

No. 146. An act relating to designation of new town centers and growth centers.

(H.809)

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

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

§ 2791. DEFINITIONS

As used in this chapter:

* * *

(11) “New town center” means the area planned for or developing as a community’s central business district, composed of compact, pedestrian-friendly, multistory, and mixed use development that is characteristic of a traditional downtown, supported by planned or existing urban infrastructure, including curbed streets with sidewalks and on-street parking, stormwater treatment, sanitary sewers and public water supply.

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

~~(i) A designated downtown, village center, or new town center;~~

~~(ii) An area of land that is in or adjacent to a designated~~

~~downtown, village center, or new town center, with clearly defined boundaries that have been approved by one or more municipalities in their municipal plans to accommodate a majority of growth anticipated by the municipality or municipalities over a 20-year period. Adjacent areas shall include those lands which are contiguous to the designated downtown, village center, or new town~~

~~center. In situations where contiguity is precluded by natural or physical constraints to growth center development, adjacent areas may include lands lying close to and not widely separated from the majority of the lands within the designated growth center. Noncontiguous land included as part of a growth center must exhibit strong land use, economic, infrastructure, and transportation relationships to the designated downtown, village center, or new town center; be planned to function as a single, integrated growth center; and be essential to accommodate a majority of growth anticipated by the municipality or municipalities over a 20-year period.~~

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

~~(i) It incorporates a mix of uses that typically include or have the potential to include the following: retail, office, services, and other commercial, civic, recreational, industrial, and residential uses, including affordable housing and new residential neighborhoods, within a densely developed, compact area;~~

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

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

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

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

~~(vi) It results in compact concentrated areas of land development that are served by existing or planned infrastructure and are separated by rural countryside or working landscape.~~

~~(vii) It is planned in accordance with the planning and development goals under section 4302 of this title, and to conform to smart growth principles.~~

~~(viii) It is planned to reinforce the purposes of 10 V.S.A. chapter 151 “Growth center” shall have the same meaning as under section 2793c of this title.~~

(13) “Smart growth principles” means growth that:

(A) Maintains the historic development pattern of compact village and urban centers separated by rural countryside.

(B) Develops compact mixed-use centers at a scale appropriate for the community and the region.

(C) Enables choice in modes of transportation.

(D) Protects the State's important environmental, natural, and historic features, including natural areas, water quality, scenic resources, and historic sites and districts.

(E) Serves to strengthen agricultural and forest industries and minimizes conflicts of development with these industries.

(F) Balances growth with the availability of economic and efficient public utilities and services.

(G) Supports a diversity of viable businesses in downtowns and villages.

(H) Provides for housing that meets the needs of a diversity of social and income groups in each community.

(I) Reflects a settlement pattern that, at full build-out, is not characterized by:

(i) scattered development located outside of compact urban and village centers that is excessively land consumptive;

(ii) development that limits transportation options, especially for pedestrians;

(iii) the fragmentation of ~~farm~~ farmland and ~~forest land~~ forestland;

(iv) development that is not serviced by municipal infrastructure or that requires the extension of municipal infrastructure across undeveloped lands in a manner that would extend service to lands located outside compact village and urban centers;

(v) linear development along well-traveled roads and highways that lacks depth, as measured from the highway.

(14) "Important natural resources" means headwaters, streams, shorelines, floodways, rare and irreplaceable natural areas, necessary wildlife habitat, wetlands, endangered species, productive ~~forest lands~~ forestlands, and primary agricultural soils, all of which are as defined in 10 V.S.A. chapter 151.

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Sec. 2. 24 V.S.A. § 2793b is amended to read:

§ 2793b. DESIGNATION OF NEW TOWN CENTER DEVELOPMENT

DISTRICTS

(a) A municipality, by its legislative body, may apply to the State Board for designation of an area within that municipality as a new town center development district, provided no traditional downtown or new town center already exists in that municipality. ~~An application by a municipality shall contain a map delineating the district, evidence that the regional planning commission and the regional development corporation have been notified of the municipality's intent to apply, and information showing the district meets the standards for designation established in subsection (b) of this section.~~

(1) The State Board shall not approve an application filed by a municipality on or after July 1, 2014 unless the municipality has stated in its town plan that it intends to apply for designation under this section, and the town plan explains 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 before an application is filed to review the program requirements and to 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 shall contain a map that delineates the boundaries of the proposed district and is consistent with the guidelines produced by the Department under subsection 2792(d) of this title. The application shall also demonstrate that the proposed district meets the requirements set forth in subdivision 2791(11) of this title, as well as the standards for designation established in subsection (b) of this section. The application shall verify that the regional planning commission and the regional development corporation have been notified of the municipality's intent to apply for designation.

(b) Within 45 days of receipt of a completed application, the State Board shall designate a new town center development district if the State Board finds, with respect to that district, the municipality has:

(1) ~~a~~ A confirmed planning process under section 4350 of this title, ~~and~~ developed a municipal center plan, and ~~regulations to~~ adopted bylaws and ordinances that implement the plan, including an official map, and a design review district created under this title; ~~and~~ or other regulations that adequately control the physical form and scale of development.

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

(A) A map of the designated new town center. The total area of land encompassed within a designated new town center shall not exceed 125 acres. In a municipality with a population greater than 15,000, the total area of land encompassed within a designated new town center may include land in excess of 125 acres provided that the additional area is needed to facilitate the redevelopment of predominately developed land in accordance with the smart growth principles defined under subdivision 2791(13) of this title and shall not exceed 175 acres.

(B) Regulations enabling high densities that are greater than those allowed in any other part of the municipality.

(C) Regulations enabling multistory and mixed use buildings and mixed uses which enable the development of buildings in a compact manner.

(D) A capital improvement program, or a capital budget and program under this title, showing a clear plan for providing public infrastructure within the center, including facilities for drinking water, wastewater, stormwater, public space, lighting, and transportation, including public transit, parking, and pedestrian amenities.

(E) A clear plan for mixed income housing in the new town center.

(F) Evidence that civic and public buildings do exist, or will exist in the center, as shown by the capital improvement plan or the capital budget and program, and the official map.

(G) ~~{Deleted.}~~ [Repealed.]

(H) Evidence that any private or municipal sewage system and private or public water supply serving the proposed new town center are 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 necessary to support growth within the proposed new town center. Any municipality proposing a municipal sewage system and public water supply to serve the proposed new town center 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 permissible 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 new town center from meeting the applicable regulations of the Agency of Natural Resources regarding wastewater systems, potable water supplies, public water supplies, indirect discharges, and the subdivision of land. In the event a municipality fails in its commitment to construct a municipal sewage system or public water supply, or both, 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 sufficient State or federal funding.

(c)(1) Upon designation by the State Board under this section as a new town center, a new town center and projects in a new town center shall be eligible for the authority to create a special taxing district, pursuant to chapter 87 of this title, for the purpose of financing both capital and operating costs of a project within the boundaries established through new town center designation.

(2) Whenever the Commissioner of Buildings and General Services or other State officials in charge of selecting a site are planning to lease or construct buildings suitable to being located in a new town center after determining that the option of utilizing existing space in a downtown development district, pursuant to subdivision 2794(a)(14) of this title, is not feasible, the option of utilizing existing space in a designated new town center

shall be given thorough investigation and priority, in consultation with the community.

(d) The ~~state board~~ State Board shall review a new town center designation every five years and may review compliance with the designation requirements at more frequent intervals. The State Board may adjust the schedule of review under this subsection to coincide with the review of a related growth center. If at any time the State Board determines the new town center 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;:

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

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

Sec. 3. 24 V.S.A. § 2793c is amended to read:

§ 2793c. DESIGNATION OF GROWTH CENTERS

(a)(1) Definition. As used in this section, “growth center” means an area of land that:

(A) is within or adjoining a downtown, village center, or new town center designated under this chapter; and

(B) has clearly defined boundaries that can accommodate a majority of commercial, residential, and industrial growth anticipated by the municipality or municipalities over a 20-year period.

(2) Development and redevelopment within any growth center shall support Vermont's traditional land use pattern of compact centers separated by rural lands and shall meet the requirements set forth in subsection (b) of this section.

(b) Requirements. To achieve the purposes and goals set forth in section 4302 of this title and conform to smart growth principles, a growth center shall meet each of the following requirements:

(1) Size. The size of the growth center shall be sufficient to accommodate a majority of the projected development within each applicant municipality over a 20-year planning period, and:

(A) shall be no larger than the area necessary to accommodate:

(i) 150 percent of the projected dwelling units in the municipality over the period; and

(ii) no more than 100 percent of the projected commercial and industrial development in the municipality;

(B) shall not encompass an excessive area of land that would involve the unnecessary extension of infrastructure to service low-density development or automobile-dependent strip development; and

(C) may include undevelopable land and land planned for green space or open space, as well as areas designed for infill and redevelopment.

(2) Location. The area of land proposed for the growth center shall be located within or shall adjoin, a designated downtown, village center, or new town center. If the growth center is to be adjoining, then the applicant shall demonstrate that an existing designated downtown, village center, or new town center located within each applicant municipality reasonably cannot accommodate the growth proposed to occur in the growth center.

(3) Uses. The growth center shall support and reinforce any existing designated downtown, village center, or new town center located in the municipality or adjacent municipality by accommodating concentrated residential neighborhoods and a mix and scale of commercial, civic, and industrial uses that are consistent with the anticipated demand for those uses within the municipality and region. The growth center shall incorporate a mix of uses that typically includes or is planned to include the following: retail, office, services, and other commercial, civic, recreational, industrial, and residential uses, including affordable housing and new residential neighborhoods, within a densely developed, compact area.

(4) Density, design, and form. The municipality shall adopt municipal plan policies and implementing bylaws and ordinances applicable to the growth center that conform with design guidelines developed by the Department pursuant to subdivision 2793c(d)(3) of this title, and that:

(A) allow net residential densities within the growth center 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;

(B) ensure that all investments contribute to a built environment that enhances the existing and planned character and supports pedestrian use;

(C) ensure sufficient density, building heights, and building coverage or sufficient floor area ratio. A municipality may use bylaws that regulate adequately the physical form and scale of development to demonstrate compliance with this requirement;

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

(E) organize the proposed growth center development around one or more central places or focal points that will establish community identity and promote social interaction, such as prominent buildings of civic, cultural, or spiritual significance or a village green, common, or square; and

(F) prohibit linear, automobile-dependent strip development along heavily traveled roads within and extending outside the growth center.

(5) Capital budget. The applicant has adopted, in accordance with section 4430 of this title, a capital budget and program that includes existing and planned wastewater treatment, water, stormwater, and transportation infrastructure; public spaces; other infrastructure necessary to support growth center development; and a reference map.

(6) General infrastructure. The existing and planned infrastructure shall be adequate to implement the growth center and meet the municipality's 20-year growth needs. The municipality shall have adopted policies on the extension of water and wastewater lines that include a defined service area and allocation plan to support the growth center.

(7) Public spaces. The growth center shall incorporate existing or planned public spaces that promote social interaction, such as public parks, civic buildings such as a post office or municipal offices, community gardens, and other formal and informal places to gather.

(8) Transportation. Existing or planned transportation infrastructure serving the growth center shall be adequate to implement growth center development over the 20-year period, and shall conform with "complete streets" principles as described under 19 V.S.A. § 309d; shall establish multi-modal access to the downtown, village center, or new town center; incorporate, accommodate, and support the use of public transit systems; and shall encompass a circulation system that is conducive to pedestrian and other nonvehicular traffic. The applicable municipal plans and bylaws shall include

provisions that will result in street connectivity and aim to create a comprehensive, integrated, connected network for all modes.

(9) Natural resources within growth centers. The growth center shall avoid or minimize the inclusion of important natural resources and identified flood hazard and fluvial erosion hazard areas. If an applicant includes an important natural resource or flood hazard or fluvial erosion hazard area within a proposed growth center, the applicant shall identify the resource or area, explain why the resource or area was included, describe any anticipated disturbance to the resource or area, and describe how the municipality's land use bylaws will avoid or minimize impacts to the resource or area. If impacts to the resource or area are necessary to achieve growth center goals, the applicant shall provide justification for why the disturbance cannot be avoided or minimized.

(10) Natural resources outside growth centers. Municipalities applying for growth center designation shall ensure that the approved local plan, implementing bylaws, and other programs serve to minimize conflicts of development with agricultural and forest industries; minimize the conversion and fragmentation of farmland, forestland, or significant areas of habitat connectivity; and minimize impacts on important natural resources located outside the proposed growth center.

(11) Historic resources. The growth center shall be compatible with and reinforce the character of sites that are listed or eligible for listing on the National or State Register of Historic Places, and other significant cultural and historic resources identified by local or State government in or adjacent to the growth center.

(c) Application for designation of a growth center.

(1) Before submitting a complete application to the Board, the municipal legislative body shall vote to apply for growth center designation according to the procedure established under sections 1972 and 1973 of this title.

(2) The application for designation as a growth center shall:

(A) be based on a 20-year plan for growth that is reflected in the municipal plan of the municipality involved;

(B) include regional and local growth projections and shall identify targets for 20-year growth in various sectors;

(C) include an inventory map and analysis of growth and development potential in the designated downtown, village center, or new town center that connects to the proposed growth center; and

(D) quantify the type and amount of development and land area needed to support the proposed growth center beyond what is available in the designated downtown, village center, or new town center.

(3) Each municipality involved in the application shall have a duly adopted and regionally approved municipal plan that describes the proposed growth center and a planning process that is confirmed in accordance with section 4350 of this title.

(4) Each municipality involved in the application shall have adopted bylaws and regulations under sections 4414, 4418, and 4422 of this title and nonregulatory programs that will support and implement the growth center requirements of subsection (b) of this section.

(5) Each application for designation as a growth center shall include:

(A) a description from the regional planning commission in which each applicant municipality is located of the role of the proposed growth center in the region, and the relationship between the proposed growth center and neighboring communities;

(B) written confirmation from the applicable regional planning commission that the proposed growth center conforms with the regional plan for the region in which each applicant municipality is located;

(C) a concept plan depicting the character of the streets and public spaces within the growth center, and depicting the size and placement of buildings envisioned in the municipal plan; and

(D) one or more maps that accurately delineate the boundaries of the growth center, and an official map, if one is adopted, of the growth center. The map or maps shall identify:

(i) growth center boundaries in relation to the associated designated downtown, village center, or new town center;

(ii) important natural resources, identified flood hazard and fluvial erosion hazard areas, National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resources identified by local or State government within the municipality;

(iii) existing slopes of 20 percent or greater; and

(iv) existing and planned public facilities, including public buildings, public spaces, wastewater and water services, roads, sidewalks, paths, transit centers, parking areas, parks, and schools within the growth center boundaries.

(d) Designation process.

(1) Preliminary application and meeting process.

(A) Before submitting an application pursuant to subsection (c) of this section, a municipality shall submit a preliminary application to the Department, consisting of a draft growth center map, and a brief explanation of the planning and implementation policies the municipality plans to enact prior to submitting an application under subsection (c) of this section. These planning and implementation policies will be used to guide development within the growth center and preserve the rural character of the surrounding area.

(B) The Department shall solicit comments on the preliminary application from State agencies and regional planning commissions. The Department shall evaluate the preliminary application for compliance with the requirements of subsection (b) of this section, identify potential issues related to the growth center boundary and implementation tools, and make recommendations to address those issues through adjustment of the growth center boundaries and revised or alternative implementation plans.

(C) The Department shall schedule and conduct a preapplication meeting with the applicant.

(2) Regional planning commission technical planning assistance. Regional planning commissions, pursuant to section 4345a of this title, are uniquely positioned to assist municipalities with growth center planning. To this end, at the request of a municipality contemplating growth center designation, the regional planning commission shall provide technical assistance in support of that designation.

~~(A)~~ (A) Technical support shall include:

~~(A)~~ (i) preparing population, housing, and employment growth projections for a period of not less than 20 years;

~~(B)~~ (ii) GIS mapping, including identification of development capacity, land use, existing and planned infrastructure and service areas, important natural resources and historic resources, and physical constraints to development and associated features; and

~~(C)(iii) build-out analyses for potential growth centers to document analysis of whether the geographic area of proposed growth centers will accommodate a majority of the projected growth over a 20-year period in a manner that is consistent with the definition under subdivision 2791(12) of this title.~~

~~(2)(B) These projections and build-out analyses may be prepared on a municipal or regional basis.~~

~~(b) Growth center designation application assistance.~~

~~(1) A subcommittee of the State Board, to be known as the Growth Center Subcommittee, shall develop and maintain a coordinated preapplication review process in accordance with this subdivision (1). The members of the Growth Center Subcommittee shall be the members of the State Board described under subdivisions 2792(a)(1), (6), (7), (9), and (10) of this title and the member designated by the Vermont League of Cities and Towns under subdivision 2792(a)(8) of this title. The Growth Center Subcommittee shall elect a chair from among its members. In carrying out its duties, the Growth Center Subcommittee shall have the support of the staff of the Department of Housing and Community Development and of the Natural Resources Board.~~

~~(A) The purpose of the Growth Center Subcommittee is to:~~

~~(i) ensure consistency between regions and municipalities regarding growth centers designation and related planning;~~

~~(ii) provide municipalities with a preapplication review process early in the local planning process;~~

~~(iii) encourage coordination of State agency review on matters of agency interest; and~~

~~(iv) provide the State Board with ongoing, coordinated support and expertise in land use, community planning, and natural resources protection.~~

~~(B) Under the preapplication review process, a municipality shall submit a preliminary application to the growth center subcommittee, consisting of a draft growth center map and a brief explanation of planning and implementation policies that the municipality anticipates it will enact prior to submission of an application under subsection (d) of this section in order to guide development inside the growth center and maintain the rural character of the surrounding area, to the extent that it exists. This preapplication review process shall be required prior to filing of an application under subsection (d) of this section. The growth center subcommittee shall solicit comments from State agencies regarding areas of respective agency interest; evaluate the preliminary application for conformance with the requirements of this section; identify potential issues related to the growth center's boundary and implementation tools; and provide recommendations for addressing those issues through adjustment to the growth center's boundary, revisions to planned implementation tools, or consideration of alternative implementation~~

~~tools. Preliminary review shall be available to municipalities while they are engaged in the municipal planning process so that recommendations may be considered prior to the adoption of the municipal plan and associated implementation measure~~

~~(2)(3) Planning manual. After consultation with the growth center subcommittee and the Natural Resources Board, the~~ The Commissioner of Housing and Community Development or designee shall ~~prepare a “municipal growth centers planning manual and implementation checklist” to assist~~ ensure that the planning manual prepared under section 4304 of this title provides guidelines for municipalities and regional planning commissions to plan planning for growth center designation. The ~~implementation~~ manual shall identify State resources available to assist municipalities and shall include a checklist indicating the issues that should be addressed by the municipality in planning for growth center designation.

~~(A) The manual shall address other relevant topics in appropriate detail, such as:~~

~~(i) methodologies for conducting growth projections and build-out analyses;~~

~~(ii) the methodology for determining the appropriate size and location of a growth center boundary;~~

~~(iii) the methodology for calculating residential density in a growth center; and~~

(iv) the methodology for determining the adequacy of infrastructure needed to support anticipated growth within a growth center.

(B) The planning manual shall address defining appropriate boundaries that are not unduly expansive; enacting plan policies and implementation bylaws that accommodate reasonable densities, compact settlement patterns, and an appropriate mix of uses within growth centers; planning for infrastructure, transportation facilities, and open space; avoiding or mitigating impacts to important natural resources and historic resources; and strategies for maintaining the rural character and working landscape outside growth center boundaries.

~~(3)~~(4) Assistance by Department. ~~In consultation with the Growth Center Subcommittee, the~~ The Commissioner of Housing and Community Development or designee shall provide ongoing assistance to the State Board to review applications for growth center designation, including coordinating review by State agencies on matters of agency interest and evaluating applications and associated plan policies and implementation measures for conformance with ~~the definition under subdivision 2791(12) of this title and any designation requirements established under subsection (e) of this section.~~

~~(4)~~(5) Planning grants. The Vermont Municipal Planning Grant Program, pursuant to subdivision 4306(2) of this title, shall make funding for activities associated with growth centers planning a priority ~~funding activity,~~ and the Vermont Community Development Program shall make funding for

activities associated with growth centers planning a priority ~~funding activity~~ under the planning grant program.

(6) Designation decision. Within 90 days of the receipt of a completed application, after providing notice as required in the case of a proposed municipal plan or amendment to each person listed under subsection 4384(e) of this title and to the executive director of each adjacent regional planning commission, and after providing an opportunity for the public to be heard, the State Board formally shall designate a growth center if the State Board finds, in a written decision, that the growth center proposal meets the requirements of subsection (b) of this section. An application that complies with all of the requirements of subsection (b) of this section other than the size requirement set forth in subdivision (b)(1) may be approved by the State Board if the applicant presents compelling justification for deviating from the size requirement and provided that at least two-thirds but no fewer than seven of the members of the State Board present vote in favor of the application.

(7) Conditions of designation. The Board, as a condition of growth center designation, may require certain regulatory changes prior to the effective date of designation. In addition, the growth center designation may be modified, suspended, or revoked if the applicant fails to achieve the required regulatory changes within a specified period of time. As an option, municipalities applying for growth center designation may make certain regulatory changes effective and contingent upon formal designation.

(8) Request for reconsideration. Within 21 days of a growth center designation under subdivision (1) of this subsection, a person or entity that submitted written or oral comments to the State Board during its consideration of the application for the designated growth center may request that the State Board reconsider the designation. Any such request for reconsideration shall identify each specific finding of the State Board for which reconsideration is requested and state the reasons why each such finding should be reconsidered. The filing of such a request shall stay the effectiveness of the designation until the State Board renders its decision on the request. On receipt of such a request, the State Board shall promptly notify the applicant municipality of the request if that municipality is not the requestor. The State Board shall convene at the earliest feasible date to consider the request and shall render its decision on the request within 90 days of the date on which the request was filed.

~~(e) Public involvement and review. Any decision to apply for growth center designation shall be made by vote of the municipal legislative body, subject to the process established under sections 1972 and 1973 of this title.~~

~~(d) Application and designation requirements. Any application for designation as a growth center shall be to the State Board and shall include a specific demonstration that the proposed growth center meets each provision of subdivisions (e)(1)(A) through (J) of this section. In addition to those provisions, each of the following shall apply:~~

~~(1) In the event that a proposed growth center lacks one or a portion of one of the characteristics listed in subdivision 2791(12)(B) of this title, the application shall contain an explanation of the unique circumstances that prevent the growth center from possessing that characteristic and why, in the absence of that characteristic, the proposed growth center will comply with the purposes of this chapter and all other requirements of this section.~~

~~(2) Any demonstration that an application complies with subdivision (e)(1)(C) of this section shall include an analysis, with respect to each existing designated downtown or village or new town center located within the applicant municipality, of current vacancy rates, opportunities to develop or redevelop existing undeveloped or underdeveloped properties and whether such opportunities are economically viable, and opportunities to revise zoning or other applicable bylaws in a manner that would permit future development that is at a higher density than existing development.~~

~~(3) A map and a conceptual plan for the growth center.~~

~~(4) A build-out analysis and needs study that demonstrates that the growth center meets the provisions of subdivision (e)(1)(J) of this section.~~

~~(5) An explanation of all measures the applicant has undertaken to encourage a majority of growth in the municipality to take place within areas designated under this chapter. In the case of a growth center that is associated with a designated downtown or village center, the applicant shall also explain the manner in which the applicant's bylaws and policies will encourage growth~~

~~to take place first in its designated downtown or village center and second in its proposed growth center.~~

~~(e) Designation decision.~~

~~(1) Within 90 days of the receipt of a completed application, after providing notice as required in the case of a proposed municipal plan or amendment under subsection 4384(e) of this title, and after providing an opportunity for the public to be heard, the State Board formally shall designate a growth center if the State Board finds, in a written decision, that the growth center proposal meets each of the following:~~

~~(A) The growth center meets the definition of a growth center established in subdivision 2791(12) of this title, including planned land uses, densities, settlement patterns, infrastructure, and transportation within the center and transportation relationships to areas outside the center. In the event that a proposed growth center lacks one or a portion of one of the characteristics listed in subdivision 2791(12)(B) of this title, the State Board shall not approve the growth center proposal unless it finds that the absence of that characteristic will not prevent the proposed growth center from complying with the purposes of this chapter and all other requirements of this section. This subdivision (A) does not confer authority to approve a growth center that lacks more than one characteristic listed in subdivision 2791(12)(B) of this title.~~

~~(B) The growth center will support and reinforce any existing designated downtown, village center, or new town center located in the municipality or adjacent municipality by accommodating concentrated residential neighborhoods and a mix and scale of commercial, civic, and industrial uses that are consistent with the anticipated demand for those uses within the municipality and region.~~

~~(C) The growth that is proposed to occur in the growth center cannot reasonably be achieved within an existing designated downtown, village center, or new town center located within the applicant municipality.~~

~~(D) In the case of a growth center that is associated with a designated new town center, the applicable municipal bylaws provide that areas within the growth center that will be zoned predominantly for retail and office development will be located within the new town center.~~

~~(E) In the case of a growth center that is associated with a designated downtown or village center:~~

~~(i) the applicant has taken all reasonable measures to ensure that growth is encouraged to take place first in the designated downtown or village center and second in the proposed growth center; and~~

~~(ii) the applicable municipal bylaws provide that, with respect to those areas within the growth center that will be located outside the designated downtown or village center and will be zoned predominantly for retail and office development:~~

~~(I) such areas will serve as a logical expansion of the designated downtown or village center through such means as sharing of infrastructure and facilities and shared pedestrian accessibility; and~~

~~(II) such areas will be subject to enacted land use and development standards that will establish a development pattern that is compact, oriented to pedestrians, and consistent with smart growth principles.~~

~~(F) The applicant has identified important natural resources and historic resources within the proposed growth center and the anticipated impacts on those resources, and has proposed mitigation.~~

~~(G) The approved municipal plan and the regional plan both have been updated during any five-year plan re-adoption that has taken place since the date the Secretary of Agriculture, Food and Markets has developed guidelines in compliance with 6 V.S.A. § 8, have been used to identify areas proposed for agriculture, and have been designed so as to avoid the conversion of primary agricultural soils, wherever possible.~~

~~(H)(i) The applicant has a regionally confirmed planning process and an approved municipal plan, pursuant to section 4350 of this title;~~

~~(ii) The approved plan contains provisions that are appropriate to implement the designated growth center proposal;~~

~~(iii) The applicant has adopted bylaws in conformance with the municipal plan that implement the provisions in the plan that pertain to the designated growth center, including:~~

~~(I) bylaw provisions that ensure that land development and use in the growth center will comply with smart growth principles; and~~

~~(II) with respect to residential development in the growth center, bylaw provisions that allow a residential development density that is:~~

~~(aa) at least four dwelling units per acre; and~~

~~(bb) a higher development density if necessary to conform with the historic densities and settlement patterns in residential neighborhoods located in close proximity to a designated downtown or village center which the growth center is within or to which the growth center is adjacent under subdivision 2791(12)(A)(i) or (ii) of this title; and~~

~~(iv) The approved plan and the implementing bylaws further the goal of retaining a more rural character in the areas surrounding the growth center, to the extent that a more rural character exists, and provide reasonable protection for important natural resources and historic resources located outside the proposed growth center.~~

~~(I) The applicant has adopted a capital budget and program in accordance with section 4426 of this title, and that existing and planned infrastructure is adequate to implement the growth center.~~

~~(J) The growth center:~~

~~(i) is of an appropriate size sufficient to accommodate a majority of the projected population and development over a 20-year planning period in~~

~~a manner that is consistent with the definition under subdivision 2791(12) of this title;~~

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

~~(iii) using a 20 year planning period commencing with the year of the application, is sized to accommodate each of the following:~~

~~(I) an amount of residential development that is no more than 150 percent of the projected residential growth in the municipality; and~~

~~(II) an amount of commercial or industrial development, or both, that does not exceed 100 percent of the projected commercial and industrial growth in the municipality.~~

~~(2) The Board, as a condition of growth center designation, may require certain regulatory changes prior to the effective date of designation. In addition, the growth center designation may be modified, suspended, or revoked if the applicant fails to achieve the required regulatory changes within a specified period of time. As an option, municipalities applying for growth center designation may make certain regulatory changes effective and contingent upon formal designation.~~

~~(3) Within 21 days of a growth center designation under subdivision (1) of this subsection, a person or entity that submitted written or oral comments to~~

~~the State Board during its consideration of the application for the designated growth center may request that the State Board reconsider the designation. Any such request for reconsideration shall identify each specific finding of the State Board for which reconsideration is requested and state the reasons why each such finding should be reconsidered. The filing of such a request shall stay the effectiveness of the designation until the State Board renders its decision on the request. On receipt of such a request, the State Board shall promptly notify the applicant municipality of the request if that municipality is not the requestor. The State Board shall convene at the earliest feasible date to consider the request and shall render its decision on the request within 90 days of the date on which the request was filed.~~

~~(4) Except as otherwise provided in this section, growth center designation shall extend for a period of 20 years. The State Board shall review a growth center designation no less frequently than every five years, after providing notice as required in the case of a proposed municipal plan or amendment under subsection 4384(e) of this title, and after providing an opportunity for the public to be heard. For each applicant, the State Board may adjust the schedule of review under this subsection so as to coincide with the review of the related and underlying designation of a downtown, village center, or new town center. If, at the time of the review, the State Board determines that the growth center no longer meets the standards for designation in effect at~~

~~the time the growth center initially was designated, it may take any of the following actions:~~

~~(A) require corrective action;~~

~~(B) provide technical assistance through the coordinated assistance program; or~~

~~(C) remove the growth center's designation, with that removal not affecting any of the growth center's previously awarded benefits.~~

~~(5) At any time a municipality shall be able to apply to the State Board for amendment of a designated growth center or any related conditions or other matters, according to the procedures that apply in the case of an original application.~~

(e) Length of Designation.

(1) Except as otherwise provided in this section, growth center designation shall extend for 20 years. The State Board shall review a growth center designation no less frequently than every five years, after providing notice as required in the case of a proposed municipal plan or amendment under subsection 4384(e) of this title, and after providing an opportunity for the public to be heard. For each applicant, the State Board may adjust the schedule of review under this subsection so as to coincide with the review of the related and underlying designation of a downtown, village center, or new town center.

(2) The five-year review shall include, at a minimum, an updated five-year capital plan that funds infrastructure improvements necessary to implement growth center development, updated development projections, a summary of growth within and outside the growth center to date, and any changes to the municipal plan, bylaws, or maps since the original growth center application or any previous review.

(3) If, at the time of the review, the State Board determines that the growth center no longer meets the standards for designation in effect at the time the growth center initially was designated, the State Board may:

(A) require corrective action;

(B) provide technical assistance through the coordinated assistance program; or

(C) remove the growth center's designation, with that removal not affecting any of the growth center's previously awarded benefits.

(4) At any time, a municipality shall be able to apply to the State Board for amendment of a designated growth center or any related conditions or other matters, according to the procedures that apply in the case of an original application.

(f) Review by the Natural Resources Board and issuance of Act 250 findings of fact and conclusions of law. Subsequent to growth center designation by the State Board, an applicant municipality may submit a request for findings of fact and conclusions of law under specific criteria of 10 V.S.A.

§ 6086(a) to the Natural Resources Board for consideration in accordance with the following:

(1) In requesting findings of fact, the applicant municipality shall specify any criteria for which findings and conclusions are requested and the nature and scope of the findings that are being requested.

(2) The ~~panel~~ Natural Resources Board shall notify all landowners of land located within the proposed growth center, entities that would be accorded party status before a district commission under 10 V.S.A. § 6085(c)(1)(C) and (D), and all owners of land adjoining the proposed growth center of a hearing on the issue. The ~~panel~~ Natural Resources Board may fashion alternate and more efficient means of providing adequate notice to persons potentially affected under this subdivision. Persons notified may appear at the hearing and be heard, as may any other person who has a particularized interest protected by 10 V.S.A. chapter 151 that may be affected by the decision.

(3) The ~~panel~~ Natural Resources Board shall review the request in accordance with and shall issue findings of fact and conclusions of law under the applicable criteria of 10 V.S.A. § 6086(a) which are deemed to have been satisfied by the applicant's submissions during the formal designation process, any additional submissions, as well as associated municipal plan policies, programs, and bylaws. Findings and conclusions of law shall be effective for a period of five years, unless otherwise provided. The ~~panel~~ Natural Resources Board, before issuing its findings and conclusions, may require specific

changes in the proposal, or regulatory changes by the municipality, as a condition for certain findings and conclusions. These findings and conclusions shall be subject to appeal to the Environmental Division pursuant to 10 V.S.A. chapter 220 within 30 days of issuance.

(4) During the period of time in which a growth center designation remains in effect, any findings and conclusions issued by the Natural Resources Board or any final adjudication of those findings and conclusions shall be applicable to any subsequent application for approval by a district commission under 10 V.S.A. chapter 151 and shall be binding upon the district commission and the persons provided notice in the Natural Resources Board proceeding, according to the rules of the Natural Resources Board, provided the proposed development project is located within the designated growth center.

(5) In any application to a district commission under 10 V.S.A. chapter 151 for approval of a proposed development or subdivision to be located within the designated growth center, the district commission shall review de novo any relevant criteria of 10 V.S.A. § 6086(a) that are not subject to findings of fact and conclusions of law issued by the Natural Resources Board pursuant to this section.

(6) The decision of the State Board pursuant to this section shall not be binding as to the criteria of 10 V.S.A. § 6086(a) in any proceeding before the panel or a district commission.

(g) Review by district commission. In addition to its other powers, in making its determinations under 10 V.S.A. § 6086, a district commission may consider important resources within a proposed growth center that have been identified in the designation process and the anticipated impacts on those resources, and may require that reasonable mitigation be provided as an alternative to permit denial.

(h) Concurrent designation. A municipality may seek designation of a growth center concurrently with the designation of a downtown pursuant to section 2793 of this title, the designation of a village center pursuant to section 2793a of this title, or the designation of a new town center pursuant to section 2793b of this title.

(i) Benefits from designation. A growth center designated by the State Board pursuant to this section is eligible for the following development incentives and benefits:

(1) Financial incentives.

(A) A municipality may use tax increment financing for infrastructure and improvements in its designated growth center pursuant to the provisions of Title 32 and this title. A designated growth center under this section shall be presumed to have met any locational criteria established in Vermont statutes for tax increment financing. The State Board may consider project criteria established under those statutes and, as appropriate, may make recommendations as to whether any of those project criteria have been met.

(B) Vermont Economic Development Authority (VEDA) incentives shall be provided to designated growth centers.

(2) State assistance and funding for growth centers.

(A) It is the intention of the ~~general assembly~~ General Assembly to give the highest priority to facilitating development and growth in designated downtowns and village centers whenever feasible. The provisions in this section and elsewhere in law that provide and establish priorities for State assistance and funding for designated growth centers are not intended to take precedence over any other provisions of law that provide ~~state~~ State assistance and funding for designated downtowns and village centers.

(B) On or before January 15, 2007, the Secretary of Administration, in consultation with the Secretaries of Natural Resources, of Transportation, of Commerce and Community Development, and of ~~agriculture, food and markets~~ Agriculture, Food and Markets, shall report to the General Assembly on the priorities and preferences for State assistance and funding granted in law to downtown centers, village centers, and designated growth centers, and the manner in which such priorities are applied.

(3) State infrastructure and development assistance.

(A) With respect to State grants and other State funding, priority should be given to support infrastructure and other investments in public facilities located inside a designated growth center to consist of the following:

(i) Agency of Natural Resources funding of new, expanded, upgraded, or refurbished wastewater management facilities serving a growth center in accordance with the Agency's rules regarding priority for pollution abatement, pollution prevention, and the protection of public health and water quality.

(ii) Technical and financial assistance for brownfields remediation under the Vermont brownfields initiative.

(iii) Community development block grant (CDBG) program implementation grants.

(iv) Technical, financial, and other benefits made available by statute or rule.

(B) Whenever the Commissioner of Buildings and General Services or other State officials in charge of selecting a site are planning to lease or construct buildings suitable to being located in a designated growth center after determining that the option of utilizing existing space in a downtown development district pursuant to subdivision 2794(a)(13) of this title or within a designated village center pursuant to subdivision 2793a(c)(6) of this title or within a designated new town center pursuant to subdivision 2793b(c)(2) of this title is not feasible, the option of locating in a designated growth center shall be given thorough investigation and priority in consultation with the legislative body of the municipality.

(4) State investments. The State shall:

(A) Expand the scope of the downtown transportation fund, as funds are available, to include access to downtowns with the first priority being projects located in designated downtowns, the second priority being projects located in designated village centers, and the third priority being projects located in designated growth centers.

(B) Extend priority consideration for transportation enhancement improvements located within or serving designated downtowns, village centers, and growth centers.

(C) Grant to projects located within designated growth centers priority consideration for State housing renovation and affordable housing construction assistance programs.

(5) Regulatory incentives.

(A) Master plan permit application. At any time while designation of a growth center is in effect, any person or persons who exercise ownership or control over an area encompassing all or part of the designated growth center or any municipality within which a growth center has been formally designated may apply for a master plan permit for that area or any portion of that area to the district commission pursuant to the rules of the Natural Resources Board. Municipalities making an application under this subdivision are not required to exercise ownership of or control over the affected property. The district commission shall be bound by any conclusions or findings of the Natural

Resources Board, or any final adjudication of those findings and conclusions, pursuant to subsection (f) of this section but shall consider de novo any of the criteria of 10 V.S.A. § 6086(a) that were not subject to the final issuance of findings and conclusions by the Natural Resources Board pursuant to that subsection. In approving a master permit, the district commission may set forth specific conditions that an applicant for an individual project permit will be required to meet.

(B) Individual project permits within a designated growth center.

The district commission shall review individual Act 250 permit applications in accordance with the specific findings of fact and conclusions of law issued by the Natural Resources Board under this section, if any, and in accordance with the conditions, findings, and conclusions of any applicable master plan permit. Any person proposing a development or subdivision within a designated growth center where no master plan permit is in effect shall be required to file an application with the district environmental commission for review under the criteria of 10 V.S.A. § 6086(a).

Sec. 4. 24 V.S.A. § 4302(c) is amended to read:

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

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

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

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

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

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

* * *

Sec. 5. 24 V.S.A. § 4304 is amended to read:

§ 4304. PLANNING AND LAND USE MANUAL

(a) ~~The agency of commerce and community development~~ Commissioner of Housing and Community Development shall prepare, maintain, and distribute from time to time to all municipalities a manual setting forth:

- (1) ~~A~~ a copy of this chapter, together with all amendments thereof;
- (2) ~~Examples~~ examples of land planning policies, and maps and documents prepared in conformance with plan requirements;

(3) ~~An~~ an explanation and illustrative examples of bylaws, capital programs ~~and~~, budgets, and procedures authorized in this chapter; and

(4) ~~Other~~ other explanatory material and data which will aid municipalities in the preparation of plans, capital budgets ~~and~~, programs, and the administration of bylaws authorized in this chapter.

(b) The ~~agency of commerce and community development~~ Commissioner of Housing and Community Development shall, from time to time, confer with interested persons with a view toward ~~insuring~~ ensuring the maintenance of such manual in a form most useful to those regions and municipalities making use of it.

(c) Sections of this manual may be cited in any plan or ~~by law~~ bylaw in the same manner as citations of this chapter, and may be incorporated by reference in any plan ~~by law~~ bylaw.

Sec. 6. 24 V.S.A. § 4382 is amended to read:

§ 4382. THE PLAN FOR A MUNICIPALITY

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

(1) A statement of objectives, policies, and programs of the municipality to guide the future growth and development of land, public services, and facilities, and to protect the environment;

(2) A land use plan:

(A) consisting of a map and statement of present and prospective land uses, indicating those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses and open spaces reserved for flood plain, wetland protection, or other conservation purposes; ~~and~~

(B) setting forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and service; and

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

* * *

Sec. 7. 24 V.S.A. § 4348a is amended to read:

§ 4348a. ELEMENTS OF A REGIONAL PLAN

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include ~~but need not be limited to~~ the following:

(1) A statement of basic policies of the region to guide the future growth and development of land and of public services and facilities, and to protect the environment;

(2) A land use element, which shall consist of a map and statement of present and prospective land uses:

(A) indicating those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses, open spaces, and areas identified by the State, regional planning commissions or municipalities, which require special consideration for aquifer protection, wetland protection, or for other conservation purposes;

(B) indicating those areas within the region that are likely candidates for designation under sections 2793 (downtown development districts), 2793a (village centers), 2793b (new town centers), and 2793c (growth centers) of this title;

(C) indicating locations proposed for developments with a potential for regional impact, as determined by the regional planning commission, including flood control projects, surface water supply projects, industrial parks, office parks, shopping centers and shopping malls, airports, tourist attractions, recreational facilities, private schools, public or private colleges, and residential developments or subdivisions;

~~(C)~~(D) setting forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and services;

~~(D)~~(E) indicating those areas that have the potential to sustain agriculture and recommendations for maintaining them which may include transfer of development rights, acquisition of development rights, or farmer assistance programs;

* * *

Sec. 8. 24 V.S.A. § 4404 is added to read

§ 4404. STATE DESIGNATION; IMPLEMENTATION OF MUNICIPAL PLAN

A municipality, to implement its municipal plan, may apply for State designation of an existing or planned municipal growth center, downtown, village center, new town center, or neighborhood development area as necessary for eligibility to receive associated benefits pursuant to chapter 76A of this title.

Sec. 9. PLANNING MANUAL; REVISIONS

On or before November 15, 2015, the Commissioner of Housing and Community Development shall revise the planning manual under 24 V.S.A. § 4304 to conform to the provisions of this act.

Sec. 10. 24 V.S.A. § 4451 is amended to read:

§ 4451. ENFORCEMENT; PENALTIES

(a) Any person who violates any bylaw after it has been adopted under this chapter or who violates a comparable ordinance or regulation adopted under prior enabling laws shall be fined not more than \$200.00 for each offense. No action may be brought under this section unless the alleged offender has had at least seven days' warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation of the bylaw or ordinance after the seven-day notice period and within the next succeeding 12 months.

(1) The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.

(2) A notice of violation issued under this chapter also shall state:

(A) the bylaw or municipal land use permit condition alleged to have been violated;

(B) the facts giving rise to the alleged violation;

(C) to whom appeal may be taken and the period of time for taking an appeal; and

(D) that failure to file an appeal within that period will render the notice of violation the final decision on the violation addressed in the notice.

(3) In default of payment of the fine, the person, the members of any partnership, or the principal officers of the corporation shall each pay double the amount of the fine. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of bylaws shall be paid over to the municipality whose bylaw has been violated.

(b) Any person who, being the owner or agent of the owner of any lot, tract, or parcel of land, lays out, constructs, opens, or dedicates any street, sanitary sewer, storm sewer, water main, or other improvements for public use, travel, or other purposes or for the common use of occupants of buildings abutting thereon, or sells, transfers, or agrees or enters into an agreement to sell any land in a subdivision or land development whether by reference to or by other use of a plat of that subdivision or land development or otherwise, or erects any structure on that land, unless a final plat has been prepared in full compliance with this chapter and the bylaws adopted under this chapter and has been recorded as provided in this chapter, shall be fined not more than \$200.00, and each lot or parcel so transferred or sold or agreed or included in a contract to be sold shall be deemed a separate violation. All fines collected for these violations shall be paid over to the municipality whose bylaw has been violated. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the seller or transferor from these penalties or from the remedies provided in this chapter.

Sec. 11. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: May 27, 2014