

1 H.377

2 Introduced by Representatives Ralston of Middlebury, Botzow of Pownal,
3 Bouchard of Colchester, Carr of Brandon, Cross of Winooski,
4 Dickinson of St. Albans Town, Kitzmiller of Montpelier,
5 Kupersmith of South Burlington, Marcotte of Coventry,
6 Scheuermann of Stowe, and Young of Glover

7 Referred to Committee on

8 Date:

9 Subject: Municipal and county planning; historic downtown development;
10 land use; neighborhood planning and development areas

11 Statement of purpose of bill as introduced: This bill proposes to revise the
12 provisions of the historic downtown development chapter relating to program
13 goals, definitions, the Vermont Downtown Development Board section, and
14 downtown development and village center designations. The bill proposes to
15 replace the Vermont neighborhoods designation with a new section that
16 automatically delineates a study area, to be called a neighborhood planning
17 area, for municipalities with designated downtowns, village centers, new town
18 centers, or growth centers. Within the neighborhood planning area, the new
19 section allows municipalities to identify locations that the Board may designate
20 as neighborhood development areas that are suitable for residential
21 development and eligible for associated benefits.

1 An act relating to neighborhood planning and development for
2 municipalities with designated centers

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

4 Sec. 1. 24 V.S.A. § 2790 is amended to read:

5 § 2790. LEGISLATIVE POLICY AND PURPOSE

6 (a) The ~~general assembly~~ General Assembly finds that:

7 (1) ~~economically~~ Economically strong downtowns are critical to the
8 health and well-being of Vermont's communities; and that downtowns are the
9 natural location for both small businesses, ~~which represent the largest growth~~
10 ~~sector in Vermont's economy~~, and other uses that together constitute the
11 diverse fabric of communities that define Vermont's quality of life; ~~that~~
12 ~~downtowns enable residents and visitors to access services and business with~~
13 ~~minimal transportation needs, and thus benefit the environment. The general~~
14 ~~assembly further finds that downtowns represent a long term investment of~~
15 ~~public and private infrastructure, and that our scenic and historic downtowns~~
16 ~~are a natural attraction for tourists and contribute greatly to Vermont's overall~~
17 ~~quality of life. The general assembly further finds that a major factor inhibiting~~
18 ~~the vitality of downtown areas is lack of reasonable access to them by workers,~~
19 ~~residents and visitors, and that by this act it is the specific intent of the general~~
20 ~~assembly to improve access to downtown areas by providing assistance to~~
21 ~~municipalities for downtown transportation infrastructure, particularly parking~~
22 ~~facilities.~~

1 (2) Vermont's distinctive character of historic downtowns and villages
2 surrounded by working landscapes is recognized worldwide. This character
3 defines Vermont's image, economy, and sense of place as well as its
4 community spirit and identity, which are enjoyed by residents and visitors
5 alike. This distinctive character is among our most valuable assets, and
6 investing in its health is a critical component of the State's overall economic
7 well-being. The General Assembly recognizes the particular importance of
8 Vermont's downtowns as historic regional centers providing services and
9 amenities to nonresidents and further recognizes their need for targeted support
10 in avoiding continued loss of commercial and residential land use to the
11 surrounding area.

12 (3) Investments made to revitalize the State's historic downtowns and
13 village centers, to encourage pedestrian-oriented development within and
14 around the commercial core, and to build upon the State's traditional
15 settlement patterns support statewide goals concerning energy conservation,
16 the efficient use of transportation and other public infrastructure and services,
17 the protection of the working landscape, and the promotion of healthy
18 lifestyles.

19 (4) Strategies, programs, and investments that advance smart growth
20 principles today will result in the long-term fiscal, economic, and
21 environmental viability of the State.

1 (b) It is therefore the intent of the ~~general assembly, by this act, to preserve~~
2 ~~and encourage the development of downtown areas of municipalities of the~~
3 ~~state; to encourage public and private investment in infrastructure, housing,~~
4 ~~historic preservation, transportation including parking facilities, and human~~
5 ~~services in downtown areas; General Assembly to:~~

6 (1) support historic downtowns and villages by providing funding,
7 training, and resources to communities designated under this chapter, to
8 revitalize such communities and improve the efficient use of public
9 investments, including water and sewer systems, and to safeguard working
10 landscapes;

11 (2) improve the ability of Vermont's historic downtowns and villages to
12 attract residents and businesses by enhancing their livability and unique sense
13 of place; by expanding workers' access to employment, housing, education,
14 services, and other basic needs; and by expanding businesses' access to
15 markets;

16 (3) coordinate policies and leverage funding to support historic
17 downtowns and villages by removing barriers to collaboration among local
18 downtown organizations, municipal departments, local businesses, and local
19 nonprofit organizations and increasing accountability and effectiveness at all
20 levels of government to revitalize communities and plan for future growth;

1 (4) promote healthy, safe, and walkable downtown and village
2 neighborhoods for people of all ages and incomes by increasing investments in
3 those locations; providing energy efficient housing that is closer to jobs,
4 services, health care, stores, entertainment, and schools; and reducing the
5 combined cost of housing and transportation;

6 (5) encourage investment in mixed-use development and provide for
7 diverse housing options within walking distance of historic downtowns and
8 villages that reinforce Vermont's traditional settlement patterns and meet the
9 needs of community members of all social and economic groups;

10 (6) develop safe, reliable, and economical transportation options in
11 historic downtowns and villages to decrease household transportation costs,
12 promote energy independence, improve air quality, reduce greenhouse gas
13 emissions, and promote public health; and

14 (7) reflect Vermont's traditional settlement patterns, and to minimize or
15 avoid strip development or other unplanned development throughout the
16 countryside on quality farmland or important natural and cultural landscapes.

17 (c) ~~While it is the intent of the general assembly by this act to rehabilitate~~
18 ~~and preserve the vitality of historic downtown areas of the state, the general~~
19 ~~assembly also recognizes the equal importance of providing incentives to~~
20 ~~communities with no historic downtown areas in order to assist those~~
21 ~~communities to plan and develop their emerging downtowns. Accordingly, the~~

1 ~~commissioner of housing and community affairs is directed to consult with~~
2 ~~municipal officials in such communities and recommend to the general~~
3 ~~assembly on or before January 1, 1999 appropriate means and incentives to~~
4 ~~encourage the development and planning of emerging downtown centers which~~
5 ~~serve the purpose of a central district of the community and the center for~~
6 ~~socio-economic interaction, with a cohesive core of commercial and mixed use~~
7 ~~buildings, with appropriate density to minimize or avoid strip development.~~

8 (d) The ~~general assembly~~ General Assembly finds that Vermont's
9 communities face challenges as they seek to accommodate growth and
10 development while supporting the economic vitality of the ~~state's~~ State's
11 downtowns, village centers, and new town centers and maintaining the rural
12 character and working landscape of the surrounding countryside. While it is
13 the intention of the ~~general assembly~~ General Assembly to give the highest
14 priority to facilitating development and growth in downtowns and village
15 centers whenever feasible, when that is not feasible, the ~~general assembly~~
16 General Assembly further finds that:

17 (1) A large percentage of future growth should occur within duly
18 designated growth centers that have been planned by municipalities in
19 accordance with smart growth principles and Vermont's planning and
20 development goals pursuant to section 4302 of this title.

21 * * *

1 Sec. 2. 24 V.S.A. § 2791 is amended to read:

2 § 2791. DEFINITIONS

3 As used in this chapter:

4 * * *

5 (3) “Downtown” means the traditional central business district of a
6 community, that has served as ~~the center for a regional focus of~~
7 socio-economic interaction in the community, characterized by a cohesive core
8 of commercial and mixed-use buildings, often interspersed with civic,
9 religious, and ~~residential~~ industrial buildings and public spaces, typically
10 arranged along a main street and intersecting side streets that are within
11 walking distance for residents who live within and surrounding the core and
12 that are served by public infrastructure such as sidewalks and public transit.
13 Downtowns are typically larger in scale than village centers and are
14 characterized by a development pattern that is consistent with smart growth
15 principles.

16 * * *

17 (10) “Village center” means the core of a traditional ~~center of the~~
18 ~~community~~ settlement, typically comprised of a cohesive ~~core~~ mix of
19 ~~residential~~, civic, religious, ~~and~~ commercial, and mixed-use buildings,
20 arranged along a main street and intersecting streets that are within walking
21 distance for residents who live within and surrounding the core. Industrial uses

1 may be found within or immediately adjacent to these centers. Village centers
2 are typically smaller in scale than downtowns and are characterized by a
3 development pattern that is consistent with smart growth principles.

4 * * *

5 (16) “Neighborhood planning area” shall have the same meaning as
6 under section 2793e of this title.

7 (17) “Neighborhood development area” shall have the same meaning as
8 under section 2793e of this title.

9 (18) “Department” means the Vermont Department of Economic,
10 Housing and Community Development.

11 (19) “District coordinator” means a district environmental coordinator
12 attached to a district commission established under 10 V.S.A. chapter 151.

13 (20) “Infill” means the use of vacant land or property within a built-up
14 area for further construction or development.

15 Sec. 3. 24 V.S.A. § 2792 is amended to read:

16 § 2792. VERMONT DOWNTOWN DEVELOPMENT BOARD

17 (a) A ~~“Vermont downtown development board~~ Vermont Downtown
18 Development Board,” also referred to as the ~~“state board~~ State Board,” is
19 created to administer the provisions of this chapter. The ~~state board~~ State
20 Board shall be composed of the following members or their designees:

- 1 (1) the ~~secretary of commerce and community development~~ Secretary of
2 Commerce and Community Development;
- 3 (2) the ~~secretary of transportation~~ Secretary of Transportation;
- 4 (3) the ~~secretary of natural resources~~ Secretary of Natural Resources;
- 5 (4) the ~~commissioner of public safety~~ Commissioner of Public Safety;
- 6 (5) the ~~state historic preservation officer~~ State Historic Preservation
7 Officer;
- 8 (6) a person appointed by the ~~governor~~ Governor from a list of three
9 names submitted by the Vermont Natural Resources Council; and the
10 Preservation Trust of Vermont; ~~and Smart Growth Vermont~~;
- 11 (7) a person appointed by the ~~governor~~ Governor from a list of three
12 names submitted by the Association of Chamber Executives;
- 13 (8) three public members representative of local government, one of
14 whom shall be designated by the Vermont League of Cities and Towns, and
15 two shall be appointed by the ~~governor~~ Governor;
- 16 (9) a member of the ~~Vermont planners association~~ Vermont Planners
17 Association (VPA) designated by the ~~association~~ Association;
- 18 (10) the ~~chair~~ Chair of the ~~natural resources board~~ Natural Resources
19 Board or a representative of the ~~land use panel~~ Land Use Panel of the ~~natural~~
20 ~~resources board~~ Natural Resources Board designated by the ~~chair~~ Chair; and

1 (11) a representative of a regional planning commission designated by
2 the ~~Vermont association of regional planning and development agencies~~
3 Vermont Association of Planning and Development Agencies (VAPDA) and
4 an alternate representative designated by VAPDA to enable all applications to
5 be considered by a representative from a regional planning commission other
6 than the one of which the applicant municipality is a member. The alternate
7 designated by VAPDA may vote only when the designated representative does
8 not vote.

9 (b) ~~In addition to the permanent members appointed pursuant to subsection~~
10 ~~(a) of this section, there shall also be two regional members from each region~~
11 ~~of the state on the downtown development board; one shall be designated by~~
12 ~~the regional development corporation of the region and one shall be designated~~
13 ~~by the regional planning commission of the region. Regional members shall be~~
14 ~~nonvoting members and shall serve during consideration by the board of~~
15 ~~applications from their respective regions. Regional members designated to~~
16 ~~serve on the downtown development board under this section, may also serve~~
17 ~~as regional members of the Vermont economic progress council established~~
18 ~~under 32 V.S.A. § 5930a. [Repealed.]~~

19 (c) The ~~state board~~ State Board shall elect its a chair and vice chair from
20 among its membership.

1 (d) ~~The department of economic, housing, and community development~~
2 Department shall provide staff and administrative support to the ~~state board~~
3 State Board and shall produce guidelines to direct municipalities seeking to
4 obtain designation under this chapter.

5 (e) ~~On or before January 1, 1999, the state board shall report to the general~~
6 ~~assembly on the progress of the downtown development program. [Repealed.]~~

7 (f) [Deleted.]

8 Sec. 4. 24 V.S.A. § 2793 is amended to read:

9 § 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

10 (a) A municipality, by its legislative body, may apply to the ~~state board~~
11 State Board for designation of a downtown area within that municipality as a
12 downtown development district.

13 (1) For applications filed on and after July 1, 2014, the intention to
14 apply for designation under this section shall be included in the plan of the
15 municipality, and the plan shall explain how the designation would further the
16 plan's goals.

17 (2) A preapplication meeting shall be held with Department staff to
18 review the program requirements and to preliminarily identify possible
19 designation boundaries.

20 (3) An application by a municipality shall contain a map that accurately
21 delineates the district. The application shall also include evidence that the

1 regional planning commission and the regional development corporation have
2 been notified of the municipality's intent to apply, evidence that the
3 municipality has published notice of its application in a local newspaper of
4 general circulation within the municipality, and information showing that the
5 district meets the standards for designation established in subsection (b) of this
6 section. Upon receipt of an application, the ~~state board~~ State Board shall
7 provide written notice of the application to the ~~natural resources board~~ Natural
8 Resources Board. The ~~natural resources board~~ Natural Resources Board and
9 interested persons shall have 15 days after notice to submit written comments
10 regarding the application before the ~~state board~~ State Board issues a written
11 decision that demonstrates the applicant's compliance with the requirements of
12 this chapter.

13 (b) Within 45 days of receipt of a completed application, the ~~state board~~
14 State Board shall designate a downtown development district if the ~~state board~~
15 State Board finds, in its written decision, that the municipality has:

16 (1) demonstrated a ~~planning~~ commitment to protect and enhance the
17 historic character of the downtown through the adoption of a design review
18 district, an historic district, or through the creation of a development review
19 board authorized to undertake local Act 250 reviews of municipal impacts
20 pursuant to section 4420 of this title;

1 (2) provided a community reinvestment agreement that has been
2 executed by the authorized representatives of the municipal government,
3 business and property owners within the district, and community groups with
4 an articulated purpose of supporting downtown interests, and that contains the
5 following provisions:

6 (A) a delineation of the area that meets the requirements set forth in
7 subdivision 2791(3) of this title and that is part of or contains a district that is
8 listed or eligible for listing on the National Register of Historic Places pursuant
9 to 16 U.S.C. § 470a;

10 (B) a capital ~~improvement plan~~ budget and program pursuant to
11 section 4430 of this title to improve or preserve public infrastructure within the
12 district, including facilities for public transit, parking, pedestrian amenities,
13 lighting, and public space;

14 (C) a source of funding and resources necessary to fulfill the
15 community reinvestment agreement, demonstrated by a commitment by the
16 legislative body of the municipality to implement at least one of the following:

17 (i) a special assessment district created to provide funding to the
18 downtown district;

19 (ii) authority to enter into a tax stabilization agreement for the
20 purposes of economic development in a downtown district;

1 (iii) a commitment to implement a tax incremental financing
2 district pursuant to subchapter 5 of chapter 53 of this title; or

3 (iv) other multiple-year financial commitments among the parties
4 subject to the approval of the ~~state board~~ State Board;

5 (D) an organizational structure necessary to sustain a comprehensive
6 long-term downtown revitalization effort, including a local downtown
7 organization as defined under subdivision 2791(5) of this title that will
8 collaborate with municipal departments, local businesses, and local nonprofit
9 organizations;

10 (i) to enhance the physical appearance of the downtown district by
11 implementing local policies that promote the use and rehabilitation of historic
12 buildings, by developing pedestrian-oriented design requirements, by
13 encouraging new development and infill that satisfy such design requirements,
14 and by supporting long-term planning that is consistent with the goals set forth
15 in section 4302 of this title;

16 (ii) to build consensus and cooperation among the many groups
17 and individuals who have a role in the planning, development, and
18 revitalization process;

19 (iii) to market the assets of the downtown district to customers,
20 potential investors, new businesses, local citizens, and visitors;

1 (iv) to strengthen and diversify the existing economic base within
2 the downtown district;

3 (v) to recognize and incorporate the map of the designated
4 downtown district into the next update of the municipal plan; and

5 (vi) to measure progress and achievements of the revitalization
6 efforts;

7 (E) evidence that any private or municipal sewage system and private
8 or public water supply serving the proposed downtown district is in
9 compliance with the requirements of 10 V.S.A. chapters 47 and 56; and ~~that~~
10 ~~the municipality has dedicated a portion of any unallocated reserve capacity of~~
11 ~~the sewage and public water supply for growth within the proposed downtown~~
12 ~~district~~ adequately demonstrated an intent to reserve sufficient wastewater and
13 water allocations to serve the future needs of the designated areas. Any
14 municipality proposing a municipal sewage system and public water supply to
15 serve the proposed downtown district shall provide evidence to the ~~state board~~
16 State Board of a commitment to construct or maintain such a system and
17 supply in compliance with requirements of 10 V.S.A. chapters 47 and 56, or a
18 commitment to construct, as applicable, a permittable potable water supply,
19 wastewater system, indirect discharge, or public water supply within no more
20 than ten years. A commitment to construct does not relieve the property
21 owners in the district from meeting ~~the~~ any applicable ~~regulations of the~~

1 ~~agency of natural resources statute, rule, or bylaw~~ regarding wastewater
2 systems, potable water supplies, public water supplies, indirect discharges, and
3 the subdivision of land. ~~In the event that a municipality fails in its commitment~~
4 ~~to construct a municipal sewage system and public water supply, the state~~
5 ~~board shall revoke designation, unless the municipality demonstrates to the~~
6 ~~state board that all good faith efforts were made and continue to be made to~~
7 ~~obtain the required approvals and permits from the agency of natural resources,~~
8 ~~and failure to construct was due to unavailability of state or federal matching~~
9 ~~loan funds;~~

10 (3) a planning process confirmed under section 4350 of this title.

11 (c) ~~The state board~~ State Board shall review a community's designation
12 every five years and may review compliance with the designation requirements
13 at more frequent intervals. On and after July 1, 2014, any community applying
14 for renewal shall explain how the designation under this section has furthered
15 the goals of the town plan and shall submit an approved town plan map that
16 depicts the boundary of the designated district. If at any time the ~~state board~~
17 State Board determines that the downtown development district no longer
18 meets the standards for designation established in subsection (b) of this
19 section, it may take any of the following actions:

20 (1) ~~Require~~ require corrective action;

1 (2) ~~Provide~~ provide technical assistance through the ~~Vermont downtown~~
2 ~~program~~ Vermont Downtown Program;

3 (3) ~~Limit~~ limit eligibility for the benefits established in section 2794 of
4 this chapter without affecting any of the district's previously awarded
5 benefits; or

6 (4) ~~Remove~~ remove the district's designation without affecting any of
7 the district's previously awarded benefits.

8 Sec. 5. 24 V.S.A. § 2793a is amended to read:

9 § 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

10 (a) A town that has a duly adopted and approved plan and a planning
11 process that is confirmed in accordance with section 4350 of this title may
12 apply to the ~~state board~~ State Board for designation of one or more of its
13 village centers. If an incorporated village of a town has an approved municipal
14 plan and a planning process independently confirmed in accordance with
15 section 4350 of this title, the incorporated village shall be the applicant for
16 designation of its village center.

17 (1) For applications filed on and after July 1, 2014, the intention to
18 apply for designation under this section shall be included in the plan of the
19 municipality, and the plan shall explain how the designation would further the
20 plan's goals.

1 (3) On and after July 1, 2013, when the State Board reviews a Vermont
2 neighborhood designated under this section either for purposes of renewal or
3 on its motion, the State Board shall apply the requirements of section 2793e of
4 this title. If the Board finds that those requirements are met, the Vermont
5 neighborhood shall be redesignated as a neighborhood development area under
6 section 2793e of this title. If the Board does not find that those requirements
7 are met, the area shall have no designation under this section or section 2793e
8 of this title.

9 Sec. 7. PROSPECTIVE REPEAL

10 24 V.S.A. §§ 2791(15) (definitions; Vermont neighborhood) and 2793d
11 (designation of Vermont neighborhoods) shall be repealed on July 1, 2018. On
12 such repeal, the Office of Legislative Council, in its statutory revision capacity
13 under 2 V.S.A. § 424, shall be authorized to remove references in the statutes
14 to Vermont neighborhoods designated under 24 V.S.A. § 2793d and replace
15 them, as appropriate, with references to neighborhood development areas
16 designated under 24 V.S.A. § 2793e.

17 Sec. 8. 24 V.S.A. § 2793e is added to read:

18 § 2793e. NEIGHBORHOOD PLANNING AREAS; DESIGNATION OF
19 NEIGHBORHOOD DEVELOPMENT AREAS

20 (a) Purpose. This section is intended to encourage a municipality to plan
21 for new and infill housing in the area including and immediately encircling its

1 designated downtown, village center, new town center, or within its designated
2 growth center in order to provide needed housing and to further support the
3 commercial establishments in the designated center. To support this goal, this
4 section sets out a two-component process.

5 (1) The first component is the automatic delineation of a study area,
6 defined in this section as a neighborhood planning area, that includes and
7 encircles a municipality's designated downtown, village center, or new town
8 center or, in the case of a designated growth center, is within the designated
9 center. The process established by this section allows a municipality with a
10 designated center to identify those locations within a neighborhood planning
11 area that are suitable for residential development.

12 (2) The second component is the application by a municipality for the
13 designation of locations within this study area as neighborhood development
14 areas that are suitable for residential development and will receive the benefits
15 provided by this section.

16 (3) The Department shall provide municipalities with designated
17 downtowns, village centers, new town centers, and growth centers with grants,
18 as they become available, and technical assistance to help such municipalities
19 apply for and receive neighborhood development area designations.

20 (b) Definitions.

1 (1) “Neighborhood planning area” means an automatically delineated
2 area including and encircling a downtown, village center, or new town center
3 designated under this chapter or within a growth center designated under this
4 chapter. A neighborhood planning area is used for the purpose of identifying
5 locations suitable for new and infill housing that will support a development
6 pattern that is compact, oriented to pedestrians, and consistent with smart
7 growth principles. To ensure a compact settlement pattern, the outer boundary
8 of a neighborhood planning area shall be determined:

9 (A) for a municipality with a designated downtown, by measuring
10 out a half mile from each point around the entire perimeter of the designated
11 downtown boundary;

12 (B) for a municipality with one or more designated village centers, by
13 measuring out a quarter mile from each point around the entire perimeter of the
14 designated village center boundary;

15 (C) for a municipality with a designated new town center, by
16 measuring out a quarter mile from each point around the entire perimeter of the
17 designated new town center boundary; and

18 (D) for a municipality with a designated growth center, as the same
19 boundary as the designated growth center boundary.

20 (2) “Neighborhood development area” means a location within a
21 neighborhood planning area that is suitable for new and infill housing and that

1 has been approved by the State Board for designation under this section and
2 associated benefits.

3 (c) Application for designation of a neighborhood development area. The
4 State Board shall not approve a neighborhood development area unless it
5 determines that the application demonstrates and includes all of the following
6 elements:

7 (1) The municipality has a duly adopted and approved plan and a
8 planning process that is confirmed in accordance with section 4350 of this title
9 and has adopted zoning bylaws and subdivision regulations in accordance with
10 sections 4414, 4418, and 4442 of this title.

11 (2) A preapplication meeting with Department staff was held to review
12 the program requirements and to preliminarily identify possible neighborhood
13 development areas.

14 (3) The proposed neighborhood development area is within a
15 neighborhood planning area or such extension of the planning area as may be
16 approved under subsection (d) of this section.

17 (4) The proposed neighborhood development area consists of those
18 portions of the neighborhood planning area that are generally within walking
19 distance from the municipality's downtown, village center, or new town center
20 designated under this chapter or from locations within the municipality's

1 growth center designated under this chapter that are approved for dense
2 development.

3 (5) The proposed neighborhood development area consists of those
4 portions of the neighborhood planning area that are appropriate for new and
5 infill housing. Areas appropriate for new and infill housing shall not include
6 flood hazard areas and fluvial erosion areas that are identified on the river
7 corridor maps provided by the Secretary of Natural Resources pursuant to 10
8 V.S.A. § 1428(a) or identified on maps recommended by the Secretary.

9 (6) The neighborhood development area is served by:

10 (A) municipal sewer infrastructure; or

11 (B) a community or alternative wastewater system approved by the
12 Agency of Natural Resources.

13 (7) The municipal bylaws require minimum net residential densities
14 within the neighborhood development area greater than or equal to four
15 single-family detached dwelling units per acre, exclusive of accessory dwelling
16 units, or no fewer than the average existing density of the surrounding
17 neighborhood, whichever is greater.

18 (A) Regulations that adequately regulate the physical form and scale
19 of development may be used to demonstrate compliance with this requirement.

20 (B) Development in the neighborhood development areas that is
21 lower than the minimum net residential density required by this subdivision (7)

1 shall not qualify for the benefits stated in subsections (f) and (g) of this section.
2 The district coordinator shall determine whether development meets this
3 minimum net residential density requirement in accordance with subsection (f)
4 of this section.

5 (8) Local bylaws applicable to the neighborhood development area
6 substantially conform with neighborhood design guidelines developed by the
7 Department pursuant to section 2792 of this title. These policies shall:

8 (A) Ensure that all investments contribute to a built environment that
9 enhances the existing neighborhood character and supports pedestrian use;

10 (B) ensure sufficient residential density and building heights;

11 (C) minimize the required lot sizes, setbacks, and parking and street
12 widths; and

13 (D) require conformance with “complete streets” principles as
14 described under 19 V.S.A. § 309d, street and pedestrian connectivity, and
15 street trees.

16 (9) Residents hold a right to utilize household energy conserving
17 devices.

18 (10) The application includes a map or maps that, at a minimum,
19 identify:

20 (A) “important natural resources” as defined in 24 V.S.A.
21 § 2791(14);

1 (B) existing slopes of 25 percent or steeper;

2 (C) public facilities, including public buildings, public spaces, sewer
3 or water services, roads, sidewalks, paths, transit, parking areas, parks, and
4 schools;

5 (D) planned public facilities, roads, or private development that is
6 permitted but not built;

7 (E) National Register Historic Districts, national or state register
8 historic sites, and other significant cultural and natural resources identified by
9 local or state government;

10 (F) designated downtown, village center, new town center, or growth
11 center boundaries as approved under this chapter and their associated
12 neighborhood planning area in accordance with this section; and

13 (G) delineated areas of land appropriate for residential development
14 and redevelopment.

15 (11) The application explains the treatment in the municipal bylaws of
16 “important natural resources” as defined in 24 V.S.A. § 2791(14) and existing
17 slopes of 25 percent or steeper.

18 (12) The application includes the information and analysis required by
19 the Department’s guidelines under section 2792 of this title.

20 (d) Designation process. Within 45 days of receipt of a complete
21 application for designation of a neighborhood development area, the State

1 Board, after opportunity for public comment, shall approve a neighborhood
2 development area if the Board determines that the applicant has met the
3 requirements of this section.

4 (1) When approving a neighborhood development area, the State Board
5 may change the boundaries of the proposed area.

6 (2) A neighborhood development area may include one or more areas of
7 land extending beyond the delineated neighborhood planning area, provided
8 that the members of the State Board unanimously find that:

9 (A) including the extended area beyond the neighborhood planning
10 area is consistent with the goals of section 4302 of this title;

11 (B) residential development opportunities within the neighborhood
12 planning area are limited due to natural constraints and existing development;

13 (C) the extended area represents a logical extension of an existing
14 compact settlement pattern and is consistent with smart growth principles; and

15 (D) the extended area is adjacent to existing development.

16 (e) Length of designation. Initial designation of a neighborhood
17 development area shall be for a period of five years, after which the State
18 Board shall review a neighborhood development area concurrently with the
19 next periodic review conducted of the underlying designated downtown,
20 village center, new town center, or growth center.

1 (1) The State Board, on its motion, may review compliance with the
2 designation requirements at more frequent intervals.

3 (2) If the underlying downtown, village center, new town center, or
4 growth center designation terminates, the neighborhood development area
5 designation also shall terminate.

6 (3) If at any time the State Board determines that the designated
7 neighborhood development area no longer meets the standards for designation
8 established in this section, it may take any of the following actions:

9 (A) require corrective action within a reasonable time frame;

10 (B) remove the neighborhood development area designation; or

11 (C) prospectively limit benefits authorized in this chapter,

12 (4) Action taken by the State Board under subdivision (3) of this
13 subsection shall not affect benefits already received by the municipality or a
14 land owner in the designated neighborhood development area.

15 (f) Neighborhood development area incentives for developers. Once a
16 municipality has a designated neighborhood development area or has a
17 Vermont neighborhood designation pursuant to 24 V.S.A. § 2793d, any
18 proposed development within that area shall be eligible for each of the benefits
19 listed in this subsection. These benefits shall accrue upon approval by the
20 district coordinator, who shall review the density requirements set forth in
21 subsection (c)(7) of this section to determine benefit eligibility and issue a

1 jurisdictional opinion under 10 V.S.A. chapter 151 on whether the density
2 requirements are met. These benefits are:

3 (1) The application fee limit for wastewater applications stated in 3
4 V.S.A. § 2822(j)(4)(D).

5 (2) The application fee reduction for residential development stated in
6 10 V.S.A. § 6083a(d).

7 (3) The exclusion from the land gains tax provided by 32 V.S.A.
8 § 10002(p).

9 (g) Neighborhood development area incentives for municipalities. Once a
10 municipality has a designated neighborhood development area, it may receive:

11 (1) priority consideration for municipal planning grant funds; and

12 (2) training and technical assistance from the Department to support an
13 application for benefits from the Department.

14 (h) Alternative designation. If a municipality has completed all of the
15 planning and assessment steps of this section but has not requested designation
16 of a neighborhood development area, an owner of land within a neighborhood
17 planning area may apply to the State Board for neighborhood development
18 area designation status for a portion of land within the neighborhood planning
19 area. The applicant shall have the responsibility to demonstrate that all of the
20 requirements for a neighborhood development area designation have been
21 satisfied. On grant of neighborhood development area designation under this

1 subsection, the applicant may proceed to obtain a jurisdictional opinion from
2 the district coordinator under subsection (f) of this section in order to obtain
3 the benefits granted to neighborhood development areas.

4 Sec. 9. 24 V.S.A. § 2798 is added to read:

5 § 2798. DESIGNATION DECISIONS; NONAPPEAL

6 The designation decisions of the State Board under this chapter are not
7 subject to appeal.

8 Sec. 10. 3 V.S.A. § 2822(j)(4)(D) is amended to read:

9 (D) Notwithstanding the other provisions of this subdivision, when a
10 project is located in a Vermont neighborhood or neighborhood development
11 area, as designated under 24 V.S.A. chapter 76A, the fee shall be no more than
12 \$50.00 in situations in which the application has received an allocation for
13 sewer capacity from an approved municipal system. This limitation shall not
14 apply in the case of fees charged as part of a duly delegated municipal
15 program.

16 Sec. 11. 10 V.S.A. § 6001 is amended to read:

17 § 6001. DEFINITIONS

18 When used in this chapter:

19 * * *

20 (3)(A) "Development" means:

21 * * *

1 (B)(i) Smart Growth Jurisdictional Thresholds. Notwithstanding the
2 provisions of subdivision (3)(A) of this section, if a project consists
3 exclusively of ~~any combination of~~ mixed income housing or mixed use, or any
4 combination thereof, and is located entirely within a growth center designated
5 pursuant to 24 V.S.A. 2793c or entirely within a downtown development
6 district designated pursuant to 24 V.S.A. § 2793, “development” means:

7 (I) Construction of mixed income housing with 200 or more
8 housing units or a mixed use project with 200 or more housing units, in a
9 municipality with a population of 15,000 or more.

10 (II) Construction of mixed income housing with 100 or more
11 housing units or a mixed use project with 100 or more housing units, in a
12 municipality with a population of 10,000 or more but less than 15,000.

13 (III) Construction of mixed income housing with 50 or more
14 housing units or a mixed use project with 50 or more housing units, in a
15 municipality with a population of 6,000 or more and less than 10,000.

16 (IV) Construction of mixed income housing with 30 or more
17 housing units or a mixed use project with 30 or more housing units, in a
18 municipality with a population of 3,000 or more but less than 6,000.

19 (V) Construction of mixed income housing with 25 or more
20 housing units or a mixed use project with 25 or more housing units, in a
21 municipality with a population of less than 3,000.

1 (VI) Historic Buildings. Construction of 10 or more units of
2 mixed income housing or a mixed use project with 10 or more housing units
3 where the construction involves the demolition of one or more buildings that
4 are listed on or eligible to be listed on the ~~state or national register of historic~~
5 ~~places~~ State or National Register of Historic Places. However, demolition
6 shall not be considered to create jurisdiction under this subdivision if the
7 ~~division for historic preservation~~ Division for Historic Preservation has
8 determined the proposed demolition will have: no adverse effect; no adverse
9 effect provided that specified conditions are met; or, will have an adverse
10 effect, but that adverse effect will be adequately mitigated. Any imposed
11 conditions shall be enforceable through a grant condition, deed covenant, or
12 other legally binding document.

13 (ii) Mixed Income Housing Jurisdictional Thresholds.
14 Notwithstanding the provisions of subdivision (3)(A) of this section, if a
15 project consists exclusively of mixed income housing and is located entirely
16 within a Vermont neighborhood, ~~but outside a growth center designated~~
17 ~~pursuant to 24 V.S.A. § 2793c and outside a downtown development district~~
18 ~~designated pursuant to 24 V.S.A. § 2793~~ designated pursuant to 24 V.S.A.
19 § 2793d or a neighborhood development area as defined in 24 V.S.A.
20 § 2791(16), “development” means:

1 (I) Construction of mixed income housing with 200 or more
2 housing units, in a municipality with a population of 15,000 or more.

3 (II) Construction of mixed income housing with 100 or more
4 housing units, in a municipality with a population of 10,000 or more but less
5 than 15,000.

6 (III) Construction of mixed income housing with 50 or more
7 housing units, in a municipality with a population of 6,000 or more and less
8 than 10,000.

9 (IV) Construction of mixed income housing with 30 or more
10 housing units, in a municipality with a population of 3,000 or more but less
11 than 6,000.

12 (V) Construction of mixed income housing with 25 or more
13 housing units, in a municipality with a population of less than 3,000.

14 (VI) Historic Buildings. Construction of 10 or more units of
15 mixed income housing where the construction involves the demolition of one
16 or more buildings that are listed on or eligible to be listed on the ~~state or~~
17 ~~national register of historic places~~ State or National Register of Historic Places.

18 However, demolition shall not be considered to create jurisdiction under this
19 subdivision if the ~~division for historic preservation~~ Division for Historic
20 Preservation has determined the proposed demolition will have: no adverse
21 effect; no adverse effect provided that specified conditions are met; or will

1 have an adverse effect, but that adverse effect will be adequately mitigated.
2 Any imposed conditions shall be enforceable through a grant condition, deed
3 covenant, or other legally binding document.

4 (C) For the purposes of determining jurisdiction under subdivisions
5 (3)(A) and (3)(B) of this section, the following shall apply:

6 (i) Incentive for Growth Inside Designated Areas.

7 Notwithstanding subdivision (3)(A)(iv) of this section, housing units
8 constructed by a person partially or completely outside a designated downtown
9 development district, designated growth center, ~~or~~ designated Vermont
10 neighborhood, or designated neighborhood development area shall not be
11 counted to determine jurisdiction over housing units constructed by that person
12 entirely within a designated downtown development district, designated
13 growth center, ~~or~~ designated Vermont neighborhood, or designated
14 neighborhood development area.

15 (ii) Five-Year, Five-Mile Radius Jurisdiction Analysis. Within
16 any continuous period of five years, housing units constructed by a person
17 entirely within a designated downtown district, designated growth center, ~~or~~
18 designated Vermont neighborhood, or designated neighborhood development
19 area shall be counted together with housing units constructed by that person
20 partially or completely outside a designated downtown development district,
21 designated growth center, ~~or~~ designated Vermont neighborhood, or designated

1 neighborhood development area to determine jurisdiction over the housing
2 units constructed by a person partially or completely outside the designated
3 downtown development district, designated growth center, ~~or~~ designated
4 Vermont neighborhood, or designated neighborhood development area and
5 within a five-mile radius in accordance with subdivision (3)(A)(iv) of this
6 section.

7 (iii) Discrete Housing Projects in Designated Areas and Exclusive
8 Counting for Housing Units. Notwithstanding subdivisions (3)(A)(iv) and (19)
9 of this section, jurisdiction shall be determined exclusively by counting
10 housing units constructed by a person within a designated downtown
11 development district, designated growth center, ~~or~~ designated Vermont
12 neighborhood, or designated neighborhood development area, provided that
13 the housing units are part of a discrete project located on a single tract or
14 multiple contiguous tracts of land.

15 * * *

16 Sec. 12. 10 V.S.A. § 6083a is amended to read:

17 § 6083a. ACT 250 FEES

18 * * *

19 (d) ~~Vermont Neighborhood Fees~~ Neighborhood development area fees.
20 Fees for residential development in a Vermont neighborhood or neighborhood
21 development area designated according to ~~24 V.S.A. § 2793d~~ 24 V.S.A.

1 developers, and representatives from the manufacturing, business, housing,
2 historic preservation, agricultural, silviculture, and planning communities in its
3 process to develop legislative and policy recommendations and proposed
4 statutory revisions to make the Program more efficient and effective. The
5 Department will report its findings, legislative and policy recommendations,
6 and proposed statutory revisions to the General Assembly on or before
7 December 15, 2013.

8 Sec. 15. EFFECTIVE DATE

9 This section and Sec. 14 (review of the growth center program) shall take
10 effect on passage. The remaining sections of this act shall take effect on
11 July 1, 2013.