H.377

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

Referred to Committee on

Date:

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

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

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

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

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

§ 2790. LEGISLATIVE POLICY AND PURPOSE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * *

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

§ 2791. DEFINITIONS

As used in this chapter:

* * *

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

* * *

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

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

* * *

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

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

(18) "Department" means the Vermont Department of Economic, Housing and Community Development.

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

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

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

§ 2792. VERMONT DOWNTOWN DEVELOPMENT BOARD

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

~~(1) the secretary of commerce and community development~~ Secretary of Commerce and Community Development;

(2) the ~~secretary of transportation~~ Secretary of Transportation;

(3) the ~~secretary of natural resources~~ Secretary of Natural Resources;

(4) the ~~commissioner of public safety~~ Commissioner of Public Safety;

(5) the ~~state historic preservation officer~~ State Historic Preservation Officer;

(6) a person appointed by the ~~governor~~ Governor from a list of three names submitted by the Vermont Natural Resources Council~~,~~ and the Preservation Trust of Vermont~~, and Smart Growth Vermont~~;

(7) a person appointed by the ~~governor~~ Governor from a list of three names submitted by the Association of Chamber Executives;

(8) three public members representative of local government, one of whom shall be designated by the Vermont League of Cities and Towns, and two shall be appointed by the ~~governor~~ Governor;

(9) a member of the ~~Vermont planners association~~ Vermont Planners Association (VPA) designated by the ~~association~~ Association;

(10) the ~~chair~~ Chair of the ~~natural resources board~~ Natural Resources Board or a representative of the ~~land use panel~~ Land Use Panel of the ~~natural resources board~~ Natural Resources Board designated by the ~~chair~~ Chair; and

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

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

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

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

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

(f) [Deleted.]

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

§ 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

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

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

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

(3) An application for designation under this section must include a map that delineates the boundaries of the village center consistent with the definition of "village center" provided in subdivision 2791(10) of this title and evidence that notice has been given to the regional planning commission and the regional development corporation of the intent to apply for this designation. The map shall be consistent with the guidelines produced by the Department under section 2792 of this title.

* * *

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

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

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

~~(3) Limit~~ limit eligibility for the benefits pursuant to subsection (c) of this section without affecting any of the village center's previously awarded benefits~~.~~; or

~~(4) Remove~~ remove the village center's designation without affecting any of the village center's previously awarded benefits.

Sec. 6. 24 V.S.A. § 2793d is amended to read:

§ 2793d. DESIGNATION OF VERMONT NEIGHBORHOODS

* * *

(g) Termination of program; transition. Notwithstanding subsections (a)–(f) of this section:

(1) On and after July 1, 2013, the State Board shall not grant a municipality a designation under this section unless the municipality filed a complete application for such a designation prior to July 1, 2013. Any such complete application filed prior to July 1, 2013 shall be approved or denied based on the requirements of this section.

(2) On and after July 1, 2013, a Vermont neighborhood designated under this section shall be eligible for benefits pursuant to subsections 2793e(f) and (g) of this title.

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

Sec. 7. PROSPECTIVE REPEAL

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

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

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

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

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

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

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

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

(b) Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) The neighborhood development area is served by:

(A) municipal sewer infrastructure; or

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

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

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

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

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

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

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

(B) ensure sufficient residential density and building heights;

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

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

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

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

(A) "important natural resources" as defined in 24 V.S.A. § 2791(14);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) remove the neighborhood development area designation; or

(C) prospectively limit benefits authorized in this chapter,

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

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

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

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

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

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

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

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

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

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

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

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

§ 2798. DESIGNATION DECISIONS; NONAPPEAL

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

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

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

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

§ 6001. DEFINITIONS

When used in this chapter:

* * *

(3)(A) "Development" means:

* * *

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

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

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

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

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

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

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

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

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

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

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

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

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

(VI) Historic Buildings. Construction of 10 or more units of mixed income housing where the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the ~~state or national register of historic places~~ State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the ~~division for historic preservation~~ Division for Historic Preservation has determined the proposed demolition will have: no adverse effect; no adverse effect provided that specified conditions are met; or will

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

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

(i) Incentive for Growth Inside Designated Areas. Notwithstanding subdivision (3)(A)(iv) of this section, housing units constructed by a person partially or completely outside a designated downtown development district, designated growth center, ~~or~~ designated Vermont neighborhood, or designated neighborhood development area shall not be counted to determine jurisdiction over housing units constructed by that person entirely within a designated downtown development district, designated growth center, ~~or~~ designated Vermont neighborhood, or designated neighborhood development area .

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

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

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

* * *

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

§ 6083a. ACT 250 FEES

* * *

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

~~§ 2793e shall be no more than 50 percent of the fee otherwise charged under~~ this section~~, with 50 percent due with the application, and 50 percent due~~. The fee shall be paid within 30 days after the permit is issued or denied.

* * *

Sec. 13. 32 V.S.A. § 10002(p) is amend to read:

(p) Also excluded from the definition of "land" is a transfer of undeveloped land in a Vermont neighborhood or neighborhood development area designated under 24 V.S.A. chapter 76A which is the first transfer of that parcel following the original designation of the Vermont neighborhood or neighborhood development area.

Sec. 14. REVIEW OF THE GROWTH CENTER PROGRAM

On or before June 15, 2013, the Commissioner of the Department of Economic, Housing and Community Development shall begin examining ways to improve and strengthen the Growth Center Program designed to promote compact development and the efficient use of resources. The Commissioner shall consider reviewing and modifying the designation process; how best to include communities of all sizes and growth pressures; additional incentives for the designation programs; the integration of industrial parks and rural development; and the protection of natural resources. The Department will form a working group and consult stakeholders including state agencies and independent departments, municipal officials, environmental organizations,

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

Sec. 15. EFFECTIVE DATE

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

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

§ 2790. LEGISLATIVE POLICY AND PURPOSE

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

*(1) ~~economically~~ Economically strong downtowns are critical to the health and well-being of Vermont's communities~~;~~ and that downtowns are the natural location for both small businesses~~, which represent the largest growth sector in Vermont's economy,~~ and other uses that together constitute the diverse fabric of communities that define Vermont's quality of life~~; that downtowns enable residents and visitors to access services and business with minimal transportation needs, and thus benefit the environment. The general~~

~~*assembly further finds that downtowns represent a long-term investment of public and private infrastructure, and that our scenic and historic downtowns are a natural attraction for tourists and contribute greatly to Vermont's overall quality of life. The general assembly further finds that a major factor inhibiting the vitality of downtown areas is lack of reasonable access to them by workers, residents and visitors, and that by this act it is the specific intent of the general assembly to improve access to downtown areas by providing assistance to municipalities for downtown transportation infrastructure, particularly parking facilities*.~~

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

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

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

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

(1) support historic downtowns and villages by providing funding, training, and resources to communities designated under this chapter, to revitalize such communities, to increase and diversify economic development activities, to improve the efficient use of public investments, including water and sewer systems, and to safeguard working landscapes;

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

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

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

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

(6) develop safe, reliable, and economical transportation options in historic downtowns and villages to decrease household transportation costs,

promote energy independence, improve air quality, reduce greenhouse gas emissions, and promote public health; and

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

(c) ~~While it is the intent of the general assembly by this act to rehabilitate and preserve the vitality of historic downtown areas of the state, the general assembly also recognizes the equal importance of providing incentives to communities with no historic downtown areas in order to assist those communities to plan and develop their emerging downtowns. Accordingly, the commissioner of housing and community affairs is directed to consult with municipal officials in such communities and recommend to the general assembly on or before January 1, 1999 appropriate means and incentives to encourage the development and planning of emerging downtown centers which serve the purpose of a central district of the community and the center for socio-economic interaction, with a cohesive core of commercial and mixed use buildings, with appropriate density to minimize or avoid strip development.~~

~~(d)~~ The ~~general assembly~~ General Assembly finds that Vermont's communities face challenges as they seek to accommodate growth and development while supporting the economic vitality of the ~~state's~~ State's downtowns, village centers, and new town centers and maintaining the rural

character and working landscape of the surrounding countryside. While it is the intention of the ~~general assembly~~ General Assembly to give the highest priority to facilitating development and growth in downtowns and village centers whenever feasible, when that is not feasible, the ~~general assembly~~ General Assembly further finds that:

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

* * *

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

§ 2791. DEFINITIONS

As used in this chapter:

* * *

(3) "Downtown" means the traditional central business district of a community~~,~~ that has served as ~~the center for~~ a regional focus of socio-economic interaction in the community, characterized by a cohesive core of commercial and ~~mixed-use~~ mixed use buildings, some of which may contain mixed use spaces, often interspersed with civic, religious, ~~and~~ residential, and industrial buildings and public spaces, typically arranged along a main street and intersecting side streets that are within walking distance for residents who

live within and surrounding the core and that are served by public infrastructure such as sidewalks and public transit. Downtowns are typically larger in scale than village centers and are characterized by a development pattern that is consistent with smart growth principles.

* * *

(10) "Village center" means the core of a traditional ~~center of the community~~ settlement, typically comprised of a cohesive ~~core~~ mix of residential, civic, religious, ~~and~~ commercial, and mixed use buildings~~,~~ arranged along a main street and intersecting streets that are within walking distance for residents who live within and surrounding the core. Industrial uses may be found within or immediately adjacent to these centers. Village centers are typically smaller in scale than downtowns and are characterized by a development pattern that is consistent with smart growth principles.

* * *

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

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

(18) "Department" means the Vermont Department of Economic, Housing and Community Development.

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

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

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

§ 2792. VERMONT DOWNTOWN DEVELOPMENT BOARD

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

(1) the ~~secretary of commerce and community development~~ Secretary of Commerce and Community Development;

(2) the ~~secretary of transportation~~ Secretary of Transportation;

(3) the ~~secretary of natural resources~~ Secretary of Natural Resources;

(4) the ~~commissioner of public safety~~ Commissioner of Public Safety;

(5) the ~~state historic preservation officer~~ State Historic Preservation Officer;

(6) a person appointed by the ~~governor~~ Governor from a list of three names submitted by the Vermont Natural Resources Council~~,~~ and the Preservation Trust of Vermont~~, and Smart Growth Vermont~~;

(7) a person appointed by the ~~governor~~ Governor from a list of three names submitted by the Association of Chamber Executives;

(8) three public members representative of local government, one of whom shall be designated by the Vermont League of Cities and Towns, and two shall be appointed by the ~~governor~~ Governor;

(9) a member of the ~~Vermont planners association~~ Vermont Planners Association (VPA) designated by the ~~association~~ Association;

(10) the ~~chair~~ Chair of the ~~natural resources board~~ Natural Resources Board or a representative of the ~~land use panel~~ Land Use Panel of the ~~natural resources board~~ Natural Resources Board designated by the ~~chair~~ Chair; and

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

(b) ~~In addition to the permanent members appointed pursuant to subsection (a) of this section, there shall also be two regional members from each region of the state on the downtown development board; one shall be designated by~~

~~the regional development corporation of the region and one shall be designated by the regional planning commission of the region. Regional members shall be nonvoting members and shall serve during consideration by the board of applications from their respective regions. Regional members designated to serve on the downtown development board under this section, may also serve as regional members of the Vermont economic progress council established under 32 V.S.A. § 5930a.~~ [Repealed.]

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

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

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

(f) [Deleted.]

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

§ 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

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

(1) For applications filed on and after July 1, 2014, the intention to apply for designation under this section shall be included in the plan of the municipality, and the plan shall explain how the designation would further the plan's goals and the goals of section 4302 of this title.

(2) A preapplication meeting shall be held with Department staff to review the program requirements and to preliminarily identify possible designation boundaries. The meeting shall be held in the municipality unless another location is agreed to by the municipality.

(3) An application by a municipality shall contain a map that accurately delineates the district and is consistent with the guidelines produced by the Department under section 2792(d) of this title. The application shall also include evidence that the regional planning commission and the regional development corporation have been notified of the municipality's intent to apply, evidence that the municipality has published notice of its application in a local newspaper of general circulation within the municipality, and information showing that the district meets the standards for designation established in subsection (b) of this section. Upon receipt of an application, the ~~state board~~ State Board shall provide written notice of the application to

the ~~natural resources board~~ Natural Resources Board. The ~~natural resources board~~ Natural Resources Board and interested persons shall have 15 days after notice to submit written comments regarding the application before the ~~state board~~ State Board issues a written decision that demonstrates the applicant's compliance with the requirements of this chapter.

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

(1) demonstrated a ~~planning~~ commitment to protect and enhance the historic character of the downtown through the adoption of a design review district, through the adoption of an historic district, through the adoption of regulations that adequately regulate the physical form and scale of development that the State Board determines substantially meet the historic preservation requirements in sections 4414(1)(E) and (F) of this title, or through the creation of a development review board authorized to undertake local Act 250 reviews of municipal impacts pursuant to section 4420 of this title;

(2) provided a community reinvestment agreement that has been executed by the authorized representatives of the municipal government, business and property owners within the district, and community groups with

an articulated purpose of supporting downtown interests, and that contains the following provisions:

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

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

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

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

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

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

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

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

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

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

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

(iv) to strengthen, diversify, and increase the economic activity within the downtown district;

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

(vi) to measure annually progress and achievements of the revitalization efforts as required by Department guidelines developed pursuant to subsection 2792(d) of this title;

(E) evidence that any private or municipal sewage system and private or public water supply serving the proposed downtown district is in compliance with the requirements of 10 V.S.A. chapters 47 and 56~~,~~ and ~~that the municipality~~ has ~~dedicated a portion of any unallocated reserve capacity of the sewage and public water supply for growth within the proposed downtown district~~ adequately demonstrated an intent to reserve sufficient wastewater and water allocations to serve the future needs of the designated areas. Any municipality proposing a municipal sewage system and public water supply to serve the proposed downtown district shall provide evidence to the ~~state board~~ State Board of a commitment to construct or maintain such a system and supply in compliance with requirements of 10 V.S.A. chapters 47 and 56, or a commitment to construct, as applicable, a permittable potable water supply, wastewater system, indirect discharge, or public water supply within no more than ten years. A commitment to construct does not relieve the property owners in the district from meeting ~~the~~ any applicable ~~regulations of the agency of natural resources~~ statute, rule, or bylaw regarding wastewater systems, potable water supplies, public water supplies, indirect discharges, and the subdivision of land~~. In the event that a municipality fails in its~~

~~commitment to construct a municipal sewage system and public water supply, the state board shall revoke designation, unless the municipality demonstrates to the state board that all good faith efforts were made and continue to be made to obtain the required approvals and permits from the agency of natural resources, and failure to construct was due to unavailability of state or federal matching loan funds~~;

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

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

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

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

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

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

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

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

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

(1) For applications filed on and after July 1, 2014, the intention to apply for designation under this section shall be included in the plan of the municipality, and the plan shall explain how the designation would further the plan's goals and the goals of section 4302 of this title.

(2) A preapplication meeting shall be held with Department staff to review the program requirements and to preliminarily identify possible

designation boundaries. The meeting shall be held in the municipality unless another location is agreed to by the municipality.

(3) An application for designation under this section must include a map that delineates the boundaries of the village center consistent with the definition of "village center" provided in subdivision 2791(10) of this title and evidence that notice has been given to the regional planning commission and the regional development corporation of the intent to apply for this designation. The map shall be consistent with the guidelines produced by the Department under subsection 2792(d) of this title.

* * *

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

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

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

(3) ~~Limit~~ limit eligibility for the benefits pursuant to subsection (c) of this section without affecting any of the village center's previously awarded benefits~~.~~; or

(4) ~~Remove~~ remove the village center's designation without affecting any of the village center's previously awarded benefits.

Sec. 6. 24 V.S.A. § 2793d is amended to read:

§ 2793d. DESIGNATION OF VERMONT NEIGHBORHOODS

* * *

(g) Termination of program; transition. Notwithstanding subsections (a)–(f) of this section:

(1) On and after July 1, 2013, the State Board shall not grant a municipality a designation under this section unless the municipality filed a complete application for such a designation prior to July 1, 2013. Any such complete application filed prior to July 1, 2013 shall be approved or denied based on the requirements of this section.

(2) On and after July 1, 2013, a Vermont neighborhood designated under this section shall be eligible for benefits pursuant to subsections 2793e(f) and (g) of this title.

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

Sec. 7. PROSPECTIVE REPEAL

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

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

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

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

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

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

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

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

(b) Definitions.

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

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

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

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

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

(2) "Neighborhood development area" means a location within a neighborhood planning area that is suitable for new and infill housing and that has been approved by the State Board for designation under this section and associated benefits.

(c) Application for designation of a neighborhood development area. The State Board shall approve a neighborhood development area if the application demonstrates and includes all of the following elements:

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

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

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

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

growth center designated under this chapter that are planned for higher density development.

(5) The proposed neighborhood development area consists of those portions of the neighborhood planning area that are appropriate for new and infill housing, excluding identified flood hazard and fluvial erosion areas. In the process of choosing the proposed neighborhood development area, the municipality gave consideration to:

(A) Avoiding "important natural resources" as defined in subdivision 2791(14) of this title. If an important natural resource is included within a proposed neighborhood development area, the applicant shall identify the resource, explain why the resource was included, and describe any anticipated disturbance to such resource.

(B) How the neighborhood development area is compatible with and will reinforce the character of adjacent National Register Historic Districts, national or state register historic sites, and other significant cultural and natural resources identified by local or state government.

(6) The neighborhood development area is served by:

(A) municipal sewer infrastructure; or

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

(7) The municipal bylaws allow minimum net residential densities within the neighborhood development area greater than or equal to four single-family detached dwelling units per acre, exclusive of accessory dwelling units, or no fewer than the average existing density of the surrounding neighborhood, whichever is greater. The methodology for calculating density shall be established in the guidelines developed by the Department pursuant to subsection 2792(d) of this title.

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

(B) Development in the neighborhood development areas that is lower than the minimum net residential density required by this subdivision (7) shall not qualify for the benefits stated in subsections (f) and (g) of this section. The district coordinator shall determine whether development meets this minimum net residential density requirement in accordance with subsection (f) of this section.

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

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

(B) ensure sufficient residential density and building heights;

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

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

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

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

(A) "important natural resources" as defined in 24 V.S.A. § 2791(14);

(B) existing slopes of 25 percent or steeper;

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

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

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

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

(G) delineated areas of land appropriate for residential development and redevelopment under the requirements of this section.

(11) The application includes the information and analysis required by the Department's guidelines under section 2792 of this title.

(d) Designation process. Within 45 days of receipt of a complete application for designation of a neighborhood development area, the State Board, after opportunity for public comment, shall approve a neighborhood development area if the Board determines that the applicant has met the requirements of this section.

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

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

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

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

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

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

(e) Length of designation. Initial designation of a neighborhood development area shall be reviewed concurrently with the next periodic review conducted of the underlying designated downtown, village center, new town center, or growth center.

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

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

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

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

(B) remove the neighborhood development area designation; or

(C) prospectively limit benefits authorized in this chapter.

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

(f) Neighborhood development area incentives for developers. Once a municipality has a designated neighborhood development area or has a Vermont neighborhood designation pursuant to 24 V.S.A. § 2793d, any proposed development within that area shall be eligible for each of the benefits listed in this subsection. These benefits shall accrue upon approval by the district coordinator, who shall review the density requirements set forth in subsection (c)(7) of this section to determine benefit eligibility and issue a jurisdictional opinion under 10 V.S.A. chapter 151 on whether the density requirements are met. These benefits are:

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

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

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

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

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

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

(h) Alternative designation. If a municipality has completed all of the planning and assessment steps of this section but has not requested designation of a neighborhood development area, an owner of land within a neighborhood planning area may apply to the State Board for neighborhood development area designation status for a portion of land within the neighborhood planning area. The applicant shall have the responsibility to demonstrate that all of the requirements for a neighborhood development area designation have been satisfied and to notify the municipality that the applicant is seeking the designation. On grant of neighborhood development area designation under this subsection, the applicant may proceed to obtain a jurisdictional opinion from the district coordinator under subsection (f) of this section in order to obtain the benefits granted to neighborhood development areas.

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

§ 2798. DESIGNATION DECISIONS; NONAPPEAL

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

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

(D) Notwithstanding the other provisions of this subdivision, when a project is located in a Vermont neighborhood or neighborhood development area, as designated under 24 V.S.A. chapter 76A, the fee shall be no more than

$50.00 in situations in which the application has received an allocation for sewer capacity from an approved municipal system. This limitation shall not apply in the case of fees charged as part of a duly delegated municipal program.

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

§ 6001. DEFINITIONS

When used in this chapter:

* * *

(3)(A) "Development" means:

* * *

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

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

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

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

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

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

(VI) Historic Buildings. Construction of 10 or more units of mixed income housing or a mixed use project with 10 or more housing units where the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the ~~state or national register of historic places~~ State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the ~~division for historic preservation~~ Division for Historic Preservation has determined the proposed demolition will have: no adverse effect; no adverse effect provided that specified conditions are met; or, will have an adverse

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

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

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

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

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

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

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

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

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

(i) Incentive for Growth Inside Designated Areas. Notwithstanding subdivision (3)(A)(iv) of this section, housing units constructed by a person partially or completely outside a designated

downtown development district, designated growth center, ~~or~~ designated Vermont neighborhood, or designated neighborhood development area shall not be counted to determine jurisdiction over housing units constructed by that person entirely within a designated downtown development district, designated growth center, ~~or~~ designated Vermont neighborhood, or designated neighborhood development area .

(ii) Five-Year, Five-Mile Radius Jurisdiction Analysis. Within any continuous period of five years, housing units constructed by a person entirely within a designated downtown district, designated growth center, ~~or~~ designated Vermont neighborhood, or designated neighborhood development area shall be counted together with housing units constructed by that person partially or completely outside a designated downtown development district, designated growth center, ~~or~~ designated Vermont neighborhood, or designated neighborhood development area to determine jurisdiction over the housing units constructed by a person partially or completely outside the designated downtown development district, designated growth center, ~~or~~ designated Vermont neighborhood, or designated neighborhood development area and within a five-mile radius in accordance with subdivision (3)(A)(iv) of this section.

(iii) Discrete Housing Projects in Designated Areas and Exclusive Counting for Housing Units. Notwithstanding subdivisions (3)(A)(iv) and (19)

of this section, jurisdiction shall be determined exclusively by counting housing units constructed by a person within a designated downtown development district, designated growth center, ~~or~~ designated Vermont neighborhood, or designated neighborhood development area, provided that the housing units are part of a discrete project located on a single tract or multiple contiguous tracts of land.

* * *

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

§ 6083a. ACT 250 FEES

* * *

(d) ~~Vermont Neighborhood Fees~~ Neighborhood development area fees. Fees for residential development in a Vermont neighborhood or neighborhood development area designated according to ~~24 V.S.A. § 2793d~~ 24 V.S.A. § 2793e shall be no more than 50 percent of the fee otherwise charged under this section~~, with 50 percent due with the application, and 50 percent due~~. The fee shall be paid within 30 days after the permit is issued or denied.

* * *

Sec. 13. 32 V.S.A. § 10002(p) is amend to read:

(p) Also excluded from the definition of "land" is a transfer of undeveloped land in a Vermont neighborhood or neighborhood development area designated under 24 V.S.A. chapter 76A which is the first transfer of that

parcel following the original designation of the Vermont neighborhood or neighborhood development area.

Sec. 14. REVIEW OF THE GROWTH CENTER AND NEW TOWN CENTER PROGRAMS

On or before June 15, 2013, the Commissioner of the Department of Economic, Housing and Community Development shall begin examining ways to improve and strengthen the growth center and new town center designation process designed to promote compact development and the efficient use of resources. The Commissioner shall consider: reviewing and modifying the designation process; the unique circumstances of different municipalities; how best to include communities of all sizes and growth pressures; additional incentives for all the designation programs, including the downtown, village center, new town center, and growth center programs; the potential integration of industrial parks and rural development; and the protection of natural resources. The Department will form a working group and consult stakeholders including state agencies and independent departments, municipal officials, environmental organizations, developers, and representatives from the manufacturing, business, housing, historic preservation, agricultural, silviculture, and planning communities in its process to develop legislative and policy recommendations and proposed statutory revisions to make the Program more efficient and effective. The Department will report its findings,

legislative and policy recommendations, and proposed statutory revisions to the General Assembly on or before December 15, 2013.

Sec. 15. EFFECTIVE DATE

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