

## Recommendations for Improving Vermont's Act 250 Permitting System Approved by CCRPC Board on March 20, 2019

Act 47 (in 2017) created a commission of six legislators to “review the vision for Act 250 adopted in the 1970s and its implementation with the objective of ensuring that, over the next 50 years, Act 250 supports Vermont’s economic, environmental, and land use planning goals.” CCRPC has reviewed the work of this Commission and offers the following general positions intended to make Act 250 more effective and efficient.

1. CCRPC encourages the Legislature to ensure a **predictable and coordinated review process** that minimizes inconsistency and duplication at all levels of review and puts those reviews in the most appropriate hands so environmental protection is not compromised, and housing, transportation and economic development is not unnecessarily time-consuming and expensive.
2. In general, the state permit process should **encourage development in appropriately planned places** and discourage development outside of those areas. Therefore, CCRPC strongly supports the concept that Act 250 should not have jurisdiction in areas planned for growth to encourage affordable housing and economic investment in our smart growth areas: walkable, transit-friendly, water and sewer-serviced areas. However, the **enhanced designation concept** as proposed is unworkable for the following reasons:
  - a. It builds on an overly complex designation system that puts existing growth into a variety of unnecessary silos and does not adequately capture planned future growth areas. The existing designation system, of which there are five designations, should be overhauled into a comprehensive growth strategy rather than continue to build upon it with a sixth designation. Improving and possibly expanding existing designations is better than creating new designations.
  - b. It is not a true Act 250 release; it merely shifts the burden of all the Act 250 criteria to the municipal level. Instead, we should support existing local planning and Downtown Board efforts to designate these areas as places for housing and economic development, acknowledge the greater environmental benefit of clustering growth into areas with existing infrastructure, and *not* enforce Act 250 criteria that were originally intended to minimize and mitigate indirect and cumulative impacts of major development.
  - c. The current geographic boundaries of the designation programs are unnecessarily limited. As an example, the Village and Downtown designations are narrowly focused on commercial and civic uses and exclude redevelopment and infill in existing neighborhoods surrounding Villages and Downtowns. The Downtown Board should analyze each individual area on its merits as a smart growth area, and there should be incentives to improve existing sprawl areas.
  - d. The Growth Center and Neighborhood Development Area designations come with an affordable housing requirement, and this should not be lost under a new structure.
  - e. It adds an appeal process that the current designation programs don’t have. If an appeal process is a necessary component, add that to the current designations rather than creating a new one.
  - f. The proposed bill will be a significant expansion of Act 250 jurisdiction, including expansion into areas where development is appropriate, such as existing neighborhoods surrounding centers; and the enhanced designation concept will not solve that problem.

3. CCRPC supports the concept of **resource area protections** and the acknowledgement that Act 250 jurisdiction should be triggered by location in areas of statewide interest, regardless of project size (even single-family home developments); however, there needs to be more work done to identify and define these resources. There may also be resources that would be better regulated through a separate permit.
4. Act 250 permitting should rely more on **conceptual/sketch plans** and capacity analysis as opposed to engineer-sealed plans with more detail. Land Use Permits should include conditions of obtaining the other more detailed permits (stormwater, wastewater, etc.). This would ensure a more resident-friendly, efficient and less costly state permitting process, helping to reach affordable housing, transportation and economic development goals. In addition, CCRPC supports the master planning process for phased developments.
5. CCRPC believes that any mapping established to define jurisdiction, and particularly growth areas, in Act 250 should be based not only on state-level maps, but also on **mapping in local and regional plans** due to the extensive public participation involved in their development. There may also be resources that should be considered by Act 250 that are not identified on state-level maps.
6. CCRPC asks that the Legislature either work out **further details** before adopting new concepts or hold until further details are worked out (e.g. greenhouse gas mitigation fee). The development costs of some of these concepts could be substantial and would exacerbate existing inflated housing costs for Vermonters. New concepts should be more thoroughly considered before adoption. Further, all the fees should be comprehensively reviewed to understand the impact on development costs, particularly considering the goal of smart growth development.
7. CCRPC encourages the Legislature to consider a **phased approach** to implementing the new jurisdiction paradigm. If it moves forward, it will greatly expand the reach of Act 250, and could greatly disrupt the market. It would be best to first allow municipalities to apply for and obtain the enhanced designation before the greater rural development restrictions are implemented.
8. CCRPC supports an **appeals** process that allows coordination or consolidation of appeals of various municipal and state permits to one entity to ensure consistency in decision-making and prevent unaligned requirements between Environmental Court and the proposed re-invigorated Environmental Resource Board decisions.
9. CCRPC supports the position of the Vermont Planners Association regarding **regional plan approvals** which is to modify the bill language so that regional plans are reviewed for consistency with statutory planning goals by a Development Cabinet<sup>1</sup>, or some similar instrument of the State, that is expanded for this function to include representatives with planning expertise – e.g., directors of two adjacent regional planning commissions, a representative from the VT Planners Association, and a representative from the VT Association of Planning and Development Agencies.
10. Clarify and add to existing statute (Title 24, Chapter 117, Section 4476) to make the existing Environmental Court hear **appeals for regional plan approvals and for regional approval and/or confirmation of local plans** and the local planning process.

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<sup>1</sup> While not active, the Development Cabinet is in statute (3 V.S.A. § 2293) for the purpose of collaboration and consultation among State agencies and departments. As described in statute it consists of the Secretaries of the Agencies of Administration, of Agriculture, Food and Markets, of Commerce and Community Development, of Education, of Natural Resources, and of Transportation. The Governor or the Governor's designee shall chair the Development Cabinet.