

ESSENTIALS OF MUNICIPAL PLANNING, ZONING, AND HOME ACT PROVISIONS

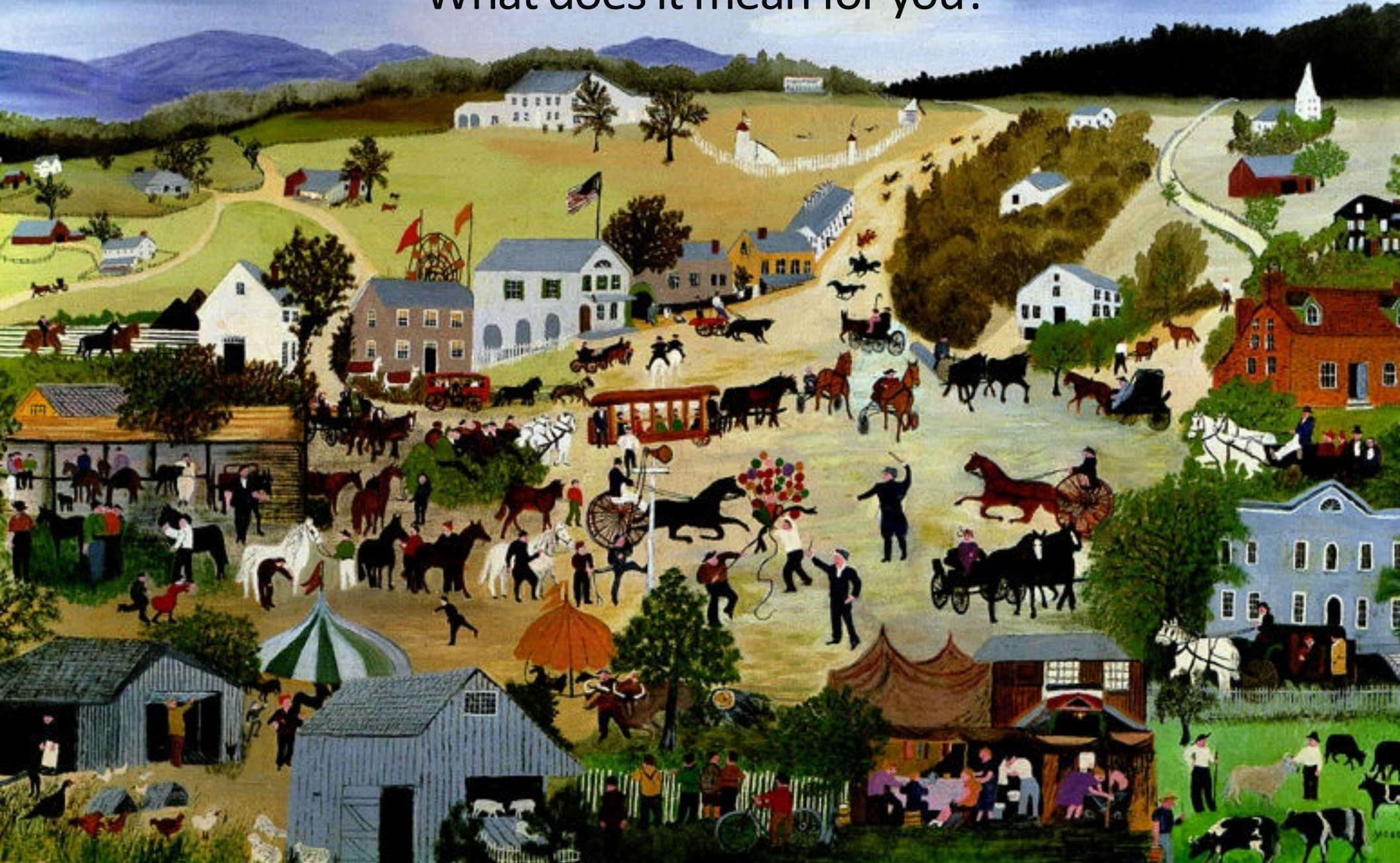
1. Planning for a Vibrant Sustainable Community
2. Roles and Responsibilities
3. Implementing the Plan
4. HOME Act Provisions on Municipal Bylaws

PLANNING FOR A VIBRANT SUSTAINABLE COMMUNITY

Section 1

Vibrant and Sustainable

What does it mean for you?



Statutory Basis for Planning and Regulation

Municipal and Regional Planning and Development Act – Chapter 117

1921 – The Vermont Legislature first authorized municipalities to create planning commissions that could draft municipal plans

1931 – The Vermont Legislature first authorized Zoning Regulations.

1968 – Municipal and Regional Planning and Development Act – Chapter 117

- Included purposes of planning and zoning
- Contents of municipal plans
- Adoption process for municipal plans
- Authorized zoning including specific types of review and regulations

1988 – Act 200 substantially updates local and regional planning portions of Chapter 117

2004 – Act 115 incorporates additional significant updates to the zoning portions of Chapter 117

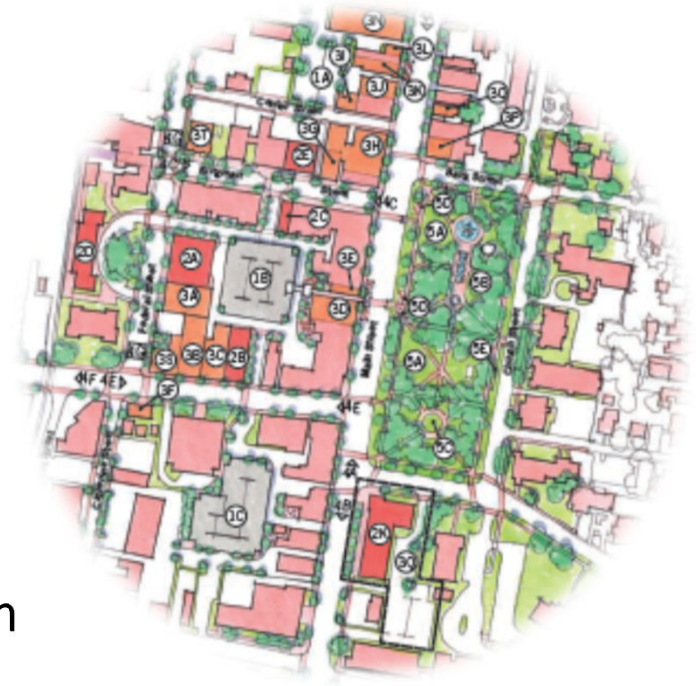
2023- Act 47 (HOME Act)- Amends Chapter 117, with a focus on increasing opportunities for housing development.

What is a Municipal Plan? Why have one?

What: A guide for accomplishing community aspirations and intentions through public investments, land use regulations and actions the town can take to achieve its vision.

Why:

- Inclusive process develops community-wide vision
- Empowers communities to respond to change in ways that reflect their own goals, needs, priorities and values.
- Allows communities to designate areas to maintain as is, evolve over time or to transform more quickly into a better place.



With a current plan you can...

- Adopt Zoning, Subdivision and Flood Hazard Regulations
- Act 250 Applications must conform to your Town Plan
- Your Town Plan will be considered in Section 248 Certificate of Public Good Applications
- More competitive grant applications





Vermont Planning Process Goals

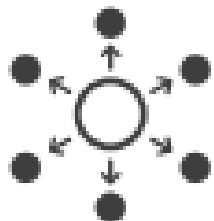
Planning Process (§4302, §4381-§4387)

- Coordinated comprehensive process to guide decision
- Citizen participation at all levels
- Consider use of resources and consequences of growth and development locally and beyond
- Work with neighboring municipalities and region to implement plans

“When it comes to planning, if you’re not doing it with people – they think you are doing it to them.”

Roger Millar, AICP
National Complete Streets Coalition

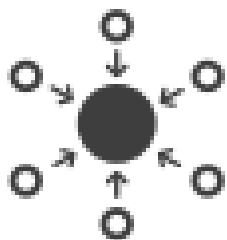
Types of Citizen Participation



INFORM

Commit to keeping residents informed about planning. Help the public understand problems and solutions.

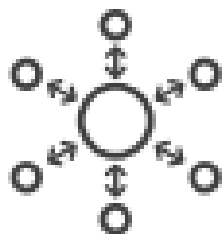
- ★ Fact Sheets
- ★ Newsletters
- ★ Websites



CONSULT

Provide opportunities for input on existing ideas – listen, acknowledge concerns and answer questions.

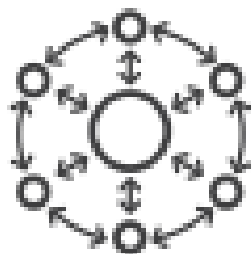
- ★ Surveys
- ★ Public Meetings



INVOLVE

Provide opportunities for dialogue and interaction. Obtain advice from the public and generate new ideas.

- ★ Workshops
- ★ Focus Groups



COLLABORATE

Partner with the public in decision-making, including the development of alternatives and identification of the preferred solution.

- ★ Citizen Advisory Committees
- ★ Participatory Decision Making (Charrettes)

Engaging People in Planning



Talk to people

**Food, fun and
celebration**



**Meet people
where they are**

**A culture of
communication**



It's Your Municipal Plan (But there are requirements [§4382])

1. Objectives, Policies and Programs
2. Land Use (Map and Statement), including any state designation
3. Transportation (Map and Statement)
4. Utilities and Facilities (Map and Statement)
5. Education (Map and Statement)
6. Energy (Option for Enhanced Energy Plan)
7. Economic Development
8. Housing (Including Data and a Recommended Program of Action)
9. Flood Resilience
10. Policies on Preserving Rare Natural Areas
11. Compatibility with Adjacent Municipalities and Region
12. Implementation Program

VERMONT PLANNING GOALS

(§ 4302)



Create a plan for tomorrow,
not yesterday or today.

Municipal Plan Adoption

➤ **Plans expire every 8 years**

- Revise or rewrite the plan before expiration – at a minimum, make necessary edits to data and implementation program

➤ **Adoption process can take several months**

- Planning Commission hearing with notice to adjacent communities
- Selectboard hearing (1 in rural municipalities and 2 in urban)
- Decision on adoption shall be made by Legislative Body, unless the Legislative Body or voters have elected to decide by Australian Ballot
- Plans go into effect upon adoption

Regional Plan Approval & Confirmation

- **Municipalities may request RPC approval of the municipal plan.**
- **RPCs will confirm the municipal planning process if:**
 - If the municipal plan has been approved by RPC
 - The municipality is engaged in a process to implement the plan
 - Is maintaining efforts to provide funds for planning
- **A confirmed Planning Process allows municipalities to:**
 - Apply for state designation of downtowns, village centers, new town centers, neighborhood development areas and growth centers.
 - Apply for Municipal Planning Grants
 - Levy impact fees
 - Have plan considered by state agencies in their planning

Vermont Planning Manual

[https://accd.vermont.gov/
community-
development/town-
future/municipal-
planning-manual](https://accd.vermont.gov/community-development/town-future/municipal-planning-manual)

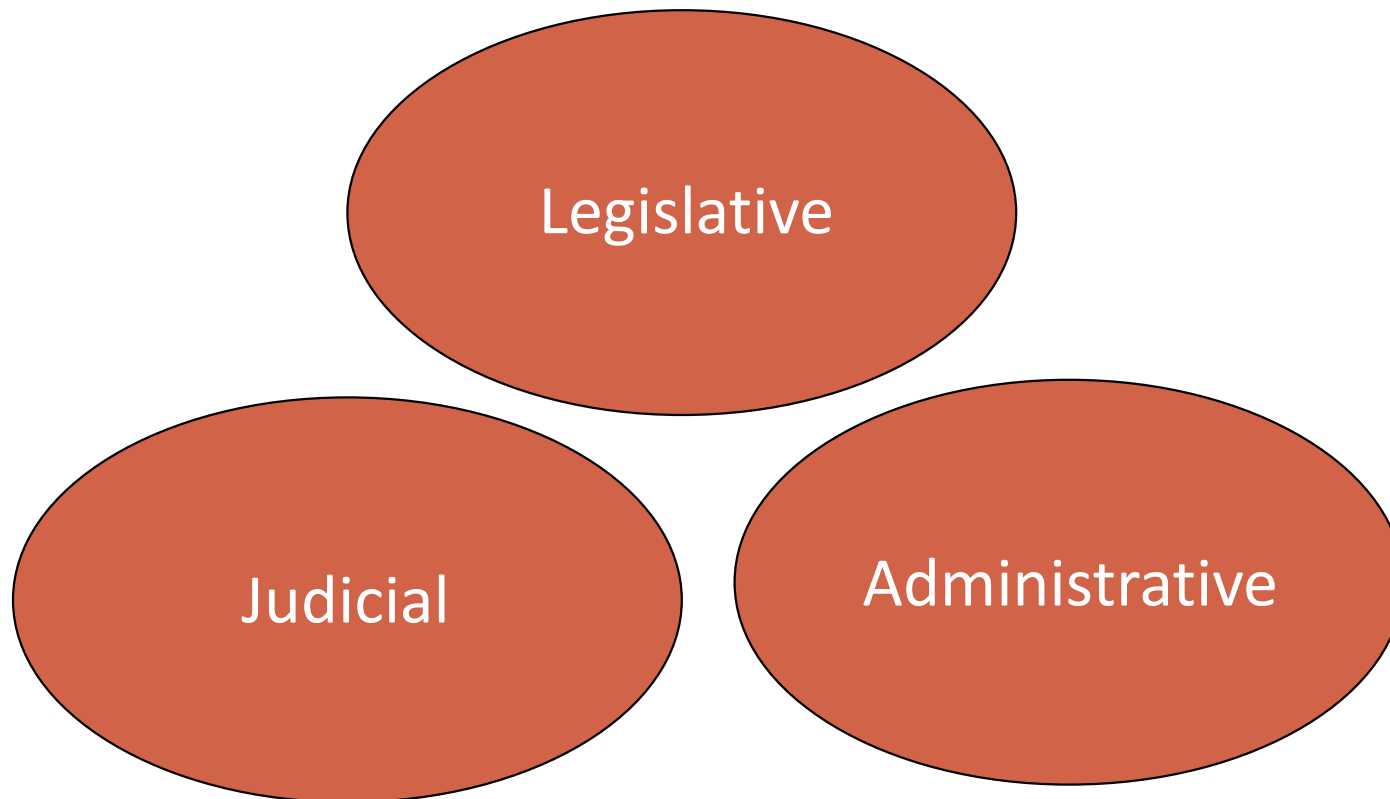


ROLES AND RESPONSIBILITIES

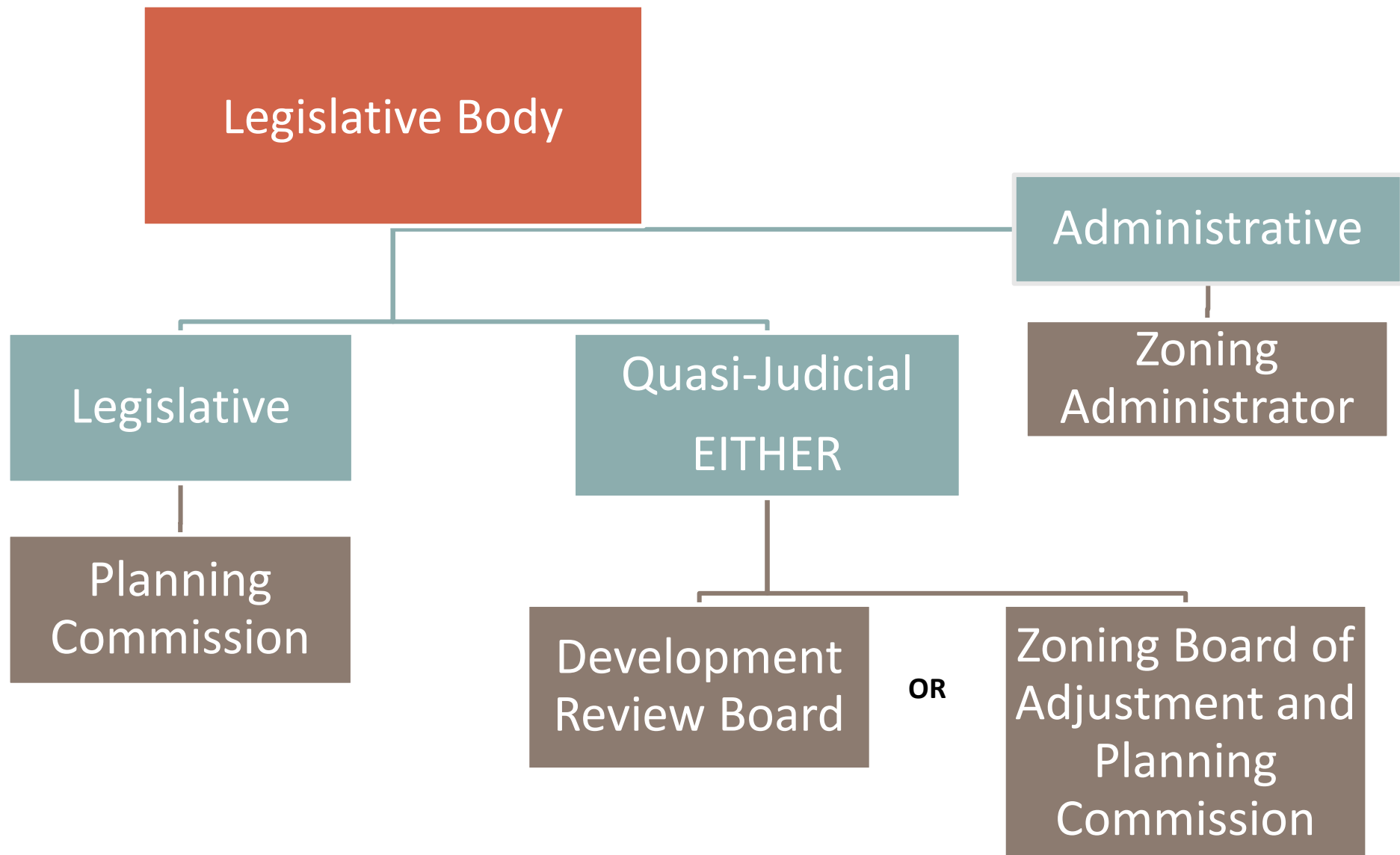
Section 2

Local Roles and Responsibilities

- Roles and responsibilities are delineated both by statute and by function:



Local Roles and Responsibilities



Legislative Function

- Planning Commission

- Prepares the Municipal Plan
- Prepares Zoning/Development Regulations
- Can prepare or edit Capital Budget and Program
- Prepares other studies

- Legislative Body

- Reviews and may edit Municipal Plan and either adopts or sends to voters
- Reviews and may edit Zoning Bylaws/Development Regulations and either adopts or sends to voters
- Prepares or edits and adopts Capital Budget and Program

Quasi-Judicial Function

Development Review Board

- Site plans
- Subdivisions
- Conditional uses
- Lots without frontage
- Variances
- Appeals of ZA decisions

OR

Planning Commission

- Site plans
- Subdivisions
- Lots without frontage

Zoning Board of Adjustment

- Conditional Uses
- Variances
- Appeals of ZA decisions

Administrative Function

- Zoning Administrator
 - Issues zoning permits
 - Conducts Enforcement
 - Assists applicants
 - May staff DRB, PC, or ZBA

PERMIT NOTICE

Address: _____

Applicant: _____

Project Description: _____

☐ **Permit / Approval**
Type: _____
Date Issued: _____
Appeal by: _____

☐ **Public Hearing**
Date / Time: _____
Place: _____
Purpose: _____

For more information contact:

Applicant: This notice shall be displayed on the subject premises and be clearly visible from the public way. Notice shall be displayed at the time of application and shall not be removed until after the appeals expiration date.

VERMONT LAND USE
Education & Training Collaborative

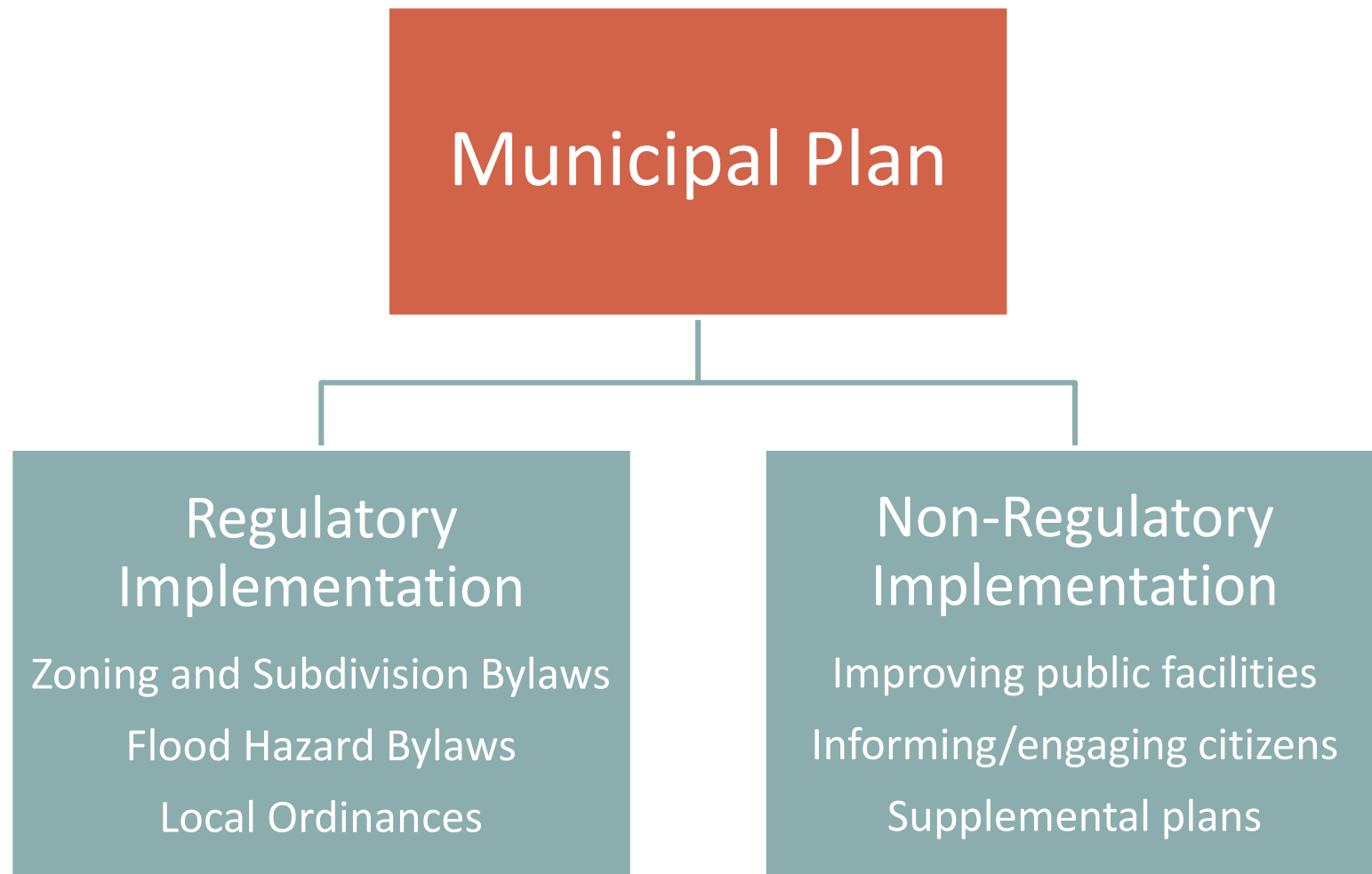
What's the difference?

- Regulation
- Bylaw
- Ordinance

IMPLEMENTING THE MUNICIPAL PLAN

Section 3

Implementing the Plan



Non-Regulatory Implementation

Complements regulatory implementation

Chapter 117 authorizes:

- Capital Budget and Program
- Tax Stabilization Contracts
- Purchase/Acceptance of Development Rights
- Supporting Plans
- Advisory Commissions
- Other projects and studies (whatever your plan recommends)

Why Have Local Land Use Regulations?

- Implement the vision and goals in your municipal plan, such as:



Promote compact, walkable development



Protect important natural resources



Minimize fragmentation of farmland



Incentivize affordable housing



Encourage efficient use of infrastructure



Ensure compatibility with historic character



Establish safe vehicular and pedestrian circulation



Make communities more flood resilient

Limits of Local Regulation

- Land use regulations tell people what they can and cannot do with their land, but they cannot deprive landowners of all reasonable use of their property (5th and 14th Amendments)
- Land use regulations can only regulate what is enabled in Vermont Statute (Dillon's Rule)
- Vermont Limitations and Prohibited Effects (§4412 and §4413):

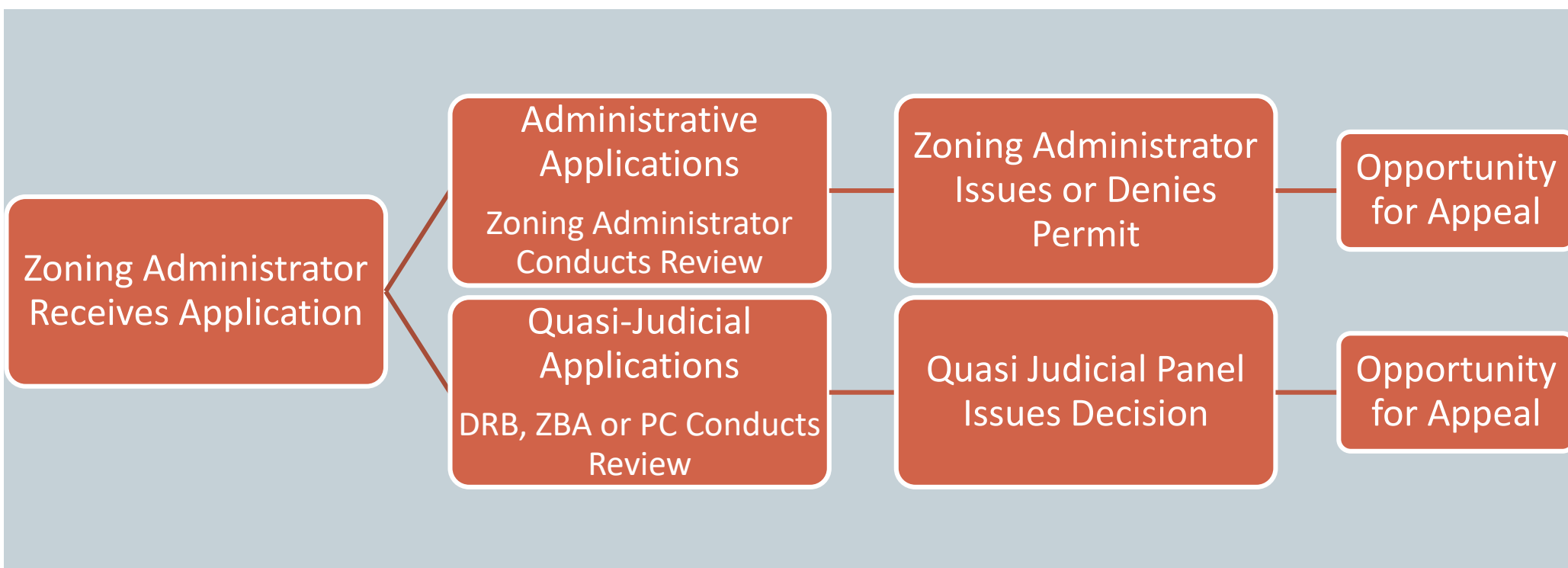
Local Regulation: Types of Review

Land Development:

- *Division of a parcel into 2 or more parcels*
- *Construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure*
- *Or of any mining, excavation, or landfill*
- *Any change in the use of any building or other structure, or land, or extension of use of land*

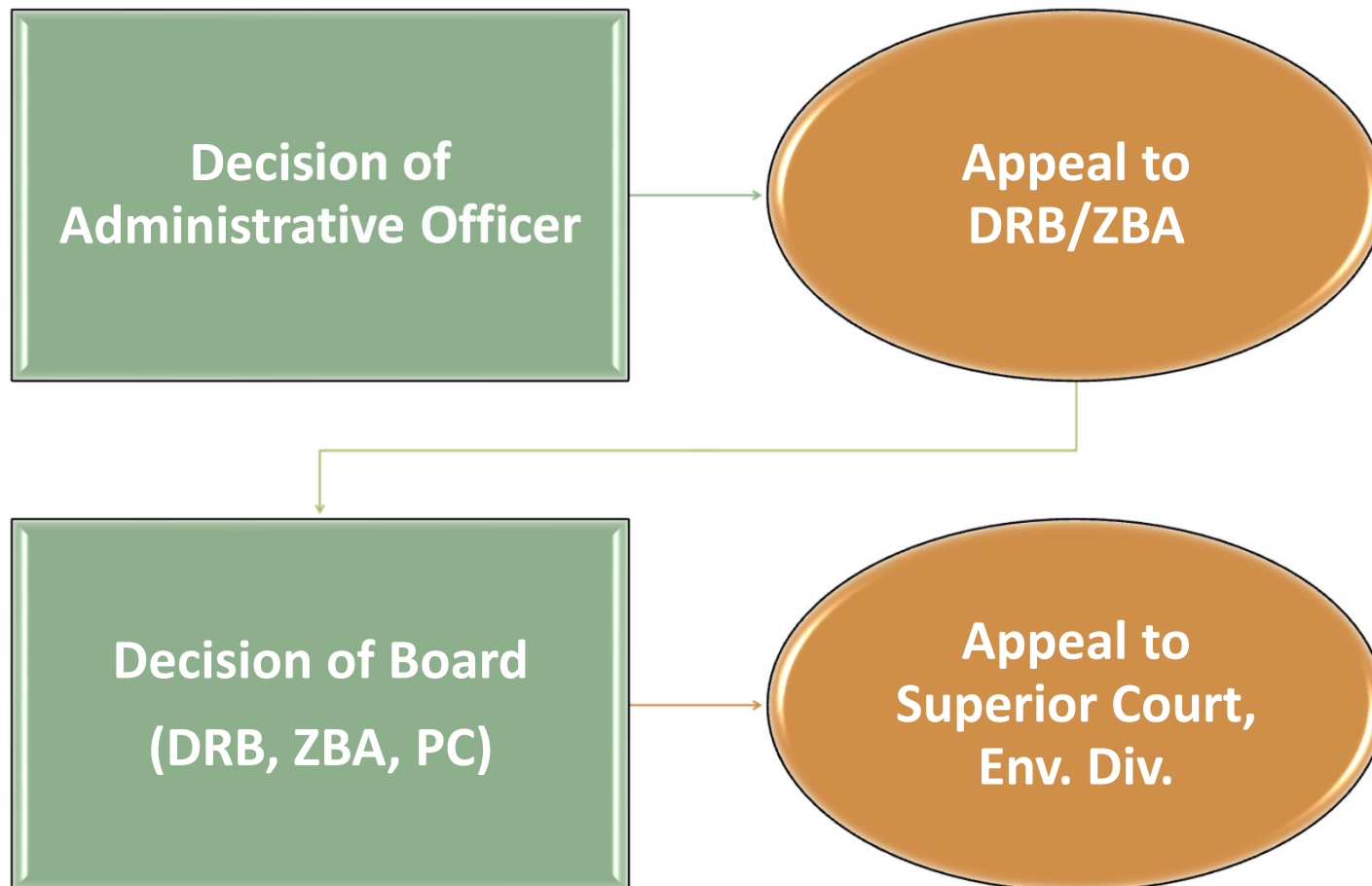
Type of Review	Function of Review
Zoning	
Permitted Use	Established by right
Conditional Use	Can be established if found to be compatible
Site Plan Review	Ensures good site design
Variances	Stringent statutory standards
Waivers	Flexible local standards
Planned Unit Developments	Allows for flexible design
Subdivision	Controls the pattern of future development

Players and processes potentially involved in local regulation



Appeals

Appeals may be at either local or state levels.



Interested Persons May Appeal

Pursuant to 24 V.S.A. § 4465(b)

- The applicant
- The municipality and any adjoining municipality
- Property owners in the immediate neighborhood of the subject proposal
- Any petition of ten persons (combination of voters, **residents**, and property owners)
- Any department or administrative subdivision of the state owning property or any interest
- ACCD

Only interested persons who have participated may appeal!

Board can choose not to make interested person determinations and leave it to the Environmental Court!

Regulatory Decisions

Decisions must:

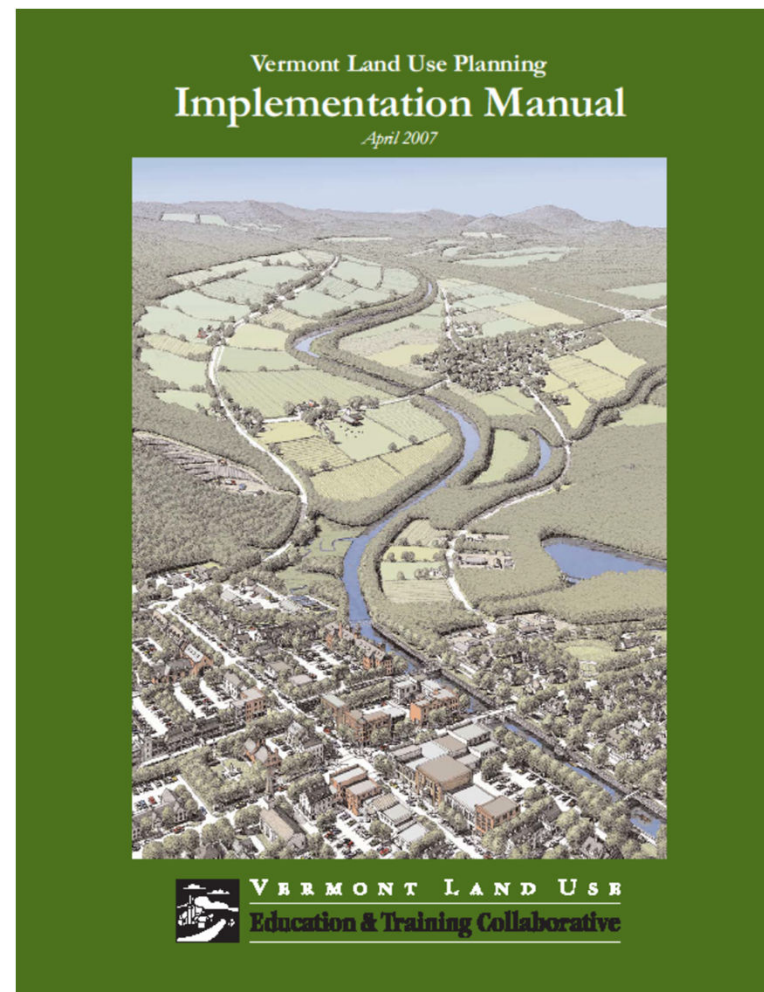
- Be in writing and contain:
 - ✓ Findings of fact on which each decision is based, and
 - ✓ Conclusions of law on how the bylaw applies
- Be based on review standards in bylaw
- Minutes may suffice
- Should memorialize concurrence of majority of board

Timeline:

The quasi-judicial panel must issue written decision within 45 days of close of final public hearing. **DOES NOT NEED TO BE THE SAME NIGHT OF HEARING!**

Who is responsible for preparing decisions?

Learn More at www.vpic.info



HOME ACT (ACT 47)

Provisions for Local Zoning Regulations

Overview

This presentation was prepared in cooperation with the State of Vermont Department of Housing & Community Development (DHCD) and the Vermont Association of Planning & Development Agencies (VAPDA)

Disclaimer: *DHCD and RPCs cannot provide individuals, businesses, or municipalities with legal advice. This is broad guidance to support municipalities in developing best practices.*

Why Statewide Zoning Reform?

- Acute housing crisis
- Increased understanding of policies resulting in exclusion
- Makes the most of existing public utilities and services
- Planning & Development Act enables local regulation

HOME Act: Local Zoning

In municipalities that plan and regulate with local zoning:

- Some provisions apply to all areas in all municipalities
- Some apply in areas served by municipal water and sewer

Applies to all areas

What applies to all areas?

- Provisions on:
 - Duplexes
 - Accessory dwelling units
 - Hotel/motel use as shelter
 - Administrative reviews of minor subdivisions
 - By-right development review of housing
 - Appeals & interested persons (see Section 3)

Applies to all areas

Duplexes (§4412(1)(D))

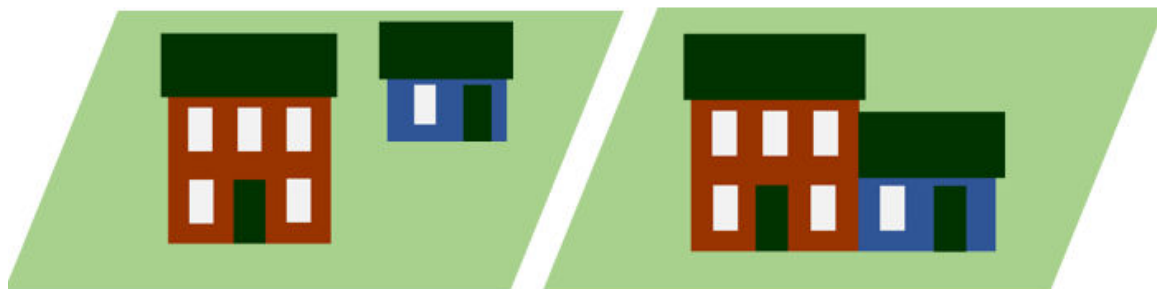
- Defines this use as a residential building with two dwelling units in the same building (§4303)
- Applies in zoning districts allowing year-round residential uses
- Must be an allowed use (permitted or conditional)
- Using the same (or not more restrictive) dimensional standards as single-household dwelling



Applies to all areas

Accessory Dwelling Units (§4412(1)(E))

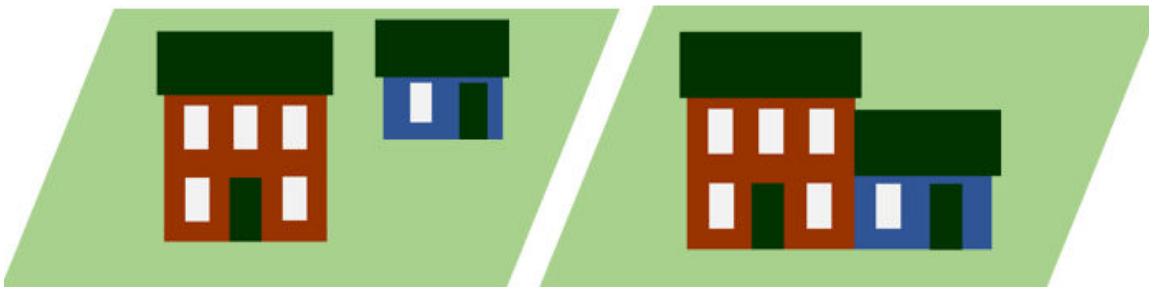
- Creates definition using existing language (§4303)
 - Must be a distinct dwelling subordinate to single-family dwelling
 - On owner-occupied lot
 - With wastewater capacity
 - Sized up to the greater of 30% of floor area of main unit or 900 s.f.
- ADU review, dimensional, or other regulations must not be more restrictive than those for single-unit dwellings



Applies to all areas

Accessory Dwelling Units (ADU)

- Allows conversion of an existing, detached nonresidential building (such as a carriage barn) to habitable space for an ADU in a manner that is not more restrictive than a single-unit dwelling without an ADU
- Municipalities can continue to be more permissive than this statewide minimum
- For fire-safety code, clarifies ADUs are not 'public buildings' unless rented

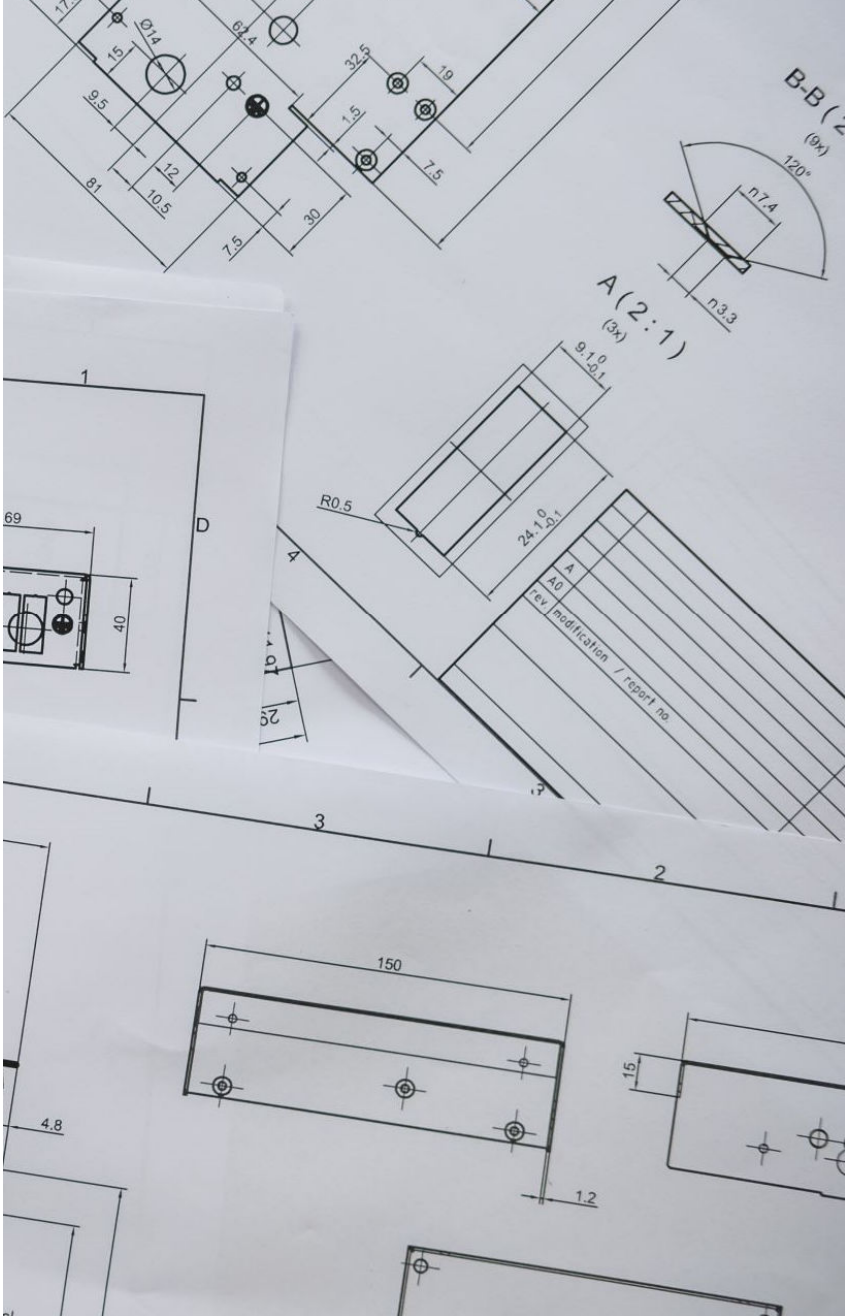


Applies to all areas

Hotels & Emergency Shelters

- Bylaws must not prevent or penalize hotels used to rent rooms with public funds for the purpose of providing Vermont General [housing] Assistance (§4412(1)(H))
- Defines shelter to mean temporary shelter for the homeless (§4303)
- Shelters must be regulated similarly to state or community-owned and operated institutions (§4413(a)(1))
- Bylaws may not interfere with daily or seasonal hours of operation or otherwise interfere with the functional use of a shelter (§4413(a)(1))

Applies to all areas



Minor Subdivisions

- Enables administrative reviews of minor subdivision (§4463)
 - Administrative Review -> Zoning Administrator reviews application
- Municipality may opt-in and is able to define what is minor

Applies to all areas

By Right Development Review

- Protects allowed housing in development review (§4464(b)):
 - No reductions in lot sizes
 - No reductions in building footprint and height
 - No reductions in dwelling unit density
 - No increases in parking
 - No modifications to an application that complies with the minimum or maximum standards in the bylaws

Applies to all areas

Bylaw Adoption & Filings (§4441)

- Rural towns can no longer vote to adopt municipal bylaws by Australian ballot, unless forwarded by the Selectboard
- Bylaw adoption report expanded to include how it conforms to §4412, §4413, and §4414
- Bylaws and NEW adopted bylaw report form must be filed with the Department upon adoption
- *Provisional Reporting Form* available online (may be used for both reports)
 - <https://accd.vermont.gov/community-development/town-future/plans-bylaws>
- [Statewide database](#) & statewide zoning files on [geodata portal](#)

Applies to areas with water & sewer

Municipal Water & Sewer Areas (§4303(42)(A))

- Means areas where connection is available
- Covers municipal water and municipal indirect and direct discharge wastewater systems
- Does not require connection where prohibited by State regulation or permit, an identified capacity constraint, intermunicipal agreement or excluded by local ordinance/bylaw
- Municipalities may adopt sewer district if they don't have an ordinance currently, or update an existing one to clearly identify connection limits

Applies to areas with water & sewer

What applies to water & sewer areas?

- Min. parking requirements (effective 12/1/24) (§4414)
- Allowed multi-unit uses (3-plex/4-plex provision) (§4412(1)(D))
- Allowed dwelling unit density of 5 (§4412(12))
- Affordable/mixed use dwelling unit density/height bonus (§4412(13))

Applies to areas with water & sewer

Min. Parking Requirements (§4414)

- Applies to all municipal bylaws with min. parking requirements
- Bylaws may require no more than 1 per dwelling unit in zoning districts served by water and sewer
- May require 1.5 spaces for multi-unit dwellings in areas far from public parking and in areas not served by water and sewer.
- Not effective until Dec. 1, 2024
- Does not affect other ordinance authority to regulate parking nuisances, like ticketing for parking in authorized places



Applies to areas with water & sewer

3 to 4 Multi-Unit Uses (§4412(1)(D)) & Density/Height Bonus (§4412(13))

- Defines multi-unit to mean 3 or more dwelling units in the same building (for all municipalities with bylaws) (§4303)
- 3-4 Units must be a permitted use, not conditional (in zoning districts allowing year-round residential uses served by municipal water & sewer)
- Affordable housing projects (including mixed use) dwelling unit density bonus of 40% and one habitable floor above height maximum



Applies to areas with water & sewer

Density of 5 (§4412(12))

- Says bylaws shall establish lot and building dimensional standards that allow 5 or more dwellings per acre for each allowed residential use.



Lot & building dimensional standards

- Minimum lot size may be used to determine density, but if so cannot require more restrictive minimum lot size for duplex.
- May also regulate dwelling units per acre separate from minimum lot size, but duplex must be allowed where single unit is allowed. **Capacity for record keeping can be prohibitive.*

MLS: 1/5 Acre (.2 Acre)

Must require for SUD and Duplex

*May require larger minimum lot size for multi-unit if meets 5 units per acre.

MLS: 1/5 acre

Minimum residential density: 10 units per acre

On 1/5 acre lot, can develop SUD or duplex (.2 x 10 units/acre = 2)

On 1/2 acre lot, can develop up to a 5plex (.5 x 10 units/acre = 5)

Support for Municipalities

- [Bylaw Modernization Grants](#),
- [Municipal Planning Grants](#)
- [Regional Planning Commission](#) Technical Assistance
- [HOME Act Zoning Resource Page](#)
- [HOME Act – NRB \(Act 250\) Guidance](#)
- [Vermont Plan & Bylaws Database](#)

QUESTIONS?



Tools and Resources Available:

- Title 24, Chapter 117, V.S.A, current and up to date: www.leg.state.vt.us/statutes
- Your local Regional Planning Commission: www.vapda.org
- www.vlct.org – Vermont League of Cities and Towns (VLCT)
- <http://accd.vermont.gov/community-development> – Department of Housing and Community Development
- www.vlct.org/vermont-local-government/vermont-open-meeting-law/

