in at least two other public places in the municipality. The municipal website can also be used in addition to those two public places, but should not be considered in place of them.⁸⁴

Emergency meetings may be held without public announcement, so long as some public notice is given as soon as possible before the meeting. It’s highly unlikely that land use boards will have occasion to conduct emergency meetings, as the law envisions such meetings being held only “when necessary to respond to an unforeseen occurrence or condition requiring immediate attention by the public body.”⁸⁵ Examples of such unforeseen occurrences include floods or other natural disasters or emergencies where there is an overriding public safety interest.

⁸² 1 V.S.A. § 312(b)(1).

⁸³ 1 V.S.A. § 312(c)(1).

⁸⁴ 1 V.S.A. § 312(c)(2).

⁸⁵ 1 V.S.A. § 312(c)(2).

4. Executive Session

Vermont law permits a narrow exception to the requirement that meetings be open to the public. This exception is called executive session. However, it can only be used in specific statutorily-permitted situations.⁸⁶ Executive sessions are most commonly used by selectboards, city councils and village trustees, and it is unlikely that a land use board would find itself in a situation where executive session is permitted. About the only time executive session would be appropriate for a local land use panel is if it were convening to assist the selectboard or municipal manager in the evaluation of a staff person with whom it works closely, such as an administrative officer or staff planner. Generally speaking, the only private session which is appropriate for a local land use board/commission is when an AMP goes into *deliberative session*, which is discussed below.

5. The Role of the Chair and the Public in Public Meetings

The Open Meeting law requires that “the public shall be given a reasonable opportunity to express its opinion on matters considered by the public body during the meeting so long as order is maintained.” However, the law also provides that “such public comment shall be subject to reasonable rules established by the chair.”⁸⁷ Note that the law protects both the public’s right to express its opinion and the chairperson’s right to establish reasonable rules and conduct an efficient and timely meeting.

It is up to the chairperson to strike this balance. This can be difficult unless the board has adopted some basic rules of procedure. The law does not explicitly require boards to adopt rules of procedure unless they function as an appropriate municipal panel and conduct development review. However, it is difficult to conduct effective meetings and enforce reasonable rules if they don’t exist. Simple questions such as, “How long does the public get to speak?” and “Can the public weigh in whenever they are inspired or must they first be recognized by the chair?” are difficult to answer without rules of procedure.

... the law protects both the public’s right to express its opinion and the chairperson’s right to establish reasonable rules and conduct an efficient and timely meeting.

While many boards adopt *Robert’s Rules of Order*, these rules were written for large legislative bodies such as town meetings and don’t fit well with the give and take that occurs on a small board. Unlike a large assembly, on small boards the motion is the last thing to emerge from the discussion, not the first. Adopting some simple rules can go a long way towards conducting efficient, productive meetings. A set of sample rules of procedure for appropriate municipal panels are available at www.vpic.info. This *Rules of Procedure and Ethics Manual* also contains a section on regular meetings, which could be adopted by boards that do not conduct development review, such as a planning commission or an advisory board.

Another effective tool is a well-crafted agenda, with specific times allocated for specific topics. Since many topics can be discussed ad infinitum, specific timeframes for discussion allow the chair to move the conversation along if a motion does not seem to be emerging.

Finally, it is worth exploring the role of the chair in the discussion and voting. Most boards have plenty of members who can advocate for a particular point of view or on behalf of a particular constituency. What can be hard to find is a person who can listen for the common ground, flesh out a motion, manage the agenda and move the discussion along either by calling for a vote or tabling the issue. Ideally, the

⁸⁶ 1 V.S.A. § 313.

⁸⁷ 1 V.S.A. § 312(h).

The Chair ... a person who can listen for the common ground, flesh out a motion, manage the agenda and move the discussion along either by calling for a vote or tabling the issue.

chairperson has those skills. While the rest of the members will generally tolerate a chairperson moving the discussion along and cutting off debate, they may not tolerate one person fulfilling the roles of both advocate and moderator. A good practice is for the chair to allow others to advocate so that the chair can focus on moderating and finding consensus. However, the chair should not refrain from voting or participating in the discussion if there is a point that others have failed to identify.

B. Conducting Effective Legislative Hearings

The process for adopting and amending legislative documents such as the municipal plan and land use regulations requires multiple hearings throughout the process. (See Chapter 5 for more information on the adoption and amendment process.) In addition, planning commissions and legislative bodies (selectboards, city councils and village trustees) may hold many events designed to gauge public opinion on a policy issue or solicit public participation in determining a course of action. Both of these events can be considered legislative hearings because the board has convened for the purpose of receiving public comment or input, either formally or informally. Whether mandatory or discretionary, legislative hearings may occur as part of a larger meeting, such as a regular selectboard meeting, or may be a freestanding public hearing on a particular topic, so long as proper public notice has been given.

1. Notice Requirements for Legislative Hearings

Public notice for mandatory hearings pertaining to adoption, amendment, and repeal of plans and bylaws must be given as follows:

- publication of the date, place and purpose of the hearing or hearings in a newspaper of general circulation;
- posting of the same in three or more public places, one of which must be in or near the municipal clerk's office; and
- publishing and posting either the full text or publishing and posting a statement of purpose, map or description of areas affected, table of contents and a description of where the full text is available or delivering the full text and notice provisions to each voter and owner of land.⁸⁸

Many times a municipality may choose to conduct additional legislative hearings and/or meetings beyond what is required by the statute in order to better inform the board's decision-making, encourage public participation, build consensus, etc. We believe the best practice for such discretionary hearings is to publicize the date, place, and purpose in a newspaper of general circulation, as well as in three or more public places, one of which must be near the municipal clerk's office. For any additional hearings for a plan or bylaw approval, the text or a map or description of where the text is available, should be published and posted as well.

2. The Role of the Chair and the Public in Legislative Hearings

Unlike a regular meeting of a public body - which must be conducted *in* the public - a legislative hearing is conducted both *in* the public and *for* the public. As such, these hearings are aptly named - the board is primarily there to listen. In formal hearings, rules of procedure continue to play a crucial role as the chairperson is still charged with conducting a timely proceeding and ensuring equitable distribution of time

⁸⁸ For more information on public notice requirements for mandatory legislative hearings, see 24 V.S.A. § 4444.

for participants to speak. Additional best practices for chairing a legislative hearing are as follows:

- Distribute copies of the rules of procedure and review relevant sections;
- Review or summarize the source document at the beginning of the hearing and take questions to help the public understand the goals behind the new document;
- Refrain from using the public hearing for board members to debate the merits of the document; and
- Encourage board members to ask questions of the public as necessary to inform their decision-making process.

3. Alternative Public Hearings

In addition to the more formal legislative hearings on a municipal plan or bylaw, many municipalities have had great success with alternative public hearings that are incorporated into a planning process. For example, a planning consultant might facilitate a collaborative session that brings landowners, developers, community members, experts, and other local officials together in one setting to develop a plan for a particular property in town. For more information on alternative public hearings, see Chapter 3: “Planning for a Vibrant Community.” Alternative public hearings should be noticed appropriately, at a minimum, satisfying the requirements of the Open Meeting law. If an alternative public hearing is being held on the adoption, amendment, or repeal of a municipal plan or bylaw, we recommend following the statutory notice procedures found in 24 V.S.A. § 4444 and listed above.

C. Conducting Effective Quasi-Judicial Hearings

Vermont law defines a quasi-judicial proceeding as “a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunity to present evidence and to cross-examine witnesses presented by other parties, which results in a written decision, the result of which is appealable by a party to a higher authority.”⁸⁹ The proceedings of an appropriate municipal panel - referred to in the statutes as a “hearing” - clearly fall within the definition of a quasi-judicial proceeding. For simplicity, we’ve used the term quasi-judicial hearing to distinguish from the legislative hearings discussed above.

Quasi-judicial hearings have many of the same features as court proceedings, though the rules governing quasi-judicial hearings are not as formal as those for courts. Rather than flow from statutes, many of the principles by which quasi-judicial boards must abide come from the U.S. and Vermont constitutions, as well as the case law that has interpreted them. The primary constitutional provision at issue is the Fourteenth Amendment to the U.S. Constitution, which states, “... no state shall deprive any person of life, liberty, or property, without due process of law ...” In the land use context, due process requires boards to give *adequate notice* and an *opportunity to be heard* to participants in the development review process.

Protecting due process is important because it’s a hallmark of the American judicial system that we should strive to respect. Boards that respect the rights of those who come before them will in turn be respected, and the public will have confidence in the integrity of the process. In addition, boards should protect due process because the failure to do so is a primary reason for participants to appeal the decision. Boards that ensure the protection of due process are less likely to see their decisions appealed.

Boards that respect the rights of those who come before them will in turn be respected, and the public will have confidence in the integrity of the process.

⁸⁹ 1 V.S.A. § 310(5)(B).

1. Notice Requirements for Quasi-Judicial Hearings

Chapter 117 divides quasi-judicial hearings into two categories: those requiring a higher degree of notice, and those requiring less notice. It is vital to comply with the notice requirements of the statute to maintain the legitimacy of the hearing process and to limit appeals based on inadequate notice.

Vermont law⁹⁰ requires a higher degree of notice for conditional use review, variances, zoning administrator appeals and requests for final subdivision review. To give adequate notice for these proceedings, at least 15 days prior to the hearing, the appropriate municipal panel (or the assistant to the AMP) must take the following steps.

Publish the date, place, and purpose of the hearing in a newspaper of general circulation in the municipality. Some legislative bodies have chosen a “newspaper of record” for the municipality in which all municipal notices will be published. This is not a legal requirement, but it can be helpful in providing notice to concerned citizens.

Post the same information in three or more public places within the municipality. At least one of these places must be located within view from the public right of way nearest to the subject property. Additionally, one of those places must be the municipal clerk’s office.

Send written notification to the applicant and to all adjoining property owners, including properties separated from the subject property by a right-of-way. (This includes driveways, trails, and even roads.) The notification must include a description of the proposed project, and must inform the recipient about where additional information may be obtained, and that participation in the proceeding is a prerequisite to the right to take any subsequent appeal. The statute does not specify exactly how this hearing notice is to be sent, therefore, sending it by regular mail is permissible. Public notice for all other types of development review, including site plan review, must be given not less than seven days prior to the hearing. The same posting and notification requirements apply as above, except that publication in a newspaper is not required.⁹¹

2. An Opportunity to Be Heard

In order to protect the “opportunity to be heard” quasi-judicial boards must consider the following.

Proceedings must be free from conflicts of interest, including financial relationships and relationships with family or friends.

Board members must not prejudge a matter or publicly express any opinions on a pending case.

Proceedings must be run in an orderly manner.

Those who deserve to participate must have the opportunity to do so.

Evidence may only be presented at open proceedings.

Board members may not speak with participants outside of the proceeding or prior to the commencement of a potential proceeding.

A board must issue a written decision which clearly shows the evidence it found to be true and believable, as well as the reasoning for making the decision.

... due process requires boards to give *adequate notice* and an *opportunity to be heard* to participants in the development review process.

In addition to respecting due process rights, quasi-judicial hearings must be conducted in the open and the public must be permitted to attend. However, unlike a legislative hearing, any member of the public *does not* have an automatic right to participate in the quasi-judicial hearing. Appropriate municipal panels can determine whether only interested persons, as defined by 24 V.S.A. § 4465(b), will be allowed to participate,

⁹⁰ 24 V.S.A. § 4464(a)(1).

⁹¹ 24 V.S.A. § 4464(a)(2).

or whether anyone who appears at the hearing will be allowed to participate. Most boards follow the latter approach, permitting anyone at the hearing to speak or submit written testimony, though some boards are moving towards a more complex process of determining interested person status at the outset of the proceedings.

Though quasi-judicial hearings are different in many ways from legislative hearings and meetings, appropriate municipal panels still must keep minutes of their hearings. These minutes should then be kept in the planning/zoning office or in the town clerk's office, as they are public records and should be made available to anyone who requests them.

Notwithstanding the requirement to keep minutes of the hearing, many AMPs will close the hearing and enter a deliberative session to make its decision. Note that quasi-judicial entities are not required to take minutes of their deliberations, and may allow the written decision to speak on their behalf.⁹² A discussion of deliberative session follows below in Section D.10.

D. Rules of Procedure and Ethics for AMPs

Vermont law requires appropriate municipal panels to adopt rules of procedure and ethics with respect to conflicts of interest.⁹³ As discussed above, rules of procedure are an invaluable tool to help your board run more efficiently. The Vermont Land Use Education and Training Collaborative has developed two sample rules of procedure in the *Rules of Procedure and Ethics Manual* termed “Rules of Procedure I” (Rules I) and “Rules of Procedure II” (Rules II). Both sets of rules are available online at www.vpic.info. The provisions in Rules I were designed for boards that hold less formal proceedings, where the chair handles administrative issues for the board, and where the board deliberates in public. Rules II provisions were designed for boards that hold more formal proceedings, utilize staff for administrative support and use a private deliberative session to conduct their deliberations. Of course, many boards fall somewhere in the middle and may wish to adapt these models to take advantage of the most appropriate features of each.

One of the most beneficial features a board can derive from rules of procedure is an order of business. This is essentially a skeleton script for the hearing. It details who speaks and in what order. This is important, because, whether a proceeding is a typical request for a site plan approval of a small business or a request for a 50,000 square foot retail facility, the boards will run their hearings in basically the same manner. This consistency demonstrates to the public that the board does not favor particular applicants or individuals, and that the rules are the same whether it's a small local business or an international corporation.

Rules of procedure should also deal with the administrative details that cannot be overlooked in the effective management of a board such as:

- alternate board members, and how alternates will be tapped to sit on cases;
- hearing formalities, such as swearing in speakers and the order of business;
- the role of the chair and his or her authority to run the proceedings;
- the role of the other officers of the board;
- how the board will document participation of attendees in accordance with state law;
- conflicts of interest;

Sample Rules of Procedure

Instructions on writing rules of procedure and the two samples referred to in this manual, *Rules I* and *Rules II*, are available online at www.vpic.info or from your regional planning commission.

⁹² 1 V.S.A. § 312(e).

⁹³ 24 V.S.A. § 4461(a).

- ex parte communication (inappropriate discussion about the case outside of hearings - further discussed below);
- voting and what constitutes a quorum; and
- anything else the board deems appropriate in its rules.

1. The Role of the Chair in Quasi-Judicial Proceedings

The board's rules should detail the role and function of the board chairperson. Traditional board protocol holds that the chair's job is to help the board navigate the issues while refraining from advocating a position. In the AMP context, this is only partially applicable. The chair must guide the board through the meeting and hearing context, but he or she also has full voting rights. Therefore, the chair should always vote on pending applications, and should never refrain from voting, unless the chair has recused him or herself from the proceeding for conflict of interest.

Many boards elect the most senior member as the chair. This may be appropriate, but consider that running a board effectively requires a board member to take an active leadership and managerial role. This skill may not parallel one's tenure on the board.

2. The Role of the Public in Quasi-Judicial Proceedings

It is important to remember that a municipal land use board exists to serve the public. The municipal government is a corporate entity that depends on the public faith invested in it by its citizens. The public must consider the government to be credible, or its ability to regulate, govern or take any action will be lost. Therefore, it is vital that the public's role at all stages of land use planning and regulation be considered and respected.

In the quasi-judicial hearing process, the public's role is necessarily more limited than it is during the planning process. While the public deserves a strong role in the planning process, a quasi-judicial hearing is defined by the parties present in the proceeding. These are the people whose interests are most directly affected by the outcome of the hearing, not necessarily the public at large.

Many AMPs determine that any member of the public should be allowed to speak. However, some boards decide that only persons who have a real and tangible interest in the proceedings are entitled to speak, present evidence and question others in the process. Either approach is fine, but it is important for the board to discuss the role of the public and make an affirmative choice, one way or the other, in its rules of procedure.

Boards that do not wish to limit participation (and, by extension, want to allow anyone to participate), should adopt Rules I. Boards that seek to limit participation to those who meet the statutory definition of an interested person should adopt Rules II.

3. The List of Interested Persons

In either case, Vermont law requires appropriate municipal panels to allow each person who wants to achieve interested person status an opportunity to do so and to keep a record of those who participated at the local level and what the participation was.⁹⁴ Participation may consist of either oral or written testimony that offers evidence of a statement of concern. When an appeal is filed, either the municipal clerk or the administrative officer⁹⁵ is required to supply a list of interested persons to the appellant within five days of the filing of the appeal of an AMP's decision.

⁹⁴ See 24 V.S.A. § 4461(b) for more information.

⁹⁵ See 24 V.S.A. § 4471(c) for more information. Either the clerk or zoning administrator must be designated in either the bylaws or rules of procedure to produce the list.

How a Conflict of Interest Policy can Help

Steve is a founding member of the planning commission and has served on the board for 15 years. He possesses much of the board's institutional knowledge and writes many of their decisions. The board only meets once a month, as there is little development pressure.

Steve is also one of two local surveyors in town. His professional expertise is very valuable to the board and is one of the reasons he was appointed. However, about twice a year, an applicant comes before the planning commission and proposes a subdivision plat that Steve has prepared for the applicant.

In the old days, Steve never recused himself, as he did not feel there was a conflict and nobody else did either. In recent years, however, other members have grown increasingly uncomfortable with the appearance of a conflict. Steve was a little offended that they would question his character, but he didn't say anything.

In response to the concerns, the board adopted a conflict of interest policy that requires members to disclose any conflicts. The policy has been in place for several months and appears to be working well. Under the new policy, Steve is required to disclose if one of his clients is appearing before the board. He isn't required to recuse himself, though he usually does just to keep the appearance of a conflict at bay.

To comply with all of these requirements, we recommend boards use a sign-in sheet to collect information about who attended a hearing, who spoke, who participated by submitting written documentation and what issues were discussed. Though in-person participation is preferable, boards must also accept written testimony. Keep in mind, however, that only those present at a hearing can be cross-examined by the other parties to a proceeding. Both sets of rules contain a model service list to assist with this documentation, which is available to be downloaded from www.vpic.info.

4. Managing Conflicts of Interest

Managing conflicts of interest is critical to maintaining the integrity of the development review process. Conflicts of interest fall into four categories:

Financial relationships that jeopardize the decision-maker's ability to make an unbiased decision;

Familial and friendly relationships that jeopardize the decision-maker's ability to make an unbiased decision;

Public expressions of bias or prejudgment of a case prior to hearing the evidence; and

Ex parte communications that harm the board member's ability to make a decision based on the evidence presented in the case.

Situations will undoubtedly arise that fall into one of these categories. How board members address conflicts will be the yardstick by which public confidence in the board will be measured. Adopting a conflict of interest policy is the best way to approach this issue. Board members will need to

examine the policy, learn about it and study it from time to time to refresh themselves. When potential conflicts arise, members will need to manage them under the guidelines laid out in the Rules. If the board deviates from the policy, it sets a poor example, one that says to the public that it's all right to change the rules once in awhile. Therefore, once the board adopts a policy, members must follow it. If members do not like certain provisions of the policy, it's fine to change, but such changes should not be done spontaneously, based on the facts of a particular situation.

In any policy, the two primary tools for managing conflicts are *disclosure* and *recusal*. Both sets of model rules address these items, which are discussed below.

5. Disclosure and Recusal

Powerful forces are at play in local development review proceedings, such as constitutional rights and individual and community values regarding private property and environmental protection. With these issues on the table, transparency is crucial for maintaining public trust. Disclosure of a conflict (or a potential conflict) is one of the best ways to achieve that goal of transparency. Under both sets of Rules, board members are required to disclose any real or perceived conflicts of interest or ex parte communication, and the chair is directed to ask for such disclosure at the beginning of each hearing.

After disclosing a real or perceived conflict, a member may either choose to recuse him or herself (see below) or may choose to continue in the proceeding, provided the member supplies a statement of why he or she is still able to act fairly, objectively and in the public interest. Whether to recuse oneself (or not) is an act taken by a board member of his or her own volition. Vermont law provides no authority for boards to require a member to recuse oneself. However, failure to recuse when circumstances suggest recusal is appropriate grounds for removal, as discussed below.

Disclosure of a conflict (or a potential conflict) is one of the best ways to achieve the transparency that is so crucial to maintaining public trust.

6. Removal of Board Members

As discussed in Chapter 3, zoning board of adjustment members and development review board members can be removed by the legislative body, but only for cause, after written notice and a public hearing.⁹⁶ The sample rules of procedure, Rules I, permits a board to request that the legislative body remove a member of the board. While the authority to remove is vested with the legislative body, the ZBA or DRB members are in the best position to observe behavior that provides cause for removal. For example, if a member fails to recuse him or herself from a proceeding in which he or she is clearly conflicted, the zoning board may, upon majority vote, request that the member be removed by the legislative body. A progressive disciplinary procedure is also an option and is presented in the sample rules of procedure, Rules II, to be used only for violations of the conflict of interest provisions. Rules I and II are available at www.vpic.info.

7. Ex Parte Communication

Being a member of a quasi-judicial board in a small town can be difficult. Individual members will inevitably interact with people who are applicants or interested persons in cases before the board, and they will want to ask about their case. Don't do it. It's simply inappropriate for members to talk to a party outside of a proceeding regarding a particular case. It's not fair to others involved in the case, because the person who talks with a board member at the general store might tell that board member a lot about the project that may not be true.

It is simply inappropriate for AMP members to talk to a party outside of a proceeding regarding a particular case.

Because no one else is there to question that person, it's possible that the member will believe that information and no one else will ever have an opportunity to question its veracity. This is an ex parte communication, meaning a conversation between someone hearing a case and a party outside of a warned public hearing. Such a conversation might violate the due process rights of others in the proceeding, and could be grounds for the Environmental Court to

⁹⁶ 24 V.S.A. § 4460(c).

reverse your board's decision. The sample rules of procedure require members to disclose any inadvertent ex parte communication, and indicate that failure to disclose could be cause to remove a member.

8. Deliberations and Decisions

Once the board has heard the evidence in a case, the board will need to deliberate on the evidence and come to a decision. Before the board arrives at a decision, members will need to choose how to deliberate: some deliberate in public, and some deliberate in private. Either method is acceptable under the law, but board members should consider which is appropriate for their community, memorialize it in the rules of procedure and follow it on a consistent basis.

9. Public Deliberations

Many land use boards in Vermont have chosen to deliberate in public. Such “public deliberations” are defined in the sample rules of procedure, Rules I, as the “weighing, examining, and discussing, in a public proceeding, the reasons for and against an act or decision, but expressly excludes the taking of evidence and the arguments of parties.”

Procedurally, the board enters a public deliberation when the chair of the board announces, “This is the close of the hearing. The board will now deliberate. You may stay and watch, but you do not have a right to participate. This is the board’s opportunity to deliberate and public comment is now closed.” The primary benefit of this public process is that it allows a window into the workings of the board. It shows the public that the board doesn’t act in secret and allows participants to see the process that boards use to arrive at a decision. The strength of this process is also its weakness. AMPs are comprised of human beings who make mistakes. These mistakes can compound because the board is now on a stage, and if it missteps, the public, and likely the media, are there to watch.

Each local board should weigh these concerns and decide what type of deliberative process is appropriate in their community.

10. Deliberative Session

In contrast to deliberating in public, many AMPs hear the evidence in a case, and then make a decision during a deliberative session. Appropriate municipal panels, like a jury in a court proceeding, are allowed to make their decisions in private if they wish. The reasoning behind this is to allow the decision to be made

The Open Meeting law specifically exempts quasi-judicial bodies from the requirement to deliberate in public.

without undue influence from the parties in the case. It allows a board member to make a decision more freely than if he or she were making eye contact with a party in the case. Additionally, a discussion is more likely to be free-flowing if there are no spectators present.

The Open Meeting law specifically exempts quasi-judicial bodies from the requirement to deliberate in public. “Nothing in this section⁹⁷ shall be construed as extending to the judicial branch of the government of

Vermont or of any part of the same or to the public service board; nor shall it extend to the deliberations of any public body in connection with a quasi-judicial proceeding ...”⁹⁸

Deliberative session is not defined in statute, but it is defined in the model rules as “a private session of the board to weigh, examine, and discuss the reasons for and against an act or decision, from which the public is excluded.” The privacy of deliberative session allows the board to freely discuss the evidence presented

⁹⁷ “This section” is the statute requiring meetings of public bodies to be open to the public.

⁹⁸ 1 V.S.A. § 312(e).

without undue pressure or influence from the applicant, interested persons, or the public at large.

Whether a board chooses to deliberate in a private, deliberative session, or chooses to conduct public deliberations depends on the preferences of the members, the nature of the application and the culture of the community. Above all else, it is the responsibility of the board members to fairly apply the bylaws to the application at hand.

Whether a board chooses to deliberate in a private, deliberative session, or chooses to conduct public deliberations depends on the preferences of the members, the nature of the application and the culture of the community.

11. Rules of Procedure and MAPA

Another option for rules of procedure is the Municipal Administrative Procedure Act. MAPA is a limited set of procedural rules delineated in state law. Adopting MAPA requires a board to formalize its proceedings to more effectively protect the rights of parties. Once a board has adopted MAPA, appeals of that board's hearings may be heard on the record. Additionally, Development Review Boards that adopt MAPA may be given the authority (by the legislative body or voters) to conduct local Act 250 review of municipal impacts. This transfers review authority from the regional district commission to the local development review board to make findings pursuant to criteria 6, 7 and 10 of Act 250, which pertain to the provision of educational and municipal services and conformance with the municipal plan.⁹⁹

If you consider adopting MAPA, a best practice would be to incorporate it into a more detailed set of rules, such as those discussed above, as MAPA contains only minimal guidance for many issues that boards will face, such as running an effective quasi-judicial hearing.

12. How to Craft a Legally Sustainable Decision

Drafting a strong decision can be one of the most difficult tasks for an appropriate municipal panel. Vermont law dictates the following basic requirements for land use decisions.

- Decisions must be issued in writing.
- Decisions must include a statement of the factual bases on which the AMP has made its conclusions.
- Decisions must provide a statement of the conclusions the AMP made in reaching its decision.¹⁰⁰

While these requirements are basic, they can be difficult for volunteer boards to meet. Municipalities that have chosen on the record review are subject to a higher standard in writing their decisions, something that can be difficult to accomplish. Sample decision templates can be found online at www.vpic.info. Additionally, it would be wise to occasionally work with your municipal attorney or other expert for a tune-up in writing effective decisions.

13. Drafting the Decision: Whose Job Is It?

Putting together a strong land use decision is no easy task. Frequently, this task is either delegated to staff or defaults to the chairperson. Some boards have emulated a practice of many supreme courts and other tribunals: the chairperson taps one member of the board to be the lead board member on the case, to take notes, research the relevant issues, and draft a decision. This is an excellent way to distribute a large workload. Some boards are lucky enough to have a staff person who takes minutes, handles administrative issues for the board and writes decisions.

⁹⁹ For more information, see 24 V.S.A. § 4420, 10 V.S.A., Chapter 151, § 6086(d).

¹⁰⁰ 24 V.S.A. § 4464(b)(1).

14. Decision-making Timelines

No matter who writes the board's decisions, the board must always abide by the strict 45-day timeline to issue the decision.¹⁰¹ The 45-day clock begins to run when the final public hearing (i.e., the evidentiary portion) in a case has been closed. Failure to meet this deadline could result in a decision being "deemed approved." This means that an applicant has the right to appeal to the Environmental Court to assert his or her right to deemed approval. It does not mean the applicant has the right to build his or her project without further inquiry.¹⁰²

Decisions must be sent by certified mail to the applicant and appellant on matters of appeal. Copies must also be mailed to every person or body appearing and having been heard, and a copy of the decision must be filed with administrative officer and the clerk.¹⁰³

¹⁰¹ *Id.*

¹⁰² *In re Ashline*, 2003 VT 30

¹⁰³ 24 V.S.A. § 4464(b)(3).

7

Conclusion

This manual was written to help all local land use officials understand the essential principles and practices of land use planning and regulation, with particular attention to the following points.

- All local officials have distinct roles to play in the process, and it is critical that the players respect the differences in their roles and responsibilities.
- A thorough municipal planning process is critical to a community's long-term vitality.
- Once the municipal plan is approved, it can be implemented through both regulatory and non-regulatory measures.
- State law provides prescriptive procedures for adoption, amendment, appeals and enforcement of plans and bylaws, all of which must be followed very closely.
- One of the most critical functions is to conduct effective meetings and hearings which involve the public in appropriate ways and protect the due process rights of parties.

By following these principles, local officials should experience reduced conflict in the land use planning and regulation arena.

As the state of Vermont continues to change, it will likely become increasingly important that local land use planning and regulation is administered in a manner that inspires public confidence in both the process and institutions involved.

Index

	Page
Accountability	12
Administrative officer (see <i>Zoning administrator</i>)	
Administrator, municipal	11
Advisory commission	13, 22
Appeals	3-4, 7, 9, 29, 31-34 , 40, 42, 46, 47, 46-48
Appropriate municipal panel (AMP)	5, 6-10 , 11, 16, 23-24, 33-34, 37, 41-47
Rules of procedure, ethics	41
Attorney, municipal	9, 11, 14, 31, 32, 34, 47
Bylaws (Regulations. See also <i>Zoning regulations</i> and <i>Subdivision</i>)	
Adoptions and amendment	29
Enforcement	30
Certificate of compliance	31
Clerk, municipal	12, 30
Community planning survey	16
Conflict of interest	43
Policy	44
Consultant	13
Decisions	46
Deliberations, public	45
Deliberative session	45
Development review board (DRB. See also <i>Appropriate Municipal Panel</i>)	6-8, 25, 31, 44, 46
Removing members	44
Dillon's Rule	3
Disclosure	43
Environmental Court	32-34, 44, 47
Appeal	33
Ex parte communication	42-45
Flood hazard regulations	27
Hearings	
Alternative public	39
Legislative	35, 38-40
Notice requirements	38
Role of chair	38
Role of public	39
Quasi-judicial	35, 39-43, 47
Conducting	39
Notice requirements	40
Land use planning	
Origins	1
Legal structure	3
Regulation in Vermont	2
Legislative body	8, 10-11 , 28-31, 33
Role in the appeals process	33
Limitations on authority	26
List of interested persons	42

Local planning	13, 14, 16-18
MAPA (see <i>Municipal Administrative Procedure Act</i>)	
Meetings	
Chair, role of	37
Conducting	35
Emergency	36
Executive session	37
Minutes	35
Regular	36
Special	36
Municipal land use	
Responsibilities	5
Municipal Administrative Procedure Act (MAPA)	34, 46
Municipal manager	11, 12
Municipal plan	5, 15-19 , 21-22, 28-29
Adoption and amendment	28
Municipal planning process	15
Non-regulatory implementation	21
Regulatory implementation	22
On the record review	33-34, 46
Open Meeting law	17, 35-37 , 39, 45
Opportunity to be heard	40
Planning	
Commission	5-6 , 13, 38
Goals	17-18
Planner, staff	10, 37
Provisions, required (Zoning)	26
Quasi-judicial proceedings	7, 39-43 , 45-47
Role of the chair	42
Role of the public	42
Recusal	43, 44
Regional planning commission (RPC)	13 , 17-19, 20, 30
Regional planning process	17-18, 19-20
Removal (of officials)	11
Selectboard (See also <i>Legislative Body</i>)	2, 5, 8-9, 10-11 , 28-29, 30-31, 37, 38
Subdivision	3, 7, 8, 11, 22, 25-26
Reviews (sketch plan, preliminary subdivision, final subdivision)	26
Timelines	47
Uses	
Conditional	7-8, 23-24 , 25, 40
Permitted	23 , 24-25
Variances	7, 24 , 28, 40
Waivers	25
Zoning administrator (ZA)	3, 5, 7, 8, 9-10 , 11-12, 16, 23-24, 31, 37, 40, 42, 47
Appeal of decision	28, 31-33
Zoning board of adjustment (ZBA. See also <i>Appropriate Municipal Panel</i>)	5, 6-8 , 31, 44
Removing members	44
Zoning regulations	21, 22-25 , 26-27

Timeline for Zoning Bylaws Redraft					
Day	Date	Time	Description	Responsible	Completed
July					
Tuesday	7/8/2025	5:00 PM	Members review regulations and come up with a list of priorities.		
Tuesday	7/22/2025	5:00 PM	Take lists of priorities and develop plan for redrafting regulations.		
August					
September					
October					
November					
December					
January					
February					
March					
April					