

MEMORANDUM

TO: Municipal Planning and Development Review Officials
FROM: Jacob Hemmerick, Community Planning & Policy Manager
Dale Azaria, General Counsel
Vermont Department of Housing and Community Development (DHCD)
DATE: June 21, 2019
RE: **2019 Legislative Revisions to Vermont’s Planning and Development Act, the
Downtown Development Act, Act 250, and Other Relevant Changes**

The General Assembly enacted several laws and amendments affecting local planning and regulation in 2019. As in past years, we are issuing this memo to inform municipal planning and development officials of changes in statute, as well as provide web links to the pertinent statutory language.

The [Vermont Statutes Online](#) are updated each October and will not include the 2019 changes until then. Links provided below go to the bills as enacted.

In compiling these statutory amendments, we owe thanks to Alex Weinhagen for his work as Legislative Liaison for the [Vermont Planners Association](#) (VPA) and to the [Vermont League of Cities and Towns](#) (VLCT) for their legislative updates throughout the session.

State Designated Centers

Act 71 | H.541, §5

Link: <https://legislature.vermont.gov/bill/status/2020/H.541>

The Legislature and the administration worked together on several tax policy changes to expand support for local community revitalization efforts and make housing more affordable.

Downtown and Village Center Tax Credits

Technical changes that make the downtown and village tax credit program more effective include:

- An increase in the annual amount of overall funding by \$200,000, from \$2.4M to \$2.6M.
- The maximum credit available for elevators was increased as well, with the cap for full-sized elevators raised from \$50K to \$75K. The cap for a LULA (limited use/limited application) elevator was increased from \$40K to \$60K.
- The language that limited eligibility to buildings built before to 1983 was amended to allow buildings 30 years or older to qualify.
- The time to complete a project awarded funding was reduced from five to three years. An exception is provided for projects that are approved under the federal phased project timeline which allows five years for project completion.



- The 50% Technology Credit for the installation or improvement of data or network wiring was repealed.
- In response to a Supreme Court First Amendment ruling, the definition of “qualified applicant” was modified to allow religious organizations to qualify when the building is frequently used for secular purposes, e.g. community food banks, scout meetings, and soup kitchens.

Affordable Housing Programs

- Tax credits available to fund VHFA’s first time homebuyer program doubled and the program was extended to FY26. VHFA estimates an additional 230 households will become permanent Vermont residents when they can get \$5K of down payment assistance when they get a VHFA mortgage.
- The state’s homeownership tax credits also increased, which will add an additional \$625K to create affordable homeownership opportunities. The credits are used by developers to lower the price of new or rehabilitated homes including replacing older, inefficient mobile homes with energy efficient manufactured housing.

Act 250 Reform

Link: <https://legislature.vermont.gov/committee/document/2020/12/Bill/188679#documents-section>

The House Committee on Natural Resources and Energy grappled for months on a complicated set of issues -- like how Act 250 could address climate change, discourage forest fragmentation, protect sensitive habitats, and direct more development to state designated areas like downtowns, village centers, and neighborhoods. While there is broad agreement that Act 250 would benefit from modernization, the Committee was unable to find consensus on the details. The Committee will continue its work on Act 250 in January 2020.

Land Gains Tax Exemption in State Designated Areas

Act 71 | H.541, §15

Link: <https://legislature.vermont.gov/bill/status/2020/H.541>

Effective January 1, 2020, the law makes significant changes to the Land Gains Tax such that it will only apply to transfers of land that have been recently purchased and subdivided.

- The act exempts land in a downtown development district, a village center, growth center, or new town center.
- Only land subdivided within six years of purchase will be subject to the tax.

Highway Banners

Act 50 | H.292

Link: <https://legislature.vermont.gov/bill/status/2020/H.292>

To accommodate temporary overhead highway banners (such as those used to advertise civic events), the law allows banners with breakaway fasteners over certain highways up less than 21 days and at least 16.5 feet from the ground. Effective July 1, 2019.



State-Owned Airport Permitting

Act No. TBD | S.162, §4

Link: <https://legislature.vermont.gov/bill/status/2020/S.162>

To promote development at state-owned airports, the law:

- Creates state-owned airport master permit and master plan definitions to capture most aviation-focused development (except runways and general airport operation infrastructure).
- Encourages the Agency of Transportation to develop master [development] plans in consultation with the Agency of Commerce and Community Development and obtain state-owned master airport permits for facility upgrades, electric aircraft charging stations and (if practical) renewable energy generation.
- Creates waivers for state permit fees for permits associated with a master plan previously reviewed and approved by the Agency of Natural Resources, Department of Public Safety, Natural Resources, Board, and the Public Utilities Commission.

Affordable Housing Funding

Act 48 | H.132 §9

Link: <https://legislature.vermont.gov/bill/status/2020/H.132>

There was continued interest by the Legislature in funding for affordable housing. This act charges the State Treasurer -- in cooperation with Agency of Commerce and Community Development and Dept. of Taxes -- to evaluate options and recommend legislation for affordable housing by January 15, 2020, including:

- A plan for the creation of 1,000 housing units over five years for Vermonters with incomes up to 120% of area median income, above and beyond established baselines; and
- Provisions for meeting single-family, multi-family, re-investment in existing stock, and service-supportive housing needs.

Housing Protections for Victims of Domestic & Sexual Violence

Act 48 | H.132 §§1-4

Link: <https://legislature.vermont.gov/bill/status/2020/H.132>

Effective July 1, 2019, the law extends a variety of protections to victims of domestic and sexual violence related to rental agreements, security measures, landlord liability, and unfair housing practices.

Health Officers: Rental Housing & Health Code Enforcement

Act 48 | H.132 §§5-8

Link: <https://legislature.vermont.gov/bill/status/2020/H.132>

To better support town health officers and improve the administration of Vermont's rental housing code enforcement, the law:

- Establishes the Department of Health as lead on state rental housing health laws and extends its charge to aid in the interpretation, implementation, and enforcement of state rental housing health and safety laws.
- Establishes that municipal health officer inspection reports are public records and requires that the health officer provide inspection information to the Department of Health within seven days of issuing an inspection report using an electronic system (to be established for this purpose).
- Enables a penalty of \$200 per day for each violation (increased from \$100) with waiver penalties of 50% of full amount.



- Allows the local health officer, Dept. of Health, or State’s attorney to bring action in the Judicial Bureau for cumulative fines less than \$800, and to the Superior Court for cumulative fines more than \$800.
- Directs the Rental Housing Advisory Board, Dept. of Health, and Dept. of Public Safety to develop recommendations for the design and implementation of a comprehensive system for the professional enforcement of rental housing health and safety laws by January 15, 2020.
- Directs each municipality to provide summary information on its inspection activity from July 1, 2018 – June 30, 2019 to the Dept. of Health by August 1, 2019.
- Effective July 1, 2019, unless otherwise specified.

Municipal Clerk Recording Fees & Record-Keeping Funds

Act 38 | H.526, §1

Link: <https://legislature.vermont.gov/bill/status/2020/H.526>

To support effective public records administration, the law, effective July 1, 2019:

- Increases filing and recording fees for deeds and most documents of public record from \$10 to \$15.
- Increases filing and recording fees for survey plats from \$15 to \$25.
- Requires the creation of a restoration and preservation reserve fund for the restoration, preservation, digitization, storage and conservation of municipal records.

Survey Plat Filings & Statewide Digital Survey Library

Act 38 | H.526, §3

Link: <https://legislature.vermont.gov/bill/status/2020/H.526>

In response to a recommendation from the statewide parcels advisory board, experience from the parcel program, and input from multiple related groups, the law:

- Creates an online statewide survey library that will be created and hosted by the Vermont Center for Geographic information (VCGI) for digital copies of survey plats.
- Requires surveyors to file a digital survey plat in PDF format with VCGI upon filing the plat with the town clerk.
- Requires any conveyance of land by deed that would result in a change in boundary or subdivision to be accompanied by a survey plat or cite the volume and page in the land records that indicates where the new parcel boundaries have previously been recorded.
- The survey plat filed with the town clerk of the municipality in which the survey is located remains the official plat of record.
- Effective January 1, 2020; additional information on VCGI implementation is available [here](#).

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

