

State of Vermont
Department of Housing and Community Development
National Life Building – North [phone] 802-828-3211
One National Life Drive
Montpelier, VT 05620-0501

*Agency of Commerce and
Community Development*

MEMORANDUM

TO: Municipal Planning and Development Review Officials
FROM: Vermont Department of Housing and Community Development
Jacob Hemmerick, Community Planning & Policy Manager
Maxwell Krieger, General Counsel
DATE: June 30, 2021 (updated July 8, 2021)
RE: 2021 Legislative Revisions Affecting Planning and Revitalization

Vermont's General Assembly enacted several laws and amendments affecting state, municipal, and regional planning during the extraordinary 2021 pandemic session. As in past years, we are issuing this memo to inform local and regional officials of changes in statute and funding opportunities.

The [Vermont Statutes Online](#) are typically updated in October and do not include the prior session's changes until then. Links provided below connect to the bills as enacted.

In compiling these updates, we owe thanks to the [Vermont Planners Association's](#) legislative team, especially Alex Weinhagen, and to the [Vermont League of Cities and Towns'](#) advocacy team (VLCT) for their companion legislative updates. We also value the [Vermont Association of Planning & Development Agencies'](#) work to inform significant legislation for recovery.

The year ahead presents unprecedented funding opportunities for planning and development stakeholders. The important work of community leaders in the next year will certainly shape Vermont's future. The Department of Housing & Community Development (DHCD) is thankful for the efforts happening throughout the state to recover from the pandemic and build thriving communities.



Budget Bill
Act 74 | H.439

An act relating to making appropriations for the support of government

Link: <https://legislature.vermont.gov/bill/status/2022/H.439>

The 'big bill' includes unprecedented one-time investments that aim to build strong, healthy, economies and communities. Opportunities to access many of these investments will be publicized in the Department's [Strong Communities Quarterly](#) newsletter and through other organizations as program details are finalized.

[Downtown Transportation Fund](#) | §B.1103(a)(1) & §G300(b)(8)

\$5M in one-time State funds will be available starting in fiscal year (FY) 2022 for multi-year investments that improve infrastructure, public spaces, and create a sense of identity and pride in designated downtowns, and -- for the first time -- designated village centers that have participated in the [Better Connections](#) program will be eligible to apply for this implementation funding. Municipalities with a designated village center in Chittenden County may also apply if they have completed a planning process like Better Connections.

[Better Places 'Crowdgranting'](#) | G.300(a)(17)

Following overwhelming demand for [2021's pilot](#) initiative, placemaking and place-based economic development projects received \$1.5M in one-time funding to support the Better Places program. This groundbreaking initiative will fund public space improvements and programming to increase economic and civic vitality, livability, and the democratization in grantmaking. Grants between \$5,000 and \$40,000 can be made until July 2024. Municipalities, nonprofits, and community groups with a fiscal sponsor are eligible to apply and must raise 33% matching funds through a crowdfunding approach. Grants will be administered by DHCD and be available in early 2022.

[Working Community Challenge Grants](#) | G300(a)(22)

First launched in 2019, this initiative supports diverse, cross-sector local teams as they focus on the complex challenges of economic opportunity for communities and residents with low incomes. The initial three-year grants were supported by the Federal Reserve Bank of Boston, the State of Vermont, national and local philanthropy, and private sector employers. The act's \$2.32M in new funding will advance the four proposals that could not be funded in the initial round.

[Zoning for Great Neighborhoods](#) Bylaw Modernization & Technical Assistance | §G.600(b)(1)(A)

Local and statewide leaders increasingly recognize the need to grow [housing in Vermont neighborhoods](#) and \$650,000 in one-time State funding will be available to support municipal bylaw amendments that expand opportunities for housing (\$500,000) as well as technical assistance training for accessory dwelling unit and small-scale builders and developers (\$150,000). Although the funding's companion policy bill, [S.101](#), is on hold (see below) -- the budget included enabling policy language, so the program will be stood up in FY22 to confront the state's housing crisis and prepare bylaws for historic housing investments. This is a substantial enhancement for bylaw projects that would otherwise be funded through the oversubscribed [Municipal Planning Grant Program](#).

Regional Planning Commissions - Pandemic Response & Energy Funding | §G.600(b)(1)(B) & (C)

Vermont's eleven regional planning commissions will each receive \$75,000 to support pandemic response activities through FY24. An additional \$1M in FY22 funding will support enhanced energy planning and energy plan implementation for municipalities.



Budget Bill (continued)

Municipal Assistance for American Recovery | §26

\$950,000 is allocated to DHCD as pass-through funding to the regional planning commissions and VLCT to provide administrative support for cities and towns in the administration of municipal projects funded with American Rescue Plan Act (ARPA) funds. \$300,000 is allocated to the regional planning commissions, and \$650,000 is allocated to the [Vermont League of Cities and Towns](#).

Capital Investment Grant Program | G.300(a)12) & H.18

\$10.5M will be administered by the Department of Economic Development (DED) for transformational projects that attract and retain business, create jobs, and invest in capital investments. This funding to implement economic development planning goals, requires collaboration among State agencies, regional development corporations, regional planning commissions, and partners to identify for-profit and non-profit applicants that seek funding for 50% of total project costs, not to exceed \$1.5M. Funds can be used for property acquisition, equipment, construction, renovation, and related capital expenses.

Brownfields Assessment & Revitalization | G.300(a)(11)

An additional \$11M is available for [brownfields revitalization](#) in FY22, but without the program's usual \$200,000 per parcel limit. \$1M of this funding will be awarded to the regional planning commissions for brownfields assessment.

3-acre Stormwater Permitting Design & Construction | G.700(a)(1)(A)

\$5.5M of ARPA funding is allocated to the Department of Environmental Conservation (DEC) to support permitting design and construction for entities subject to the 3-acre stormwater general permit to restore impaired waters subject to flow restoration plans.

Village Wastewater | G.700(a)(2)(A)

\$8M of ARPA funding is allocated to DEC to support village water and wastewater infrastructure investments in FY22 -- the first of three similarly sized appropriations proposed by Gov. Scott. To assist interested municipalities' readiness to access ARPA funds in this category, Vermont Clean Water State Revolving Fund will offer 100% loan subsidy (loan principal forgiveness) for up to 10 unsewered designated villages for planning and design activities in amounts up to \$100,000 on a first come first serve basis. Engineering Planning Advance funding will be available for unsewered villages starting July 1 -- also on a first come first serve basis. Additional [guidance](#) on access to the ARPA funding is under development.

Municipal Wastewater Pre-Treatment | G.700(a)(2)(B)

\$2M of ARPA funding is allocated to DEC to provide financial assistance to municipalities, businesses, and nonprofits to install enhanced pre-treatment to address high strength or toxic wastes otherwise requiring treatment at municipal expense by publicly owned facilities.

Wet Weather Sewer Overflow | G.700(a)(2)(B)

\$10M of ARPA funding is allocated to DEC to assist municipalities to design and construct projects to reduce or eliminate wet weather sewer overflows.

Housing Rehab Water & Wastewater Improvements | G.700(a)(4)(A)

\$750,000 of ARPA funding is allocated to DHCD to provide assistance and incentives for water and wastewater efficiency improvements as part of housing rehabilitation projects.

Failed Residential On-Site Water & Wastewater System | G.700(a)(4)(B)(ii)

\$1M of ARPA funding is allocated to increase funds available to replace residential on-site wastewater and water supply systems.



Budget Bill (continued)

Loan Forgiveness for Mobile Home Parks | G.700(a)(4)(B)(ii)

\$3.25M of ARPA funding is allocated to DEC to provide financial assistance or loan forgiveness to mobile home parks to improve drinking water, wastewater, stormwater, and drainage systems.

Permitting Information Technology Improvements | G.501(a)(2) & (3)

\$1.1M in ARPA funds is allocated to DEC for the second phase of a citizen facing permit portal & permit navigator, and the Vermont Natural Resources Board received \$500,000 for digitizing Act 250 records.

Property Transfer Tax (PTT) Funding for Planning, Housing & Conservation | D.100(a)

PTT revenues continue to source the [Municipal and Regional Planning Fund](#) in FY22, of which approximately \$2.9M is allocated for the regional planning commissions, \$457,000 for municipal planning grants, and \$378,000 for the Vermont Center for Geographic Information. \$10.8M of the PTT also funds the Vermont Housing & Conservation Board (VHCB).

Investments in Housing | G.400

\$99M in ARPA funds will be allocated to VHCB to provide housing and increase shelter capacity. \$5M of this funding is appropriated to ACCD's Vermont Housing Incentive Program established in a pending bill, S.79 (see below). Another \$91M in other funds will be allocated to VHCB for affordable housing initiatives and emergency housing rental assistance.

Transportation Bill

Act 55 | H.433

An act relating to the Transportation Program and miscellaneous changes to laws related to transportation

Link: <https://legislature.vermont.gov/bill/status/2022/H.433>

From funding for park-and-rides to public transit, the 'T-bill' makes significant new investments to reduce transportation-related greenhouse gas emissions and fossil fuel use and to make transportation more affordable. The investments in bike and pedestrian facilities are noteworthy, including \$21M for 41 projects and another \$5.5M for 42 transportation alternative projects. There is also additional support for town highway aid.

Electric Vehicle Charging Equipment for Multi-Family Housing | §29

\$1M in one-time State transportation funds will pilot grants for level 2 charging for multi-unit affordable housing -- expanding home-site charging options to renters at multi-unit affordable housing and non-profit-owned dwellings. Building on [past work](#), the program will be stood up by an inter-agency team and administered by DHCD. The Department must report back to the General Assembly on the program by January 15, 2022.

State Highway 'Section 1111' Access Permits | §36

The act also amends the Planning Act to require that site plans involving work in the State highway right-of-way submit a letter from the Agency of Transportation determining if a highway access permit will be needed, and if so, any conditions of approval. It adds similar language for projects undergoing subdivision review and eliminates the fee for Section 1111 permit amendments.



Capital Bill

Act 50 | H.438

An act relating to capital construction and State bonding

Link: <https://legislature.vermont.gov/bill/status/2022/H.438>

The capital bill includes an additional \$1.2M in FY22 & 23 for building communities grants. Over the next two years, a total of \$600,000 will be available for [Historic Preservation Grants](#) (DHCD), \$600,000 for [Historic Barn Grants](#) (DHCD), \$600,000 for [Cultural Facilities Grants](#) (Vermont Arts Council), \$600,000 for [Recreational Facilities Grants](#) (Buildings and General Services, BGS), \$600,000 for [Human Services and Education Facilities](#) (BGS), and \$600,000 for [Regional Economic Development](#) (BGS).

Electric Bicycle Classification

Act 40 | S.66

An act relating to electric bicycles

Link: <https://legislature.vermont.gov/bill/status/2022/S.66>

The act modifies the motor vehicle laws to address the emergence of electric bicycles. It classifies certain electric bicycles distinctly from motor vehicles and exempts them from motor vehicle regulation. E-bicycles are allowed where conventional bicycles are allowed, but the act extends new municipality authority to restrict e-bicycles on certain trails.

Technical Correction to Housing Deed Restrictions

Act 4 | S.14

An act relating to deed restrictions and housing density

Link: <https://legislature.vermont.gov/bill/status/2022/S.14>

The act makes technical correction to Act 179 ([S.237](#)) of 2020 that affected a broader set of development restrictions than intended. The correction narrows the prior act's limitations on certain deed restrictions, covenants, and binding agreements that prevent infill and housing development otherwise allowed by the municipal bylaws. As a result, covenants and deeds cannot prohibit accessory dwelling units and small lot development as specified and as allowed in the Planning Act. Retroactively effective January 1, 2021.

Cannabis Regulations

Act 62 | S.25

An act relating to miscellaneous cannabis regulation procedures

Link: <https://legislature.vermont.gov/bill/status/2022/S.25>

Before a cannabis retailer or the retail portion of an integrated license can operate in a municipality, the municipality must affirmatively vote to allow it. Retail sales will only happen in municipalities that affirmatively vote under the municipal opt-in provision from [Act 164 of 2020](#). Oversight of these operations will be principally governed by the Cannabis Control Board and rulemaking.

Regulatory Exemptions for On-Farm Food Residuals

Act 41 | S.102

An act relating to the regulation of agricultural inputs for farming

Link: <https://legislature.vermont.gov/bill/status/2022/S.102>

The act addresses farmers' importation of food residuals (or food waste) for composting and chicken foraging, exempts a limited volume of that practice from Act 250 review, and makes this farming practice subject to Agency of Agriculture Food and Markets (AAFM) regulation instead of the Agency of Natural Resources' (ANR) solid waste rules. The adopted rules must be designed to reduce odor, noise, vectors, and other nuisances on farms and to protect health and the environment in a manner that is equal or better than the rules for compost facilities in ANR's Solid Waste Management Rules. It also incorporates additional categories of animal feed and plant and



soil amendments into AAFM’s existing feed and fertilizer programs to ensure they meet health and safety standards and may be appropriately managed. Noteworthy for communities with a designation, it prohibits a farm from initiating the production of compost on or within a downtown, village center, new town center, neighborhood development area, or growth center designated under 24 V.S.A. chapter 76a, unless the municipality has expressly allowed composting in the designated area under the municipal zoning or subdivision bylaws or in an approved municipal plan.

Community Broadband Act 71 | H.360

An act relating to accelerated community broadband deployment

Link: <https://legislature.vermont.gov/bill/status/2022/H.360>

The budget allocates \$250M in ARPA funds to broadband development and this act establishes the Vermont Community Broadband Fund to support policies and programs designed to accelerate community efforts that advance the State’s goal of achieving universal access to reliable, high-quality, affordable, fixed broadband and to establish the Vermont Community Broadband Board to coordinate, facilitate, support, and accelerate the development and implementation of universal community broadband solutions.

Public Utility Limitations on Municipal Bylaws & Act 250 Act 54 | H.431 | §4

An act relating to miscellaneous energy subjects

Link: <https://legislature.vermont.gov/bill/status/2022/H.431>

The act modifies limitations on municipal bylaws, expanding the limitation on public utility power generating plants regulated under 30VSA§248, to electric generation facilities, and energy storing facilities regulated under §248 and 30VSA§8011 covering energy storage facilities. The act also makes some similar modifications to Act 250.

Environmental Fund Planning Advances Act 50 | H.438 | §29

An act relating to capital construction and State bonding

Link: <https://legislature.vermont.gov/bill/status/2022/H.438>

The act modifies the special environmental revolving loan fund municipal loan planning advance requirements to establish that not more than 25% of funds may be used to evaluate land use implications of facilities and impacts on the State’s land use goals. This fund is used to foster expenditures by municipalities for water systems and clean water projects. It also adds a section allowing reimbursable contracted technical assistance by regional planning commissions for the planning advance.

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PENDING BILL

Tax Credits, Bylaw Modernization & One-Stop Water/Wastewater Connections S.101

An act relating to promoting housing choice and opportunity in smart growth areas

Link: <https://legislature.vermont.gov/bill/status/2022/S.101>

The original Senate bill proposed to increase tax credit funding and expanded eligibility to designated neighborhood development areas, establish one-stop permitting for water and wastewater connections to municipal systems, and fund bylaw modernization for housing in smart growth areas. The first two provisions were removed by the House, and the bylaw modernization provisions were modified. The House also added a transfer tax for \$1M properties (aka ‘the mansion tax’) to offset the cost of an increase to the manufactured housing tax credit. Timing did not allow the two chambers to work out differences in a conference committee. Consequently, the



bill will remain on the Senate calendar until the Legislature re-convenes. Stakeholders expect the Senate will seek to restore the original provisions of the bill.

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STATEWIDE PLANNING EFFORTS

Comprehensive Energy Planning

The Department of Public Service will lead an update to the 2016 [Comprehensive Energy Plan](#) in 2022. The plan is updated every six years and is slated for completion in January 2022. Virtual forums are underway and [posted](#) with a public involvement plan.

Global Warming Solutions Act: Vermont Climate Council & Plan

Also underway, Vermont's [Climate Council](#) has been appointed by the Governor pursuant to the Global Warming Solutions Act and is working on a plan to be completed in December 2021 to fulfill the act's requirements.

State Planning Office

Two bills (H.306 and S.96) were introduced related to the development of a State Planning Office and may be taken up again next year.

Act 250

Following the veto of last year's reform proposal, new proposals to update Vermont's statewide development review were introduced again this year (H.120, S.112 and H.400). Although some testimony was taken, no reform bill was voted out of committee. Stakeholders expect renewed efforts again next year.



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SUNSET OF PANDEMIC RESPONSE MEASURES

The following legislation from last year has expired with the lifting of the emergency order.

Electronic Meetings, Minute Posting Delays & Permitting/Planning Deadline Extensions
Act 92 of 2020 | H.681 §5&8 | **Expired June 14, 2021**

An act relating to government operations in response to the COVID-19 outbreak

Link: <https://legislature.vermont.gov/bill/status/2020/H.681>

The act extended initial flexibilities to local governments after the shutdown. In addition to allowing electronic meetings and more time to post minutes, the act allows a municipality to extend deadlines for licenses, permits, programs, or plans issued by the municipality up to 90 days after the date that the declared state of emergency ends. For the same period, it also authorized State agencies to extend deadlines applicable to municipal corporations or regional planning commissions and maintained the validity of expiring permits and plans issued to a municipality. Informal reports suggest that most government operations adapted to remote conditions, and deadline extensions were very limited.

Electronic Quasi-Judicial Proceedings During Emergency

Act 106 of 2020 | H.948 | **Expired June 14, 2021**

An act relating to temporary municipal proceedings provisions in response to the COVID-19 outbreak |

Link: <https://legislature.vermont.gov/bill/status/2020/H.948>

The act made accommodations during the COVID state of emergency to allow quasi-judicial proceedings (such as those conducted by Development Review Boards, Planning Commission, Zoning Boards of Adjustments) to conduct business via electronic means without a designated physical location.

Electronic Posting of Meeting Notices

Act 113 of 2020 | S.345 | **Expired June 14, 2021**

An act relating to temporary municipal provisions in response to the COVID-19 outbreak

Link: <https://legislature.vermont.gov/bill/status/2020/S.345>

The act allowed municipalities to post meeting agendas and notices in two designated electronic locations instead of the normal physical location but added a requirement to notice the local newspaper of general circulation.

Prior DHCD memos summarizing the statutory changes starting in 2007 can be found at <http://accd.vermont.gov/community-development/resources-rules/planning>.

