

# ACT 59

**Report to the Vermont General Assembly on ways to improve and strengthen the state designation programs designed to promote compact development and the efficient use of resources**

Report Prepared by  
The Department of Housing and Community Development (DHCD)  
December 15, 2013



# ACT 59 COMMISSIONER'S CHARGE

Act 59 of the 2013 session of the General Assembly included a section that read as follows:

## SEC. 14. REVIEW OF THE GROWTH CENTER AND NEW TOWN CENTER PROGRAMS

On or before June 15, 2013, the Commissioner of the Department of 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.

## ACKNOWLEDGMENTS

This work would not have been possible without tremendous help, support and energy of our sister state agencies, the Vermont Affordable Housing Coalition, the Home Builders and Remodelers Association of Northern Vermont, the Preservation Trust of Vermont, the Natural Resources Board, the Regional Development Corporations, the Vermont Association of Planning and Development Agencies, the Vermont Chamber of Commerce, the Vermont League of Cities and Towns, Vermont Natural Resources Council, the Vermont Planners Association, the Vermont Realtors Association and the input of over 300 professionals and volunteers from across the state.



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## EXECUTIVE SUMMARY

Charged with developing recommendations to improve the Growth Center and New Town Center programs, incentives for all five designation programs and issues around agricultural development, industrial parks and natural resources, the Department of Housing and Community Development (DHCD) set to work in 2013. From May to December, it met with state agencies, stakeholders, and working groups; followed up and ‘reality-checked’ suggestions; and worked on program improvements.

A six month timeframe to address the depth and breadth of the legislative charge was difficult, but thanks to thoughtful and committed stakeholder participation, this report outlines recommendations in each of the assigned areas. Some areas, like Growth Center and New Town Center program updates, yielded very specific recommendations that are ready for consideration during the 2014 legislative session. Others, like agricultural enterprise, set a direction, but more work is required for specific statutory, program or regulatory recommendations. Other key issues, such as meeting current and future infrastructure needs, had no clear, easy solution, but the current available options and next steps are provided.

The report is organized by topic area and identifies the issues raised and recommendations made through an extensive stakeholder process. A brief summary is provided for each. A full listing of the recommendations made, meetings notes and survey summaries are provided in the Appendices.

Two over-arching, common needs were raised in all of the working groups and many of the meetings:

- » The need for state-wide data and information sets that are comprehensive and accessible; and,
- » Stepped up education and outreach efforts with built in ‘customer service’ check-ins to ensure the outreach is effective and reaching the needs of the audiences.

In recognition of current fiscal constraints, stakeholders generally offered recommendations to make modest improvements to existing programs. One working group focused on improvements to the growth center application process after consultation with the six municipalities that currently have designation. DHCD is developing statutory updates for both the Growth Center and New Town Center programs which will be proposed for the 2014 legislative session. Top recommendations most frequently offered by stakeholders for improving the current designation programs included:

- » Increase the amount of Downtown Tax Credits available for designated Downtown and Village Centers;
- » Increase funding to the Municipal Planning Grant program;
- » Accelerate state permitting and/or lower fees within designated areas;
- » Create incentives for industrial uses within designated growth centers; and,
- » Modify the triggers for Act 250 in designated Neighborhood Development Areas.

Recommendations for agricultural enterprises along with natural resource protection were broader in scope and not as detailed. These included:

- » Retain Agency of Agriculture, Food and Markets (AAFM) jurisdiction over farming exemptions, but continue the discussion on how new farm-based agricultural enterprises fit into the definition of farming used in land use permitting;
- » Protect large contiguous blocks of farmland and promote the farm economy to ensure farms remain profitable businesses;
- » Explore options to address concerns that small scale development is fragmenting large forest blocks and critical wildlife habitat;



- » Consider updating Act 250 criteria to recognize the value of large forest blocks and wildlife corridors; and,
- » As a first step to protecting the public and existing development and ensuring new development is out of harm's way, finalize statewide maps of flood plains, flood ways and river corridors. Once maps are completed, reach out to municipalities to discuss the maps and consider municipal and state regulatory and non-regulatory options for protection.

Other improvement ideas were raised and are outlined in the appendix of this report.

DHCD's hope is that stakeholders will continue to work together on solutions to the complex and

interwoven issues raised over the past several months – from education to data collection to regulatory changes and financial incentives.

There is no silver bullet to address how to foster economic prosperity and environmental health in Vermont. The solutions involve inter-related strategies including improved municipal and regional planning, community engagement, education and outreach, data collection and analysis, state agency coordination and collaboration, state and regulatory reform, and leadership and funding.

This report provides a road map for future changes. Some of these changes can take place quickly and others will need additional conversations and work to implement.





# 1

## INDUSTRIAL PARKS

Address the land use needs of future industrial uses recognizing the role they play in Vermont's economy

### ISSUES RAISED

- » Lack of available speculative industrial space (20,000-100,000 sq.ft.) in the state, especially acute in Chittenden County.
- » Few municipalities zone exclusively for industrial uses, zoning instead for combined industrial-commercial-business districts.
- » Industrial uses lack incentives in state designation programs.
- » Industrial uses have no dedicated designation program.

### TOP STAKEHOLDER RECOMMENDATIONS

- » Provide tools and outreach to municipalities to link comprehensive plan elements (land use, economic development, infrastructure, etc.) with implementation tools to support industrial and commercial development.
- » Encourage and support comprehensive local and regional planning that integrates industrial and commercial uses into growth centers.
- » Enhance incentives for industrial uses in designated growth centers instead of creating a new designation program.
- » Consider developing a land bank program for future industrial uses.

### POTENTIAL BENEFITS

- » Increased land available for industrial uses – both 'traditional' definition and the new trend of 'value-added' businesses that bring new dollars and jobs to a region.
- » Increased incentives for industrial uses in current designated areas without creating a new program that would require administrative support, oversight, training and funding.
- » Raises awareness of the role industrial uses play in economic development.

### OVERVIEW

Traditionally, it was considered inappropriate to locate industrial parks in and around residential, business and retail centers due to impacts such as noise, emissions, truck traffic, extended hours of operation or expansive space requirements. Heavy industry, manufacturing, and warehousing are examples of typical industrial park uses. In past years, requests have been made to the Legislature to provide special incentives such as funding and regulatory relief for these areas and develop a separate designation program for industrial parks.

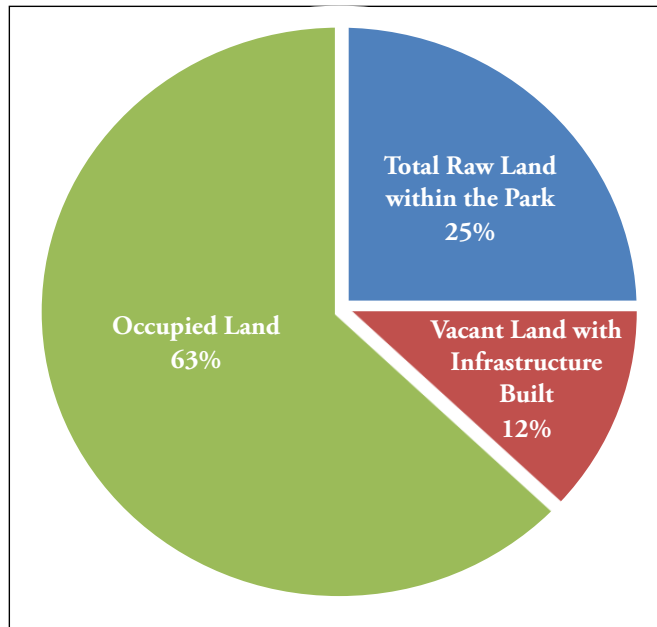
In an attempt to understand the pressures and needs related to current and future industrial uses, DHCD asked the Regional Development Corporations (RDCs) to compile the following information on industrial parks:

- » Square footage in existing industrial parks and their average vacancy rates along with the type of uses in the occupied space.
- » Square footage of permitted, but not yet built space in industrial parks.
- » Acreage and location of land for future industrial parks.

The RDCs reported that they "did not have the resources to undertake a comprehensive inventory of available industrial sites, buildings or other land around the state." Rather, they focused on known industrial parks and buildings owned by the RDCs. Analysis of the data they provided indicated that of the 4,229 acres of industrial parks, 63% is occupied, 12% is vacant land with infrastructure and the remaining 25% is raw land. Within these parks, the RDCs have over 1.2 million square feet; 63% of which is occupied with the remaining 37% available. This evaluation is based on a 'snap shot' in time and the information, especially vacancy rates will fluctuate. It should also be noted that the raw land was not evaluated for development suitability

(i.e. 35 acres might be “raw land” but only 10 acres is suitable for development due to steep slopes, wetlands, etc.).

Figure 1. Land in Industrial and Business Parks (4,229 acres)



To round out the picture of the land available for industrial needs, staff reviewed Chittenden County’s ECOS (Environment.Community.Opportunity.Sustainability) project, met with commercial developers and the Greater Burlington Industrial Corporation staff and convened an Industrial Park Working Group that included members from local and regional planning, economic development and environmental organizations.

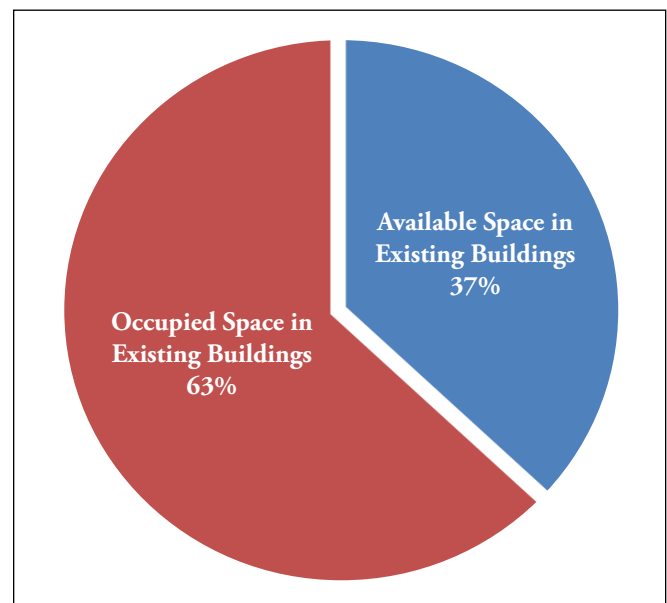
Highlighted issues noted in these meetings included:

- » Lack of industrial space is an issue, most acutely in Chittenden County. There is a desire to have speculative buildings of 20,000-100,000 square feet available for lease so that when a potential business is interested in locating in the area, time from inquiry to lease is minimal.
- » Municipalities rarely zone areas exclusively for industrial uses, favoring zoning that includes industrial, commercial and business. For example, in Chittenden County, Milton is the only community that has zoned areas exclusively for industrial uses.

» Developers do not need financial incentives, but rather streamlined or eased permitting.

One of the state’s largest developers of industrial space reported a change in the real estate market. He has found that the “build on spec and they will come” approach no longer works. He also noted that tenant trends are changing from heavy industry to IT companies and plumbing and electrical wholesale companies. Because there is no reason to isolate those uses, they can be permitted in residential areas as conditional uses. These trends to a more commercial, commercial/business environment with businesses that provide capital importation (value-added businesses that bring new dollars into the region) was confirmed by several Regional Development Corporation leaders.

Figure 2. Buildings Owned by RDCs (1,266,134 Square Feet)



The top recommendations yielded by the stakeholder process follows.

**Provide tools and outreach to municipalities to link comprehensive plan elements (land use, economic development and infrastructure) with implementation tools to support industrial and commercial development.**

As mentioned in the *Planning Capacity* section of this report, there are over 8,000 volunteers working on economic and community development in towns

across the state with limited resources. Outreach and tools around maximizing density, infrastructure needs (sewer, water, three-phased power, etc.) permitted vs. conditional use and clarity about site requirements are important when developing municipal plans and bylaws that relate to industrial uses within a community. Goals and priorities for industrial uses within a municipality can be noted in the economic development element of a Municipal plan and linked to other elements such as land use, housing, transportation and infrastructure. Stakeholders noted that these are also areas in which municipalities might need technical assistance. Partnerships with the Vermont League of Cities and Towns, the Regional Planning Commissions, Regional Development Corporations and DHCD would be important to developing and implementing such an educational program with existing resources.

**Encourage and support comprehensive local and regional planning that integrates industrial and commercial uses into growth centers.**

Act 59 updates to the Downtown and Village Center designation programs specifically mentions industrial uses within the definition. Any statutory updates made to the Growth Center designation and New Town Center program should include similar clarifications, if needed. Also, communities developing future applications for growth center designation should include industrial and commercial uses. Including these key economic and job creators in growth centers helps link jobs with housing, transportation and infrastructure – maximizing benefits and utilizing existing infrastructure efficiently.

**Enhance incentives for industrial uses in designated growth centers instead of creating a new designation program.**

Incentives suggested during the Industrial Working Group Session included:

- » Act 250 modifications such as accepting a higher level of congestion for development in designated areas; reducing/eliminate agricultural mitigation costs.
- » Increasing the speed of permitting in designated areas.
- » Decreasing permitting costs.

- » Directing infrastructure spending to designated areas to support industrial uses.

Each of these incentives could help increase the speed and lower the cost of development of industrial uses within a designated area and support the state's land use goals. However, they could also result in reduced funding for agencies that depend on revenue from permitting and agricultural mitigation fees.

**Consider developing a land bank program for future industrial uses.**

The concept of land banking is multi-tiered. First, there is an assumption that land should be set aside for future industrial and commercial development and the municipality supports this in local plans and bylaws by ensuring that it is in a location with appropriate infrastructure. This permits the land to be 'banked' for future use. It is really a place-holder so that a locality can take the time to carefully consider what might be needed in the future for its economic vitality. This land can then be developed by a municipality, a local or regional development corporation or private developer. Municipalities rarely zone an area only for industrial uses. It can take a long time to develop and provide income, and land owners typically request zoning that allow business, office and/or commercial uses.

Currently the Vermont Economic Development Authority (VEDA) has a local development corporation loan program that loans funds to local and regional development corporations to purchase land for industrial parks; for planning and development of industrial parks; for construction or improvement of speculative buildings and for small business incubator facilities.

Also, the Agency of Transportation (AOT) has \$600,000 to support businesses that wish to utilize rail service and locate along all active railroad lines in Vermont. The program requires an equal match from three partners, the state, the railroad and the business owner. Both these programs could be used for a land bank program.