

The Future of State Land Use Regulation:

How Vermont will change with Act 181

white + burke

**VERMONT
DEVELOPMENT
CONFERENCE**

November 20, 2024

Roadmap

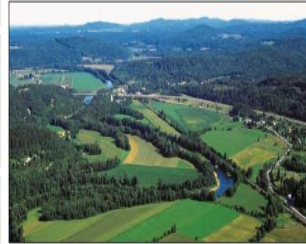
- **Overview-** where we've been and where we're going.
- **Here and Now:**
 - Act 250 Interim Housing Exemptions
 - Municipal regulations
- **Tiers** of Jurisdiction
- Land Use **Maps and** Regional **Plans**
- Show me the assistance - **Designations**

How we got here?

NRB Report



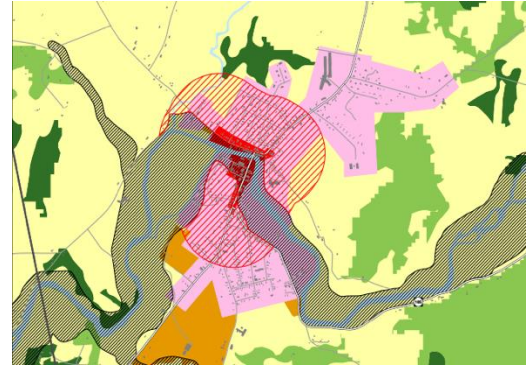
NATURAL RESOURCES BOARD
NECESSARY UPDATES TO ACT 250



DHCD Report



RPC Report



Purpose

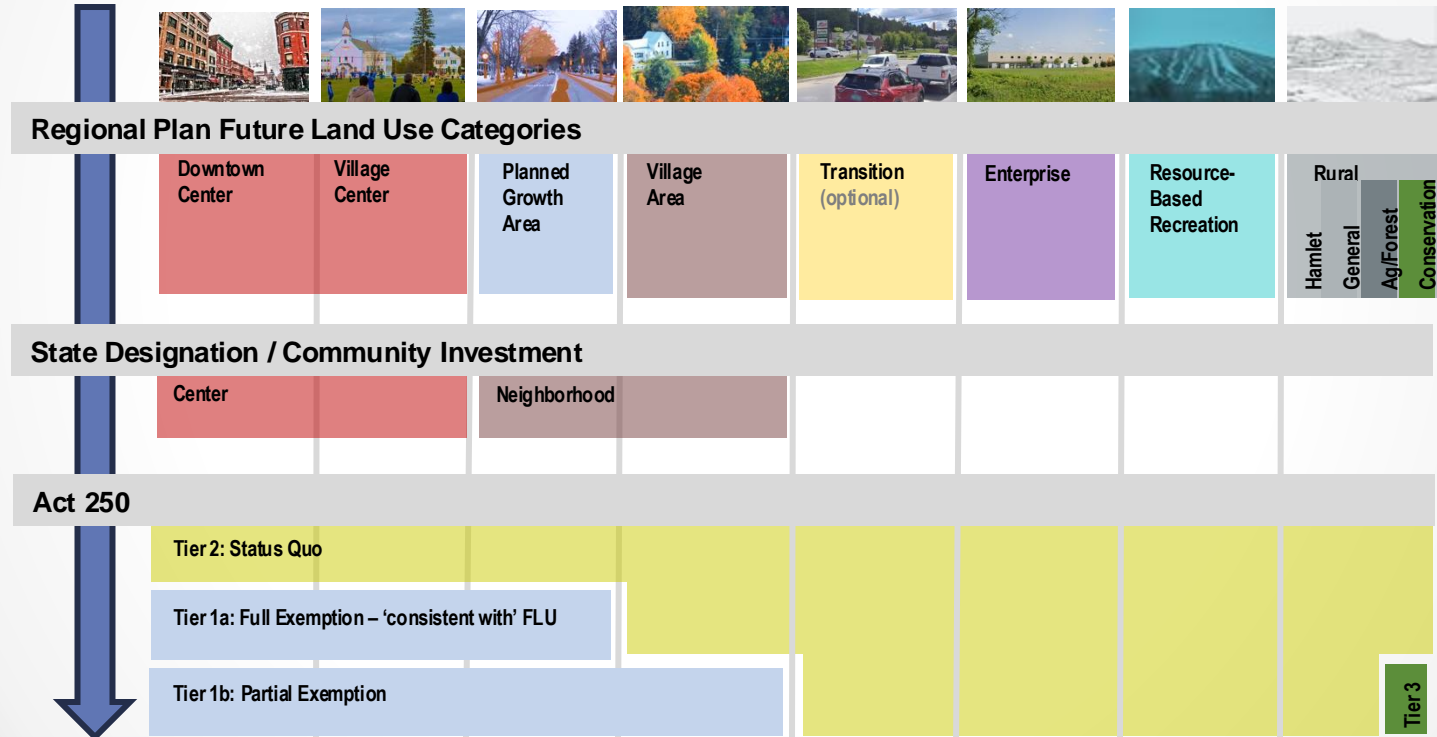
Much of the new Purpose statement and Act 181's changes can be distilled into the following theme that has guided Vermont's land use and planning laws since Act 250's inception:

to maintain Vermont's historic settlement pattern of compact village and urban centers separated by rural countryside

The Legislature's longstanding focus on this vision, a form of what is sometimes referred to as "smart growth," helps to explain Act 181's tiered jurisdiction structure and other focus areas of the new law.

The New Framework

Land Use Plans / Designation & Investment / Act 250 Regulation



Tier 3 subject to rulemaking; not derived from regional plan maps.

This table represents land use, designation, and Act 250 jurisdiction categories, not land area acreage or percentage of land area.

Landmark Legislation

Major Modernization of Existing Framework

Immediate

Act 250 Interim Housing Exemptions
Municipal Bylaw Pre-Emptions for Housing

Next Up

Consistent Regional Planning
State Land Use Review Board Approval of Plans

Then

New Designations & Community Investment Board
Municipal Plan Amendments
New Act 250 Location-Based Jurisdiction
 New Exemptions for Centers (Tier 1)
 Maintained Jurisdiction + Road Rule (Tier 2)
 New Critical Resource Jurisdiction (Tier 3)

Further Out

Improved Designation Technical Assistance/Investment
Improved Planning Data Center
Regional Governance Studies

Four planning systems come together

- Act 181 directs all **Regional Planning Commissions** (RPCs) to create new regional plans with consistent future land use maps.
- **Municipalities** are working with the RPCs to implement these changes.
- The State's Downtown Development Board became **the Community Investment Board**. They will implement a phased transition from the current system of development incentives based on 5 state designations to a new system based on 2 designations. Current and new state-designated areas will be integrated into the future land use maps in the new regional plans.
- The **Land Use Review Board** (LRB) will review and approve all regional plans, including new future land use maps, new state designations, and new requests for Tier 1A and Tier 1B status.

Here and Now

- Part 1- Interim Housing Exemptions
- Part 2 - Bylaw Modernization for Housing

Interim Act 250 Exemptions for Housing

- **Purpose:** On ramp to location-based jurisdiction aimed at encouraging housing.
- **Resources:**
 - Interim Housing Exemptions **Guidance**
 - Interim Housing Exemptions **Map**
 - Contact **District Coordinator**



Guidance



Interim Housing Exemptions: Guidance (Act 181 of 2024) State of Vermont Natural Resources Board

Downtown Development Districts (unlimited units)

Summary:

Until January 1, 2027, an unlimited number of housing projects can be constructed within designated downtowns without an Act 250 permit or permit amendment.

Statutory language:

(dd)(3) Notwithstanding any other provision of law to the contrary, until January 1, 2027, no permit or permit amendment is required for the construction of housing projects such as cooperatives, condominiums, dwellings, or mobile homes, constructed or maintained on a tract or tracts of land, located entirely within a designated downtown development district with permanent zoning and subdivision bylaws served by public sewer or water services or soils that are adequate for wastewater disposal. Housing units constructed pursuant to this subdivision shall not count towards the total units constructed in other areas. This exemption shall not apply to areas within mapped river corridors and floodplains except those areas containing preexisting development in areas suitable for infill development as defined in 29-201 of the Vermont Flood Hazard Area and River Corridor Rule. 10 V.S.A. § 6081(dd)(3).

Requirements checklist:

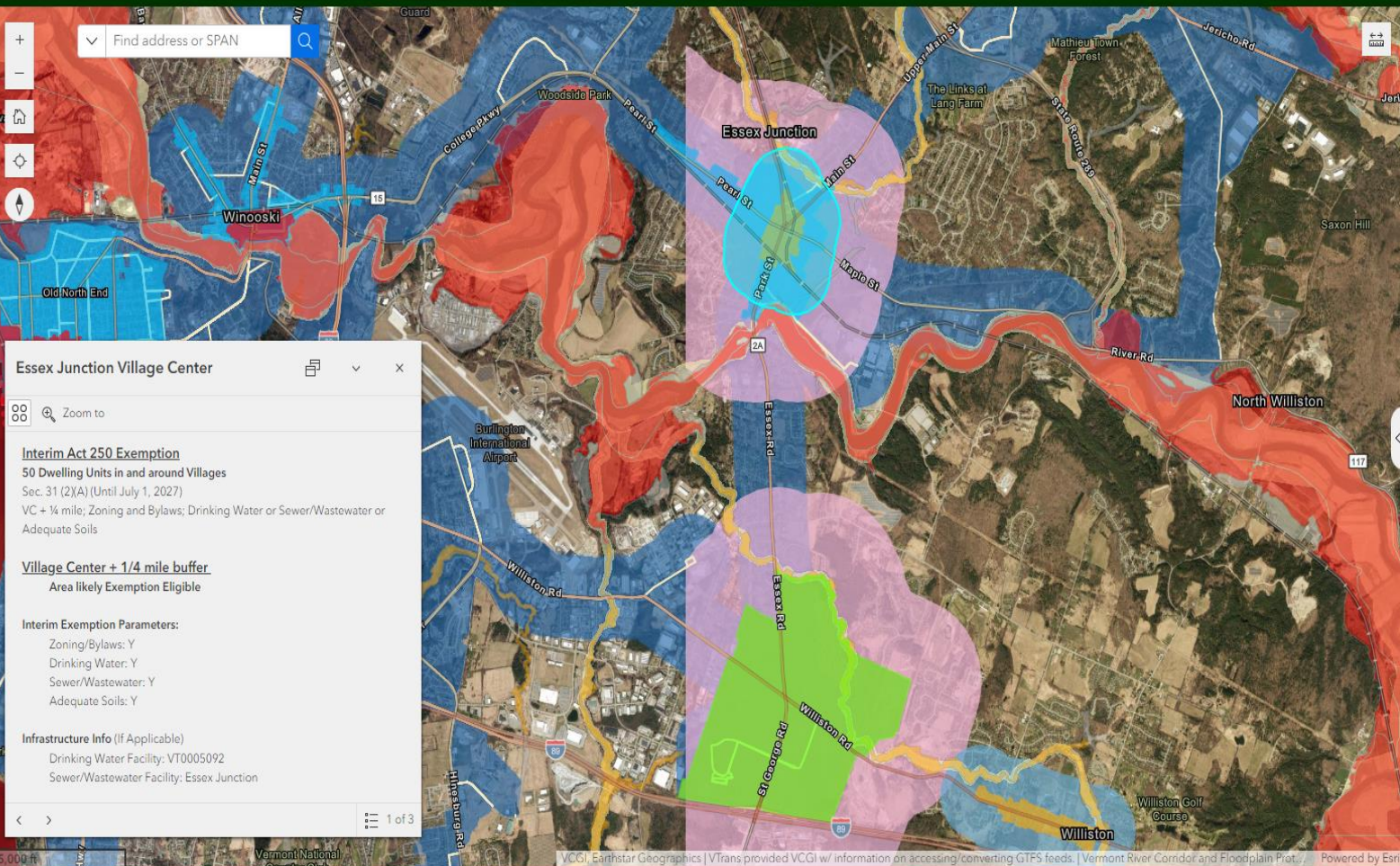
- ☐ Construction of housing project (cooperative, condominiums, dwellings, or mobile homes, etc.)

✓ For the definition of dwelling, see [Act 250 Rule 2\(C\)\(10\)](#).

- ☐ Commencement of construction by January 1, 2027.

✓ For the definition of “commencement of construction” see [Act 250 Rule 2\(C\)\(2\)](#).

- > Designation Boundaries
- > Reference Layers
- I.) Downtown District Area
- II.) Town and Growth Centers & Development Areas
- III.) Village Center & Buffer
- IV.) Priority Housing Projects within Buffer
- V.) Urbanized Area within Transit Route Buffer



Interim Act 250 Exemptions for Housing

Location-based

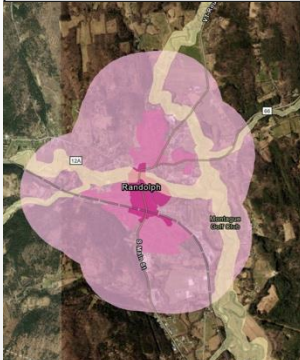
- Priority Housing Projects + ½ mile (unlimited units)
- Downtowns (unlimited units)
- New Town, Growth center, and Neighborhood development (75 units)
- Village Center + 1/4 mile (50 units)
- Transit Corridors + 1/4 mile (50 units)

Type-based

- Commercial Conversion (29 units)
- Accessory Dwelling Units (1/ home)
- Hotel/Motel Conversion to affordable (unlimited units)

Priority Housing Projects

Maximum dwelling units	Unlimited
Availability	Through January 1, 2027
Affordability requirements	Must qualify as a mixed-income ' Priority Housing Project '
Qualifying locations	Within designated downtowns, neighborhood development area, or growth center + ½ mile around these areas
Local regulation requirements	Permanent zoning & subdivision
Infrastructure requirements	Served by public water and sewer or soils adequate for wastewater disposal



Designated Downtowns

Maximum dwelling units	Unlimited
Availability	Through January 1, 2027
Qualifying locations	Within designated downtowns
Location exclusions	River corridors and flood hazard areas, unless infill
Local regulation requirements	Permanent zoning & subdivision
Infrastructure requirements	Served by public water and sewer or soils adequate for wastewater disposal

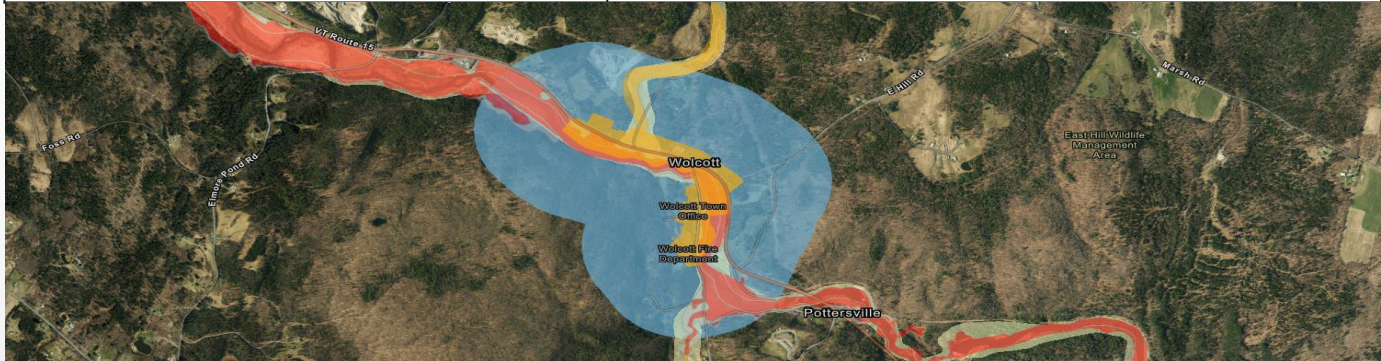


New Town Centers Growth Centers Neighborhood Development Areas

Maximum dwelling units	75
Availability	Through January 1, 2027
Qualifying locations	Within designated new town centers, growth centers and neighborhood development areas
Location exclusions	River corridors and flood hazard areas, unless infill
Local regulation requirements	Permanent zoning & subdivision
Infrastructure requirements	Served by public water and sewer or soils adequate for wastewater disposal

Designated Village Centers

Maximum dwelling units	50
Availability	Through July 1, 2027
Qualifying locations	Within designated village centers + ¼ mile around these areas
Location exclusions	River corridors and flood hazard areas, unless infill
Local regulation requirements	Permanent zoning & subdivision
Infrastructure requirements	Served by public water and sewer or soils adequate for wastewater disposal



Certain Transit Corridors

Maximum dwelling units	50
Availability	Through July 1, 2027
Qualifying locations	Within Census-Designated Urbanized Area of 50K within ¼ mi of transit route
Location exclusions	River corridors and flood hazard areas
Local regulation requirements	Permanent zoning & subdivision
Infrastructure requirements	Served by public water and sewer or soils adequate for wastewater disposal



Commercial to Residential Conversions

Maximum dwelling units	29
Availability	Through July 1, 2028
Qualifying Locations	Statewide



Accessory Dwelling Units

Maximum dwelling units	1 per single-family dwelling
Availability	Through July 1, 2028
Qualifying locations	On owner-occupied lot
Size limits	Cannot exceed 30% of habitable floor area of single-family home or 900 square feet, whichever is greater



Hotel/Motel to Affordable Housing

Maximum dwelling units	No permit amendment for conversion to affordable housing defined under 24 V.S.A. sec. 4303(2)
Availability	Permanent
Qualifying locations	Hotels/motels



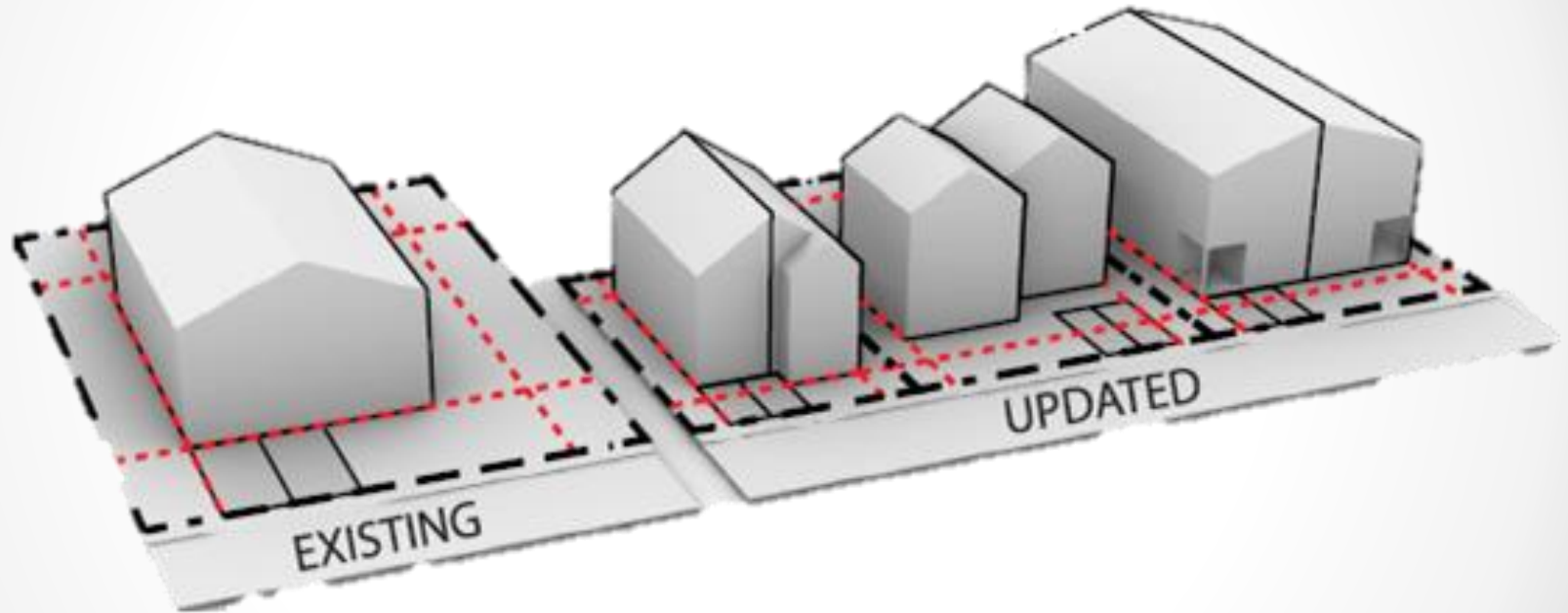
REPEALED

24-unit exemption









4 units = 1 unit

HOME Act of 2023

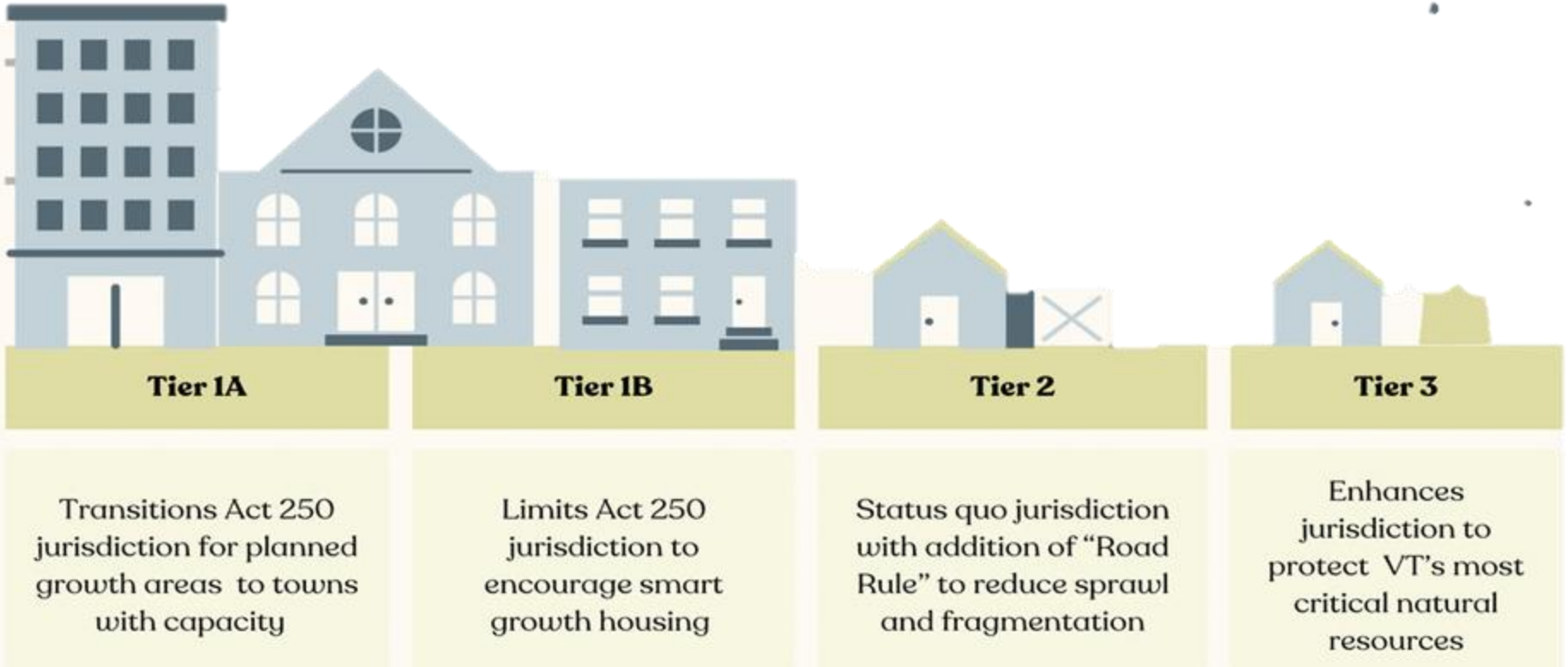
Bylaw Modernization for Housing



Act 181 Municipal Pre-emption

	 On Farm Businesses	 Planning	 Multi-Family Units	 Hotel Conversion	 Parking	 More Parking	 AMP Timeline	 Appeals
Amended Statute	24 V.S.A. § 4412(11)	24 V.S.A. § 4348	24 V.S.A. § 4412	24 V.S.A. § 4413	24 V.S.A. § 4428	24 V.S.A. § 4414 (Act 47 of 2023)	24 V.S.A. § 4464	24 V.S.A. § 4465
What does it do?	Expands the definition of accessory on-farm businesses removing the requirement that 50 percent of the annual sales are produced on the specific farm.	Removes municipalities' ability to veto a regional plan.	<p>Municipalities may not require more land for duplexes</p> <p>Quadplexes allowed on the same size lot as single-unit dwellings</p> <p>Prohibits density and minimum lot size restrictions for multiunit dwellings</p> <p>Density bonuses rounded up</p> <p>Prohibits restrictions on unrelated occupants in the same unit</p>	Adds “hotels and motels converted to permanently affordable housing developments” to list of uses with restricted municipal zoning authority.	<p>Sets maximum parking spot size limit to 9 feet by 18 feet, with exceptions</p> <p>Requires nonconforming parking spaces to count towards requirements when new residential units are being added to an existing unit</p> <p>Allows municipalities to count adjacent parking for residential parking requirements</p>	Parking minimums shall be rounded up when calculating minimum spaces in areas served by water and sewer.	Sets a new 120-day requirement for an appropriate municipal panel's hearing to be <u>warned and noticed</u> after receiving a complete application.	Raise the threshold of appeal from any 10 people to any 20 people.

Tiers of Jurisdiction



Three Tiers for Jurisdiction

Tier 1

Tier 1A

Full Act 250 Exemption

- Municipal application
- LRB review
- Guidelines by January 1, 2026
- Specific requirements

Tier 1B

50 units or fewer of housing Exempt

- Methodology by December 31, 2024
- Municipal requested
- RPC mapped
- LRB review
- Specific requirements

Tier 2

Act 250 Status Quo

- All areas not 1A, 1B, or Tier 3
- Road rule July 1, 2026

Tier 3

Expanded jurisdiction to be established by Board rules February 1, 2026

- Not based on regional maps
- Road rule July 1, 2026



Tier	Authority	Effective Date	Description	Act 250 Jurisdiction
Tier 1A	LRB Guidelines. Municipalities to identify on regional land use maps and apply to LRB for approval.	1/1/2026	Areas of the municipality that are suitable for dense development. Must have municipal planning; water/sewer infrastructure; flood hazard and river corridor bylaws (or exclusion of those areas); planning for growth in/around compact centers; land use bylaws to further smart growth.	Exempt from Act 250 jurisdiction; municipalities to take over enforcement of existing Act 250 permit conditions.
Tier 1B	VAPDA Methodology; LRB Guidelines. Regional Planning Commissions will identify on future land use maps, and designation will occur upon adoption of the maps. Municipalities may opt out of a 1B designation.	12/31/2024	Areas must have municipal planning; water/sewer infrastructure (public water, sewer, or adequate soils for compact development); land use bylaws to accommodate significant housing growth and manage impacts; and exclude flood hazard areas.	Exempts 50 units or fewer of housing on a tract or tracts of land involving 10 acres or less or for mixed-use development with 50 units or fewer of housing on a tract or tracts of land involving 10 acres or less.
Tier 2	LRB Recommendation Report; LRB Rulemaking	2/15/2026	“Tier 2” means an area that is not a Tier 1 area or a Tier 3 area.	“Existing” jurisdictional triggers for development except for a new road rule to incentivize clustered site design.
Tier 3	LRB Rulemaking; ANR Mapping	2/1/2026	Areas consisting of the state’s most critical natural resources to be identified through a rulemaking and stakeholder process. Areas to consider include river corridors, headwater streams, habitat connectors of statewide significance, riparian areas, class A waters, natural communities.	Jurisdiction over “construction of improvements for commercial, industrial, or residential purposes” to be determined through the rulemaking and a stakeholder process. Tier 3 does not necessarily mean automatic jurisdiction. Other policies or programs may be identified to protect critical resource areas.

Approval Body

New State Land Use Review Board (LRB)

- 5 full-time positions, including a chair
- No members residing in the same county
- Membership shall reflect diversity of the state
- Expertise in environmental science; land use law; policy, planning and development, and commitment to environmental justice
- Produce guidelines and rules
- Review and approve regional plans
- Review and approve municipal applications for exempt areas (Tier 1 a/b)
- Approve designations
- Oversee administration of the program
- Study on Appeals and Tier 2 areas

Timelines

- LRB replaces NRB **January 1, 2025**
- Regional plans must be adopted by **December 2026**

New Planning Goals

Local and Regional Planning Goals (24 V.S.A. 4302)

- Accommodate a substantial majority of housing needed to reach housing targets
- Must include environmental justice principles and meet housing targets within areas planned for growth



New Regional Plan Requirements

Process

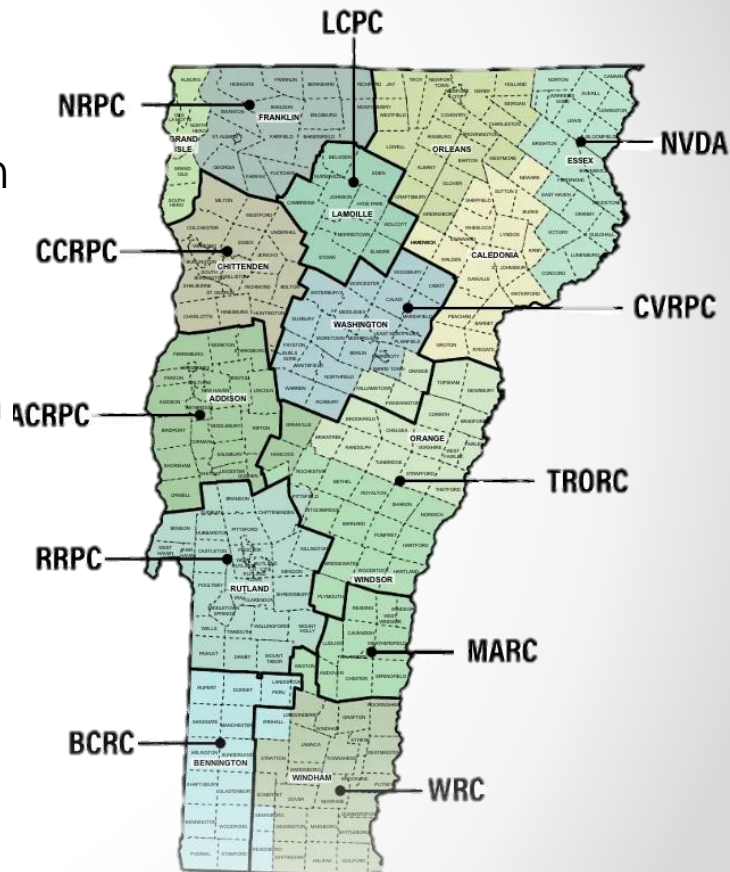
Must incorporate citizen participation

Purposes

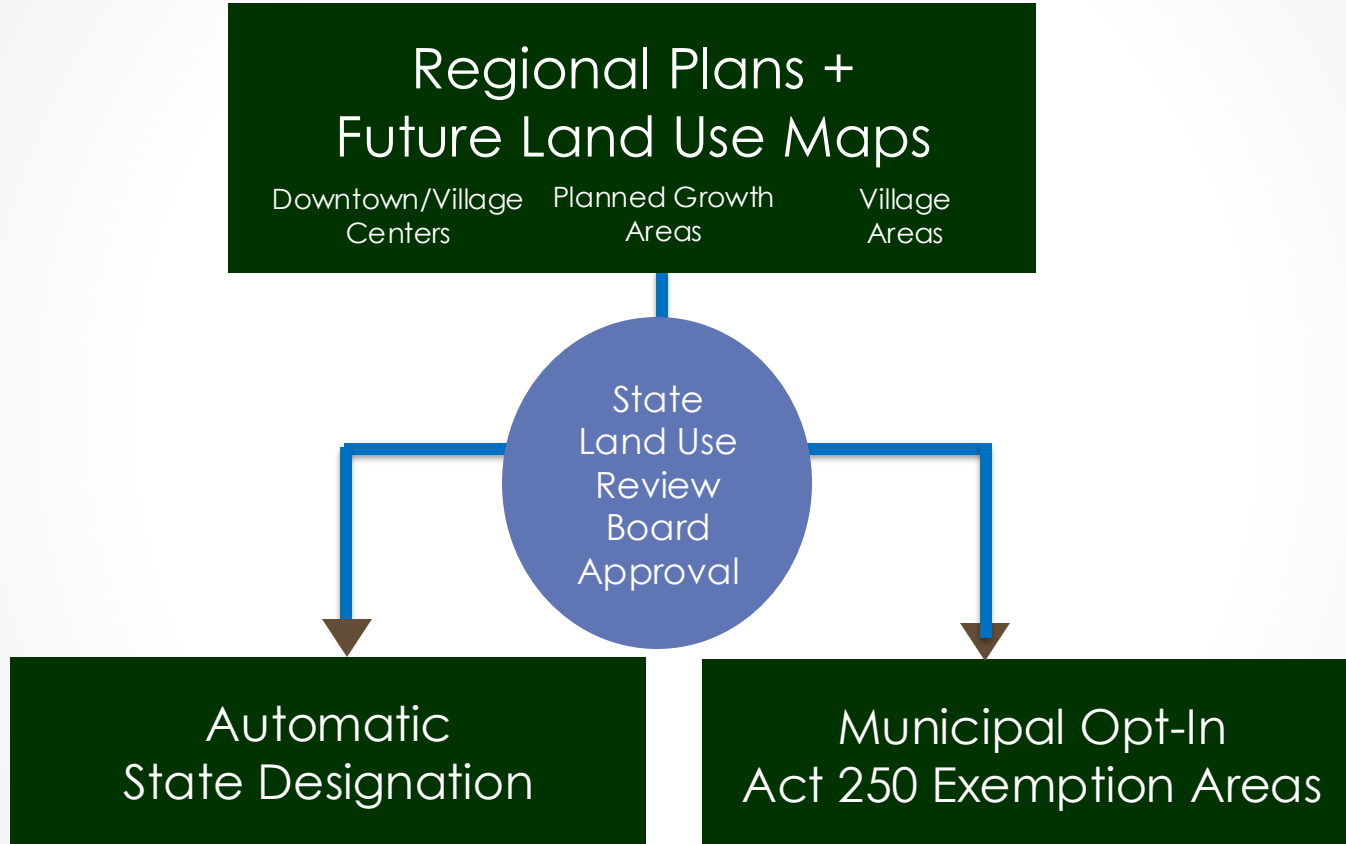
More focus on equity, climate resilience, mitigation and adaptation

Elements

New, standard future land use map requirements



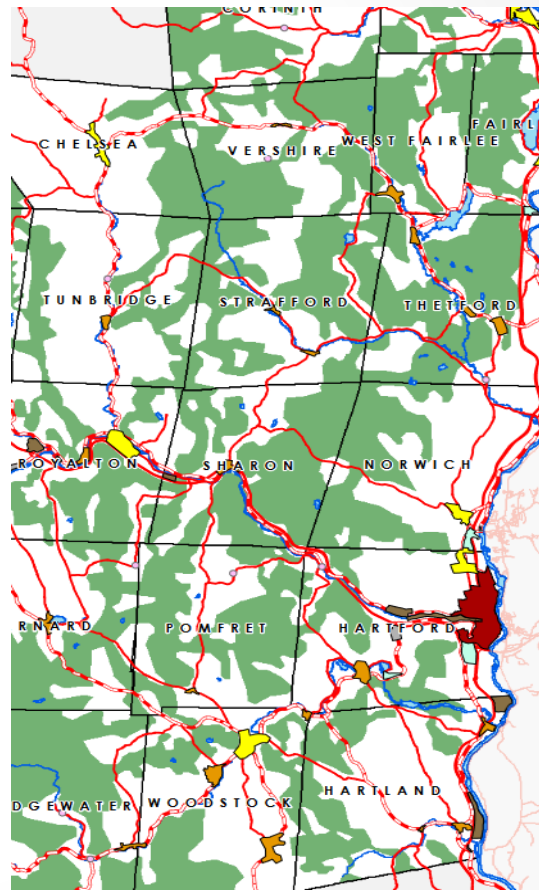
Regional Plan Approvals



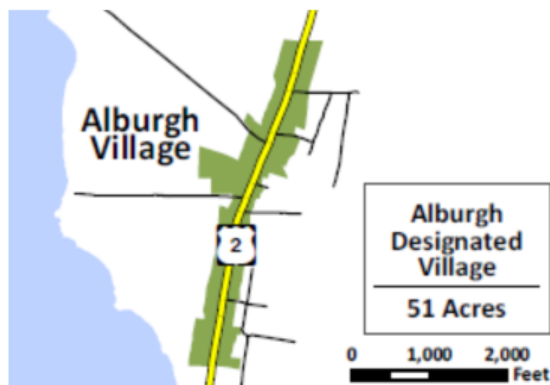
Consistent Regional Planning

Standard Future Land Use Categories

- **Downtown and Village Centers**
- **Planned Growth Areas**
- **Village Areas**
- Transition or Infill Areas
- Resource-based Recreation Areas
- Enterprise Areas
- Hamlets
- Rural; general
- Rural; agriculture and forestry
- Rural; conservation



Two-Rivers Ottaquenechee Regional Plan, 2020



Downtown Center and Village Center

- Village Centers have no requirement for municipal plans, zoning, subdivision or infrastructure.

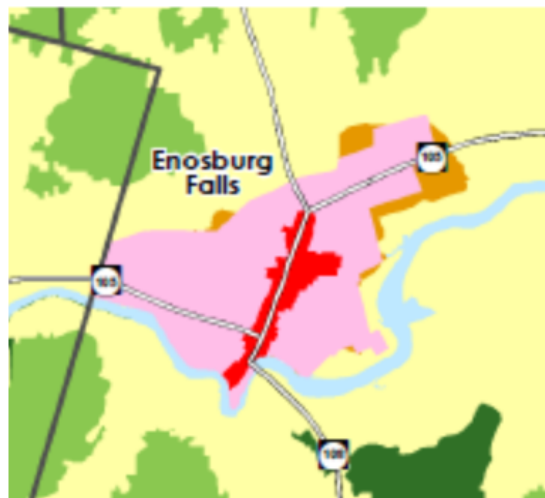
Planned Growth Areas

- Requirements: zoning, subdivision, public water and/or wastewater, and Complete Streets.

Village Areas

- Requirements: zoning, subdivision, and public water, or sewer, or suitable soils.

Eligible for Tier 1B with municipal 'opt in' and adequate staff

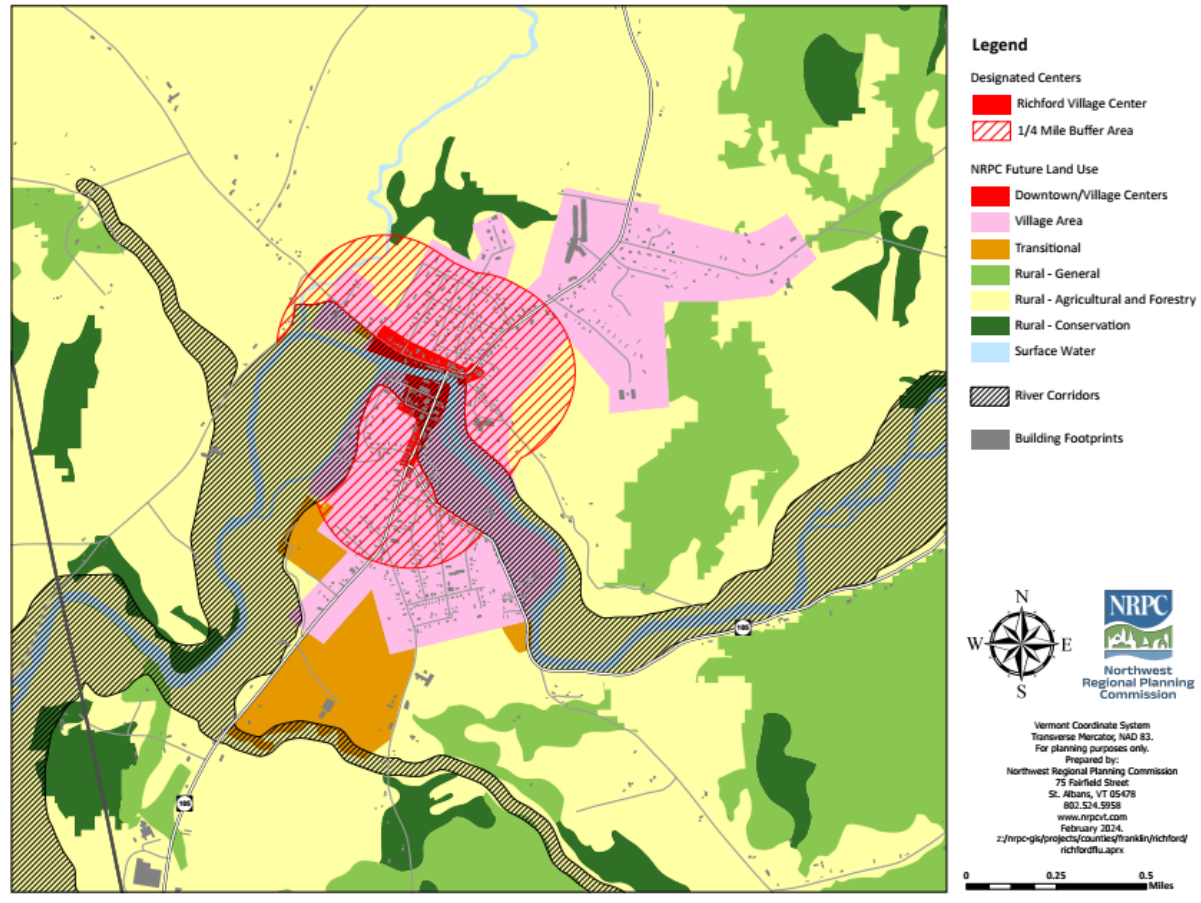


Timeline



Action	Timeframe or deadline
Develop Mapping Standards for Future Land Use Areas, based on Act 181	December 2024
RPCs update regional plan, future land use elements including equitable engagement process	December 2026
LRB Reviews Regional Plan	60-day advance comments
LRB approves or denies regional plan	Hearing within 60 days Decision within 15 days from hearing

Future Land Use Scenario



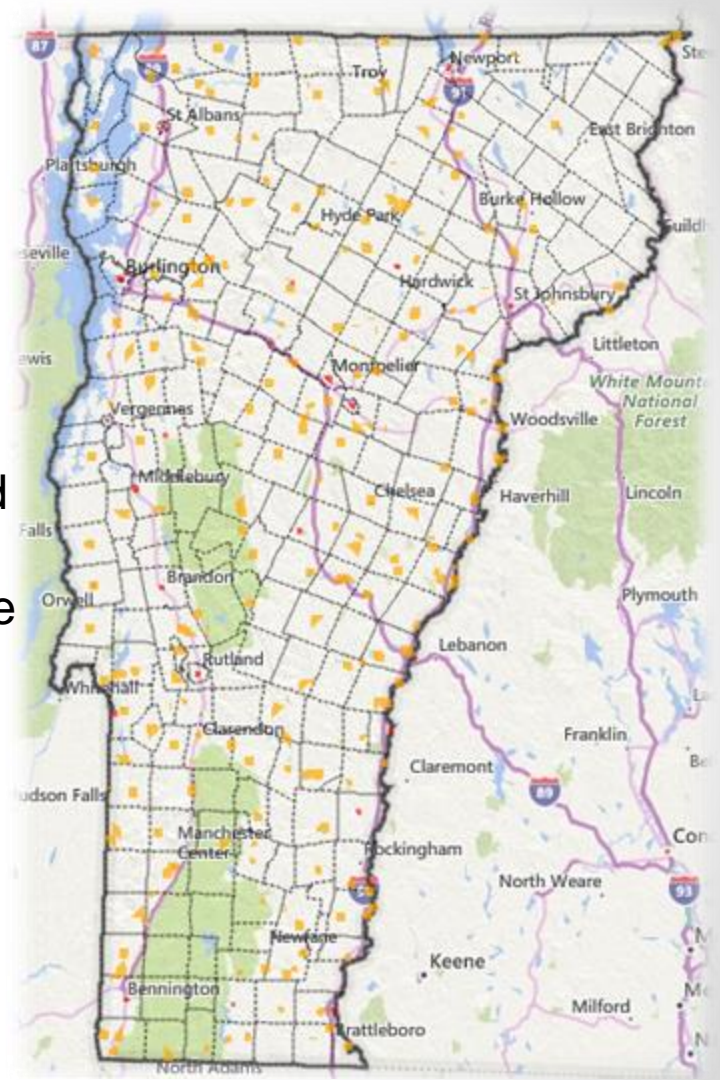
Source: Northwest Regional Planning Commission

Better Designation

Improved access and better benefits

State Designation

- 25 Years
- 295 designated areas
 - Every county
 - Every region
- A coordinating platform for shared priorities & investments
- Used as a proxy for state land use
- Rooted in Vermont's common goals and principles



The 5 Designations

Distinct requirements & benefits

3 Core Designations

Village Centers

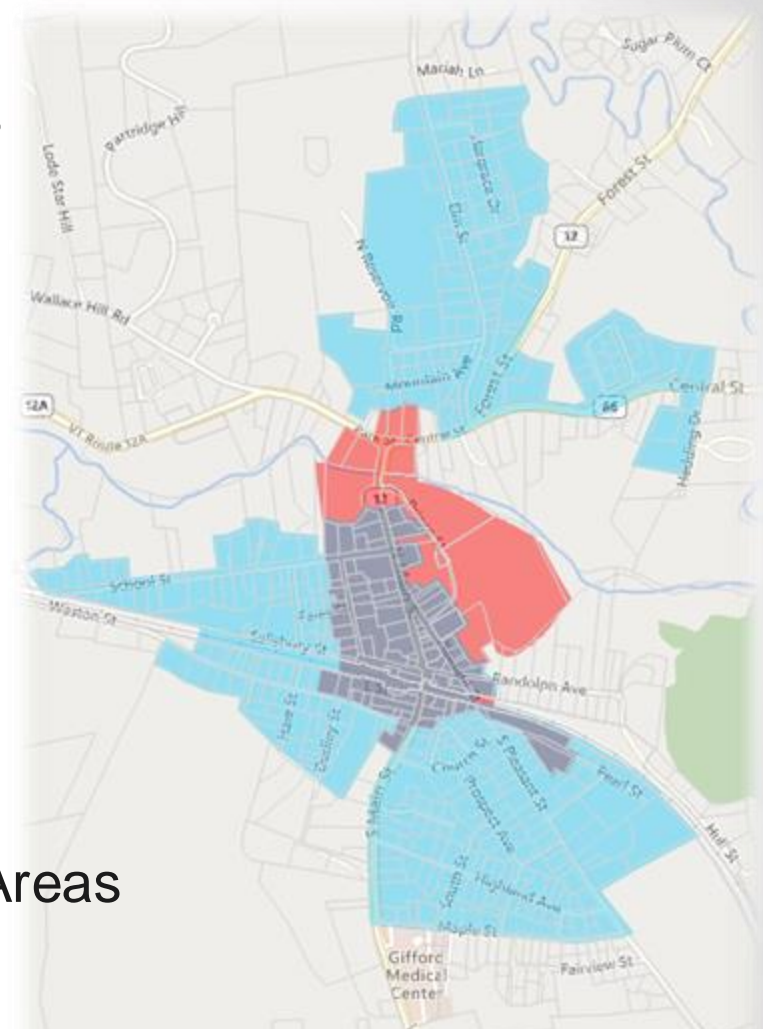
Downtown Centers

New Town Centers

2 Add-on Designations

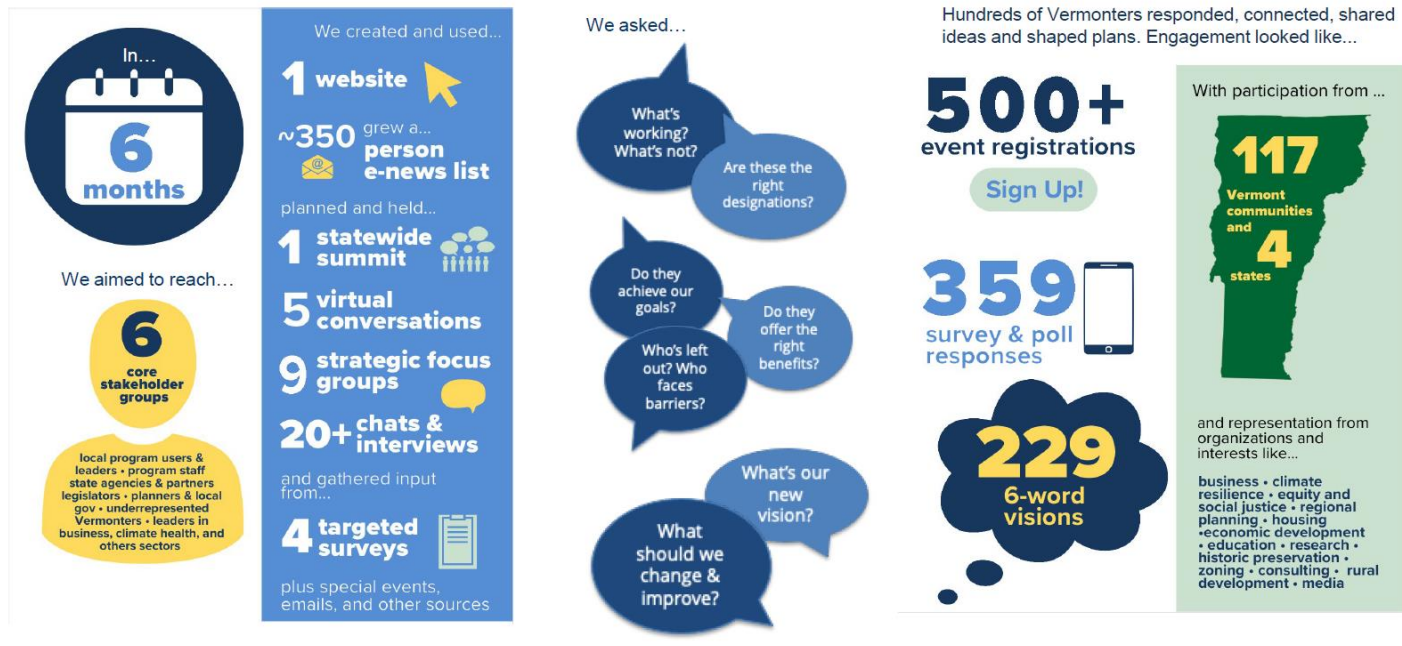
Growth Centers

Neighborhood Development Areas



Designation 2050

Robust public outreach and engagement led by Smart Growth America & Community Workshop



Designation 2050: Priorities

Simpler Designations

Accessible & Coordinated Administration

Better Benefits & Support for Focused Priorities

Housing

Infrastructure

Capacity
Equity

Livability
Vibrancy

Climate
Resilience

Accessible Information & Promotion

Robust Monitoring & Sharing

Priority Outcomes

Housing Growth & Access

- Housing supply growth within priority areas
- Accessible units, varied types, equitable access
- Safe and climate resilient buildings

Climate Resilience

- Climate-smart, resilient growth locations, buildings, infrastructure, revitalization, capacity building
- Proactive, equitable planning, adaptation, mitigation
- Multi-dimensional focus: healthy land and water, healthy people, clean energy, pollution reduction, safer growth

Infrastructure

- Safe, multi-modal streets and transit
- Upgraded public water/sewer, broadband
- Resilient & energy-efficient power

Livability & Amenities

- Walkable streets and transportation options
- Welcoming, affordable and inclusive places
- Quality services and amenities (recreation, health, social, cultural, education)

Capacity & Equity

- Reduced admin burdens; better planning
- Increased funding, TA, training for local leaders
- Accessible and equitable access to resources, benefits, and program outcomes

Community & Economic Vibrancy

- Revitalized historic buildings and centers
- Vibrant & accessible public spaces
- Unique & evolving local character
- Thriving economy & businesses

**Vermont
wants...**

More dollars for
action

Direct program
assistance

Local capacity
solutions

Act 181: Same Basic Concept

From 5 to 2 Designations

Each have requirements & benefits

Anticipate larger areas

Centers

Step 1: Beginner

Starter Village

Step 2: Intermediate

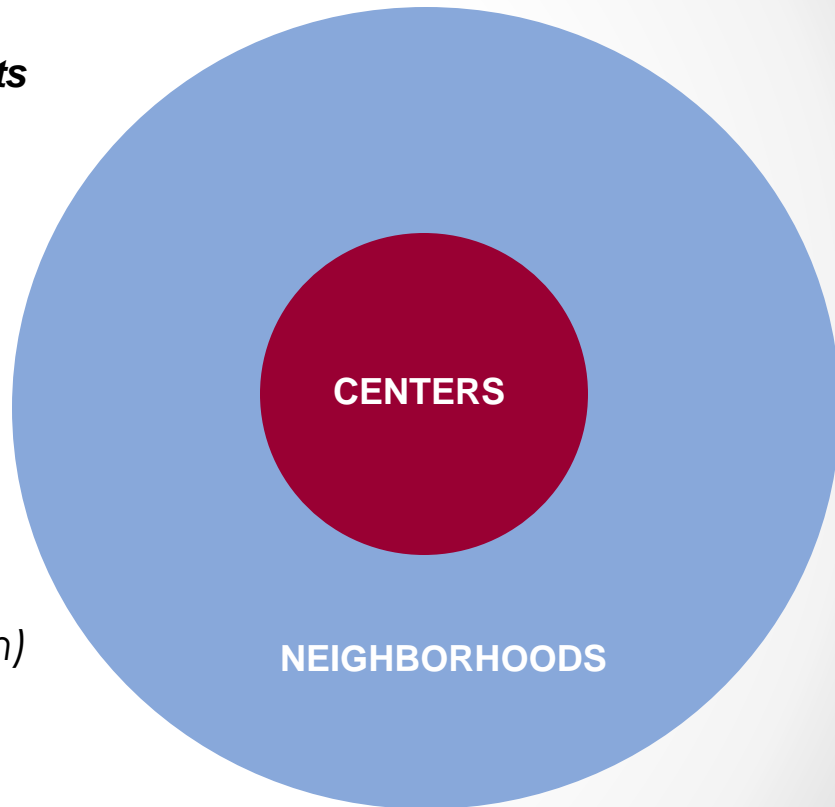
Growing Village

Step 3: Advanced

Downtowns

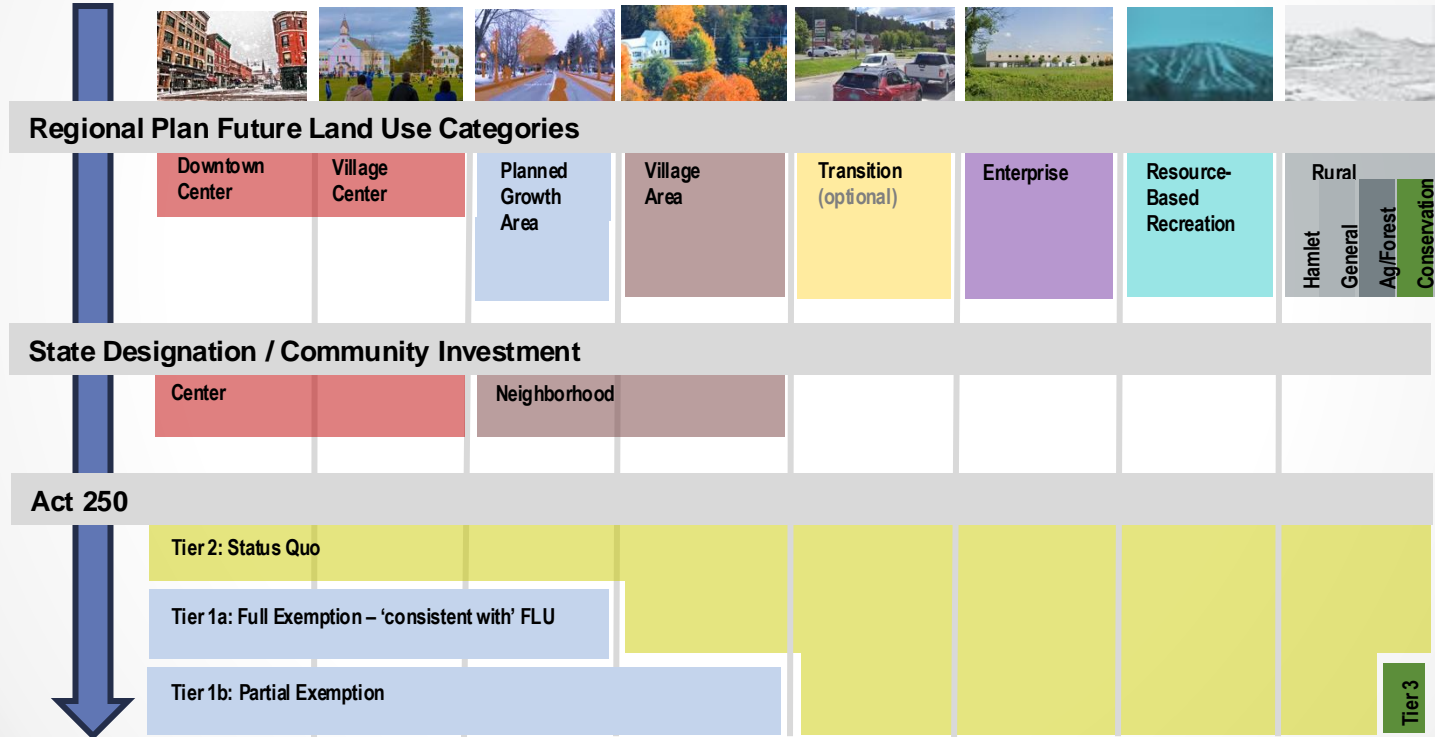
(Main Street Program)

Neighborhoods



The New Framework

Land Use Plans / Designation & Investment / Act 250 Regulation



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Thank You

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