

1 S.64

2 Introduced by Senator Lyons

3 Referred to Committee on

4 Date:

5 Subject: Land use; historic downtown development; growth centers; appeals

6 Statement of purpose: This bill proposes to require that designated growth  
7 centers contain the characteristics specified by existing statute, rather than  
8 contain those characteristics substantially; to exclude from designated growth  
9 centers land that is unlikely to be developed within a 20-year period; and to  
10 provide for appeals of growth center designations to the environmental court.

11 An act relating to growth center designations and appeals of such  
12 designations

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 24 V.S.A. § 2791 is amended to read:

15 § 2791. DEFINITIONS

16 As used in this chapter:

17 \* \* \*

18 (12)(A) “Growth center” means an area of land that contains  
19 ~~substantially~~ the characteristics specified in subdivision (B) of this subdivision  
20 (12) and that is located in one or a combination of the following:

1                   (i) A designated downtown, village center, or new town center;  
2                   (ii) An area of land that is in or adjacent to a designated  
3                   downtown, village center, or new town center, with clearly defined boundaries  
4                   that have been approved by one or more municipalities in their municipal plans  
5                   to accommodate a majority of growth anticipated by the municipality or  
6                   municipalities over a 20-year period. Adjacent areas shall include those lands  
7                   which are contiguous to the designated downtown, village center, or new town  
8                   center. In situations where contiguity is precluded by natural or physical  
9                   constraints to growth center development, adjacent areas may include lands  
10                  lying close to and not widely separated from the majority of the lands within  
11                  the designated growth center. Noncontiguous land included as part of a growth  
12                  center must exhibit strong land use, economic, infrastructure, and  
13                  transportation relationships to the designated downtown, village center, or new  
14                  town center; be planned to function as a single, integrated growth center; and  
15                  be essential to accommodate a majority of growth anticipated by the  
16                  municipality or municipalities over a 20-year period.

17                  (B) A growth center contains ~~substantially~~ the following  
18                  characteristics:

19                         (i) It incorporates a mix of uses that typically include or have the  
20                         potential to include the following: retail, office, services, and other  
21                         commercial, civic, recreational, industrial, and residential uses, including

1 affordable housing and new residential neighborhoods, within a densely  
2 developed, compact area;

3 (ii) It incorporates existing or planned public spaces that promote  
4 social interaction, such as public parks, civic buildings (e.g., post office,  
5 municipal offices), community gardens, and other formal and informal places  
6 to gather.

7 (iii) It is organized around one or more central places or focal  
8 points, such as prominent buildings of civic, cultural, or spiritual significance  
9 or a village green, common, or square.

10 (iv) It promotes densities of land development that are  
11 significantly greater than existing and allowable densities in parts of the  
12 municipality that are outside a designated downtown, village center, growth  
13 center, or new town center, or, in the case of municipalities characterized  
14 predominately by areas of existing dense urban settlement, it encourages in-fill  
15 development and redevelopment of historically developed land.

16 (v) It is supported by existing or planned investments in  
17 infrastructure and encompasses a circulation system that is conducive to  
18 pedestrian and other nonvehicular traffic and that incorporates, accommodates,  
19 and supports the use of public transit systems.



1 (B) does not encompass an excessive area of land that would involve  
2 the unnecessary extension of infrastructure to service low-density  
3 development, or result in a scattered or low-density pattern of development at  
4 the conclusion of the 20 year planning period; and

5 (C) is not sized to include an amount of residential, commercial, or  
6 industrial land development that, based on growth projections for the  
7 municipality, is unlikely to occur within the growth center over the 20-year  
8 planning period;

9 \* \* \*

10 (e) Designation decision.

11 (1) Within 90 days of the receipt of a completed application, after  
12 providing notice as required in the case of a proposed municipal plan or  
13 amendment under subsection 4384(e) of this title, and after providing an  
14 opportunity for the public to be heard, the state board formally shall designate  
15 a growth center if the state board finds, in a written decision:

16 \* \* \*

17 (F) that the growth center:

18 (i) is of an appropriate size sufficient to accommodate a majority  
19 of the projected population and development over a 20-year planning period in  
20 a manner that is consistent with the definition under subdivision 2791(12) of  
21 this title, and that the growth center;



1 (c) This chapter shall govern all appeals arising under 24 V.S.A. chapter  
2 117, the planning and zoning chapter, and 24 V.S.A. § 2793c(e).

3 \* \* \*

4 Sec. 4. 10 V.S.A. § 8504 is amended to read:

5 § 8504. APPEALS TO THE ENVIRONMENTAL COURT

6 \* \* \*

7 (b) ~~Planning Appeals; planning and zoning chapter appeals; growth center~~  
8 designation decisions.

9 (1) Within 30 days of the date of the act or decision, an interested  
10 person, as defined in 24 V.S.A. § 4465, who has participated as defined in  
11 24 V.S.A. § 4471 in the municipal regulatory proceeding under ~~that~~ 24 V.S.A.  
12 chapter 117 may appeal to the environmental court an act or decision made  
13 under that chapter by a board of adjustment, a planning commission, or a  
14 development review board; provided, however, that decisions of a  
15 development review board under 24 V.S.A. § 4420 with respect to local  
16 Act 250 review of municipal impacts are not subject to appeal but shall serve  
17 as presumptions under chapter 151 of this title.

18 (2) Notwithstanding subdivision (1) of this subsection, an interested  
19 person may appeal an act or decision under 24 V.S.A. chapter 117 if the  
20 environmental judge determines that:

1 (A) there was a procedural defect which prevented the person from  
2 obtaining interested person status or participating in the proceeding;

3 (B) the decision being appealed is the grant or denial of interested  
4 person status; or

5 (C) some other condition exists which would result in manifest  
6 injustice if the person's right to appeal was disallowed.

7 (3) Within 30 days of the date of the act or decision, any person  
8 aggrieved by an act or decision of the Vermont downtown development board  
9 under 24 V.S.A. § 2793c(e) may appeal to the environmental court.

10 (c) Notice of the filing of an appeal.

11 \* \* \*

12 (4) In the case of an appeal from an act or decision of the Vermont  
13 downtown development board under 24 V.S.A. § 2793c(e), the appellant shall  
14 provide notice of the filing of an appeal to the following persons, if other than  
15 the appellant: the municipality the application of which for a growth center is  
16 the subject of the act or decision being appealed; the planning commission for  
17 that municipality; the regional planning commission in which that municipality  
18 is located; if the proposed growth center is located on a municipal boundary,  
19 any adjacent Vermont municipality and the municipal and regional planning  
20 commissions for that municipality; the Vermont downtown development  
21 board; and all persons on any mailing list of the Vermont downtown

1 development board for the decision involved. The Vermont downtown  
2 development board shall promptly notify each of its members of the filing of  
3 the notice of appeal. In addition, the appellant shall publish notice not more  
4 than 10 days after providing notice as required under this subdivision, at the  
5 appellant's expense, in a newspaper of general circulation in the area of the  
6 proposed growth center which is the subject of the decision.

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