



Mission: To build strong, resilient, and sustainable communities, to foster economic prosperity, and to promote a high quality of life for residents of the region.

- *Direct planning and community development assistance to municipalities*
- *Preparation and implementation of regional plans and studies*
- *Cooperative work with local and regional organizations to advance regional cohesiveness*
- *Facilitate effective communication between local, state, and federal levels of government*

ESSENTIALS OF PLANNING & LAND USE REGULATION IN VERMONT

1. Planning for a Vibrant Sustainable Community
2. Roles and Responsibilities
3. Implementing the Plan
4. Meetings, Hearings and Due Process



PLANNING FOR A VIBRANT SUSTAINABLE COMMUNITY

Section 1

Statutory Basis for Planning and Land Use Regulation

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

1931 – The Vermont legislature first authorized zoning regulations.

1967 – 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 and specific types of review and regulations

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

2004 – Act 115 incorporated additional significant updates to the zoning (implementation) portions of Chapter 117

2023 – HOME Act included provisions aimed to reduce barriers to housing development

Municipal and Regional Planning and Development Act

24 VSA Chapter 117

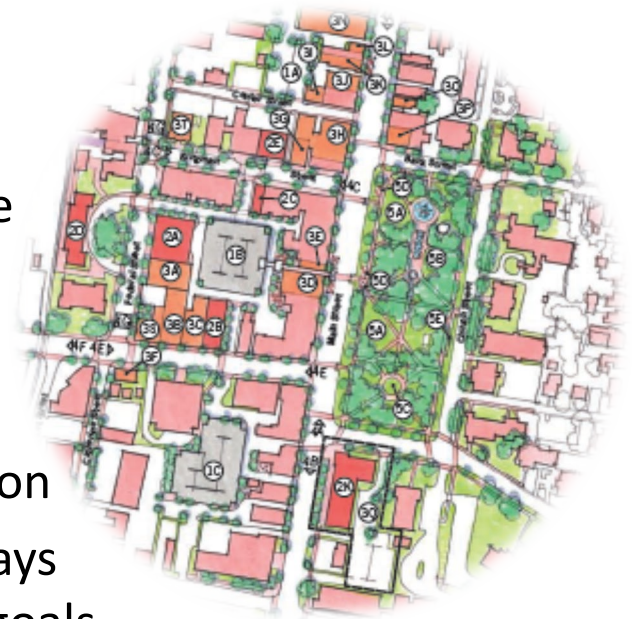
What is a Municipal Plan? Why have one?

What:

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

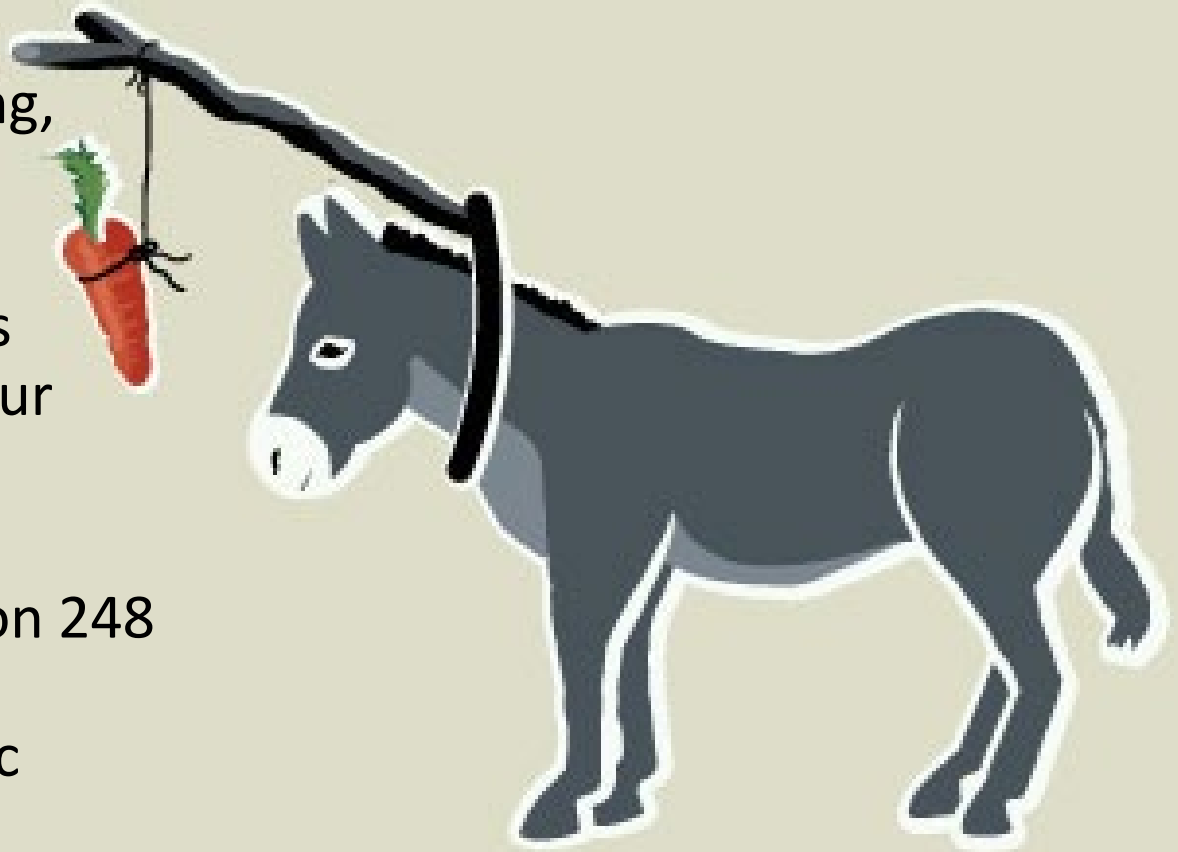
Why:

- Inclusive process expressing community-wide vision
- Empowers community to respond to change in ways that reflect its own values, needs, priorities, and goals
- Allows community to designate areas to maintain as is, evolve over time, or to transform into a better place
- Allows community to access state incentive programs



With a current plan ...

- You can adopt zoning, subdivision, & flood hazard regulations
- Act 250 applications must conform to your municipal plan
- Your plan will be considered in Section 248 proceedings for Certificates of Public Good
- Your grant applications are more competitive



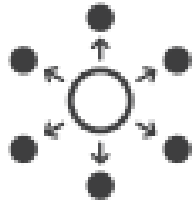


Vermont Planning Process Goals

Planning Process (§4302, §§4381-4387)

- Coordinated comprehensive process to guide decisions
- 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 plan

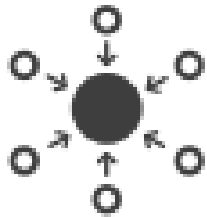
Types of Citizen Participation



INFORM

Keep citizens informed. Help the public understand problems and solutions.

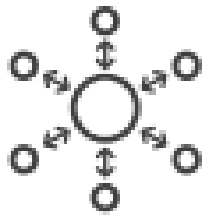
- ★ Fact Sheets
- ★ Newsletters
- ★ Websites



CONSULT

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

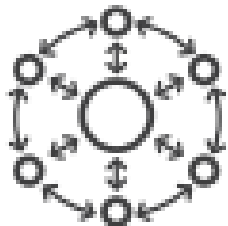
- ★ Surveys
- ★ Public Meetings



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 preferred solutions.

- ★ Citizen Advisory Committees or Task Forces
- ★ Participatory Decision Making - Charrettes



VERMONT PLANNING GOALS

(§4302)



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
9. Flood Resilience
10. Policies on Preserving Rare Natural Areas and Forest Blocks
11. Compatibility with Adjacent Municipalities and Region
12. Implementation Program

Create a plan for tomorrow,
not yesterday or today.

Municipal Plan Adoption

➤ **Plans expire every 8 years**

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

➤ **Adoption process can take several months**

- Planning Commission hearing with notice to adjacent communities
- Selectboard/Trustee hearings (1 in small municipalities and 2 in larger towns)
- Decision on adoption made by legislative body (unless the municipality has 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 decisions

Vermont Planning Manual



<https://accd.vermont.gov/community-development/town-future/municipal-planning-manual>



BERLIN, VERMONT

A TOWN PLAN FOR

being a hub of commerce and industry
developing an identifiable and vibrant town center
preserving rural character and working lands

ADOPTED 14 AUG 2018 & AMENDED 6 JUN 2022



[Award-winning Berlin Plan](#)

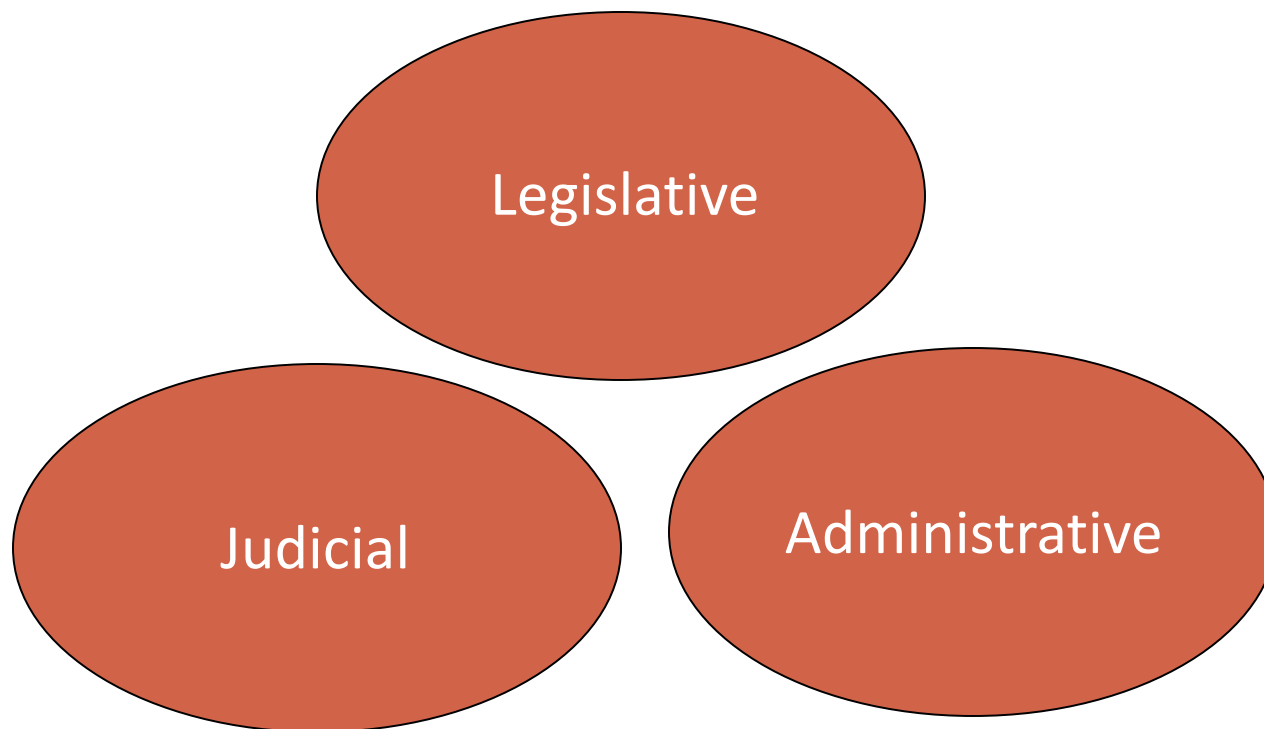


ROLES AND RESPONSIBILITIES

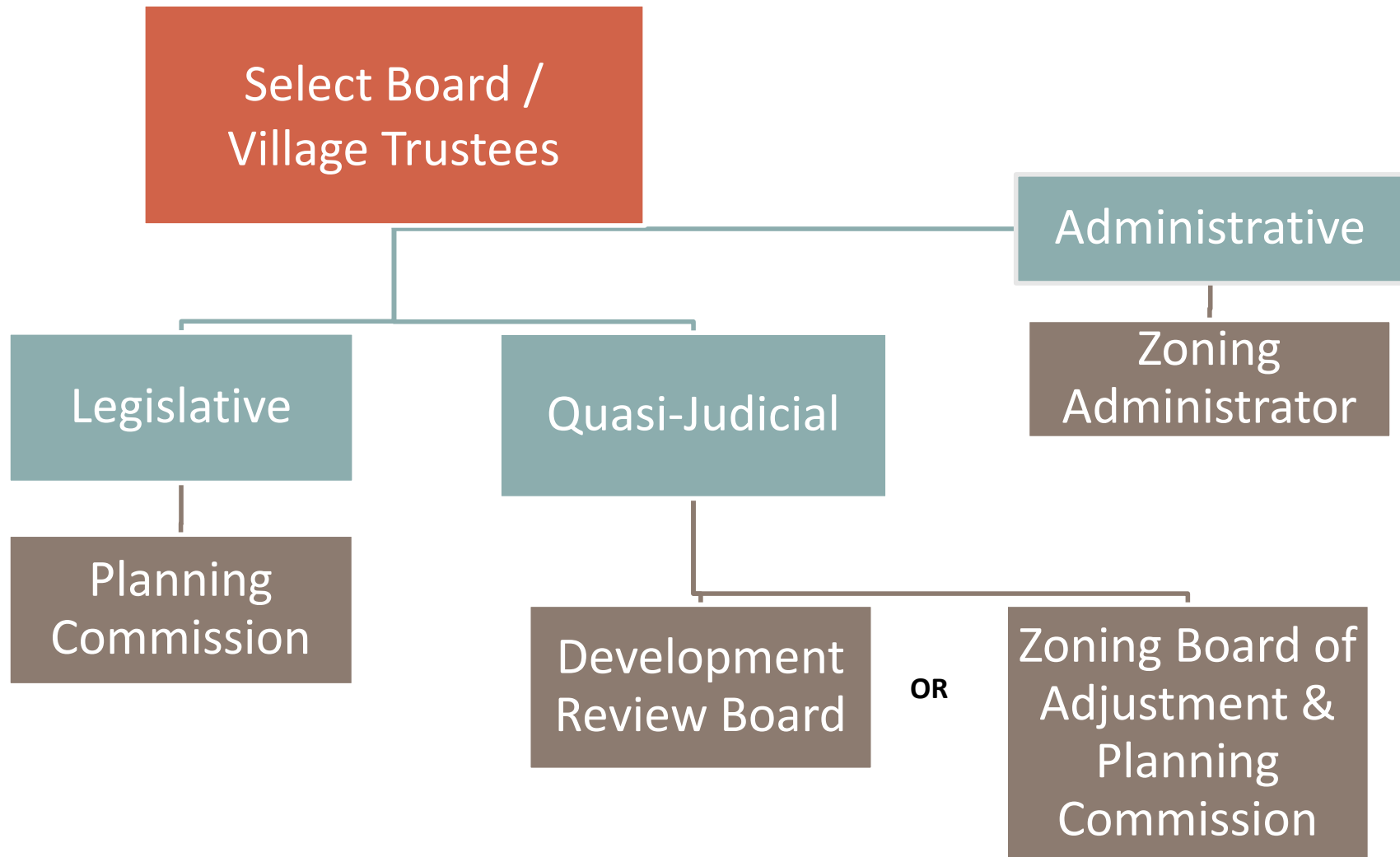
Section 2

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 Plan
- Prepares Zoning/Land Use & Development Regulations
- Can prepare or edit Capital Budget and Program
- Prepares other studies

➤ Legislative Body

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

Administrative Function

➤ Zoning Administrator (ZA)

- Assists applicants
- Issues zoning permits
- Conducts enforcement
- May staff DRB, PC, or ZBA

NOTE: Other municipal staff may provide administrative functions for review boards or assist the ZA, but only a duly appointed zoning administrator may issue permits or pursue enforcement actions.

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.

Quasi-Judicial Function

Development Review Board

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

OR

Planning Commission

- Site plans
- Subdivisions
- Lots without frontage

Zoning Board of Adjustment

- Conditional Uses
- Waivers
- Variances
- Appeals of ZA decisions

Advisory Bodies

- Design Advisory Committee*
- Historic Preservation Commission*
- Conservation Commission §§4501-4505

*To the extent possible, have among their members professionals in the fields of architecture, landscape architecture, urban planning, history, historic preservation, archeology, and related disciplines. §4433

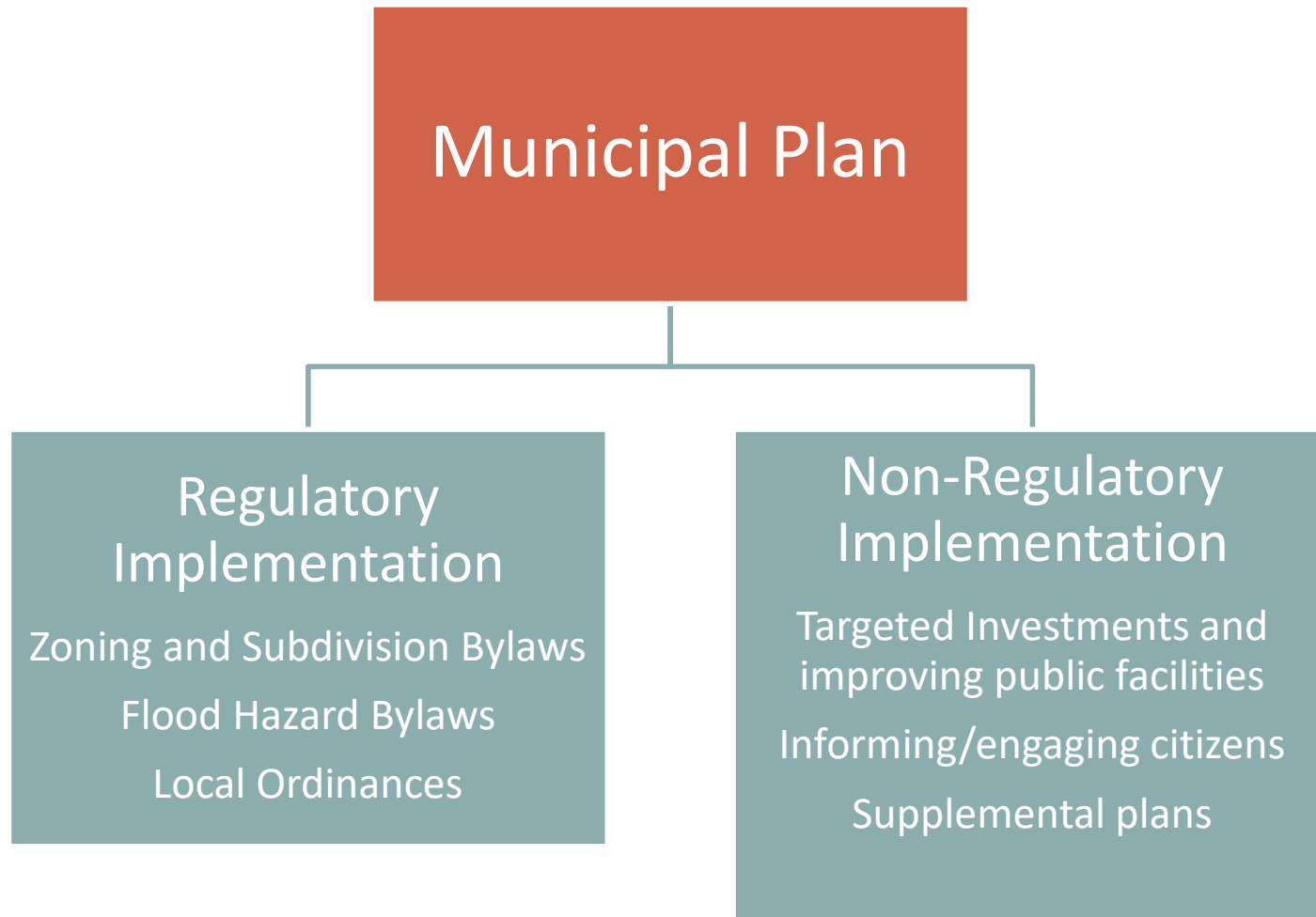
“An advisory commission shall have no fewer than three members. All members should be residents of the municipality, except that historic preservation or design advisory commissions may be composed of professional and lay members, a majority of whom shall reside within the municipality creating the commission.” §4433



IMPLEMENTING THE MUNICIPAL PLAN

Section 3

Implementing the Plan



Why Have Local Land Use Regulations?

- To implement municipal plan vision and goals, such as:



Promote compact, walkable, livable development



Protect important natural resources, limit impacts to neighboring properties



Minimize fragmentation of farmland



Incentivize affordable housing



Encourage efficient use of infrastructure



Ensure compatibility with historic character



Establish safe vehicular and pedestrian circulation

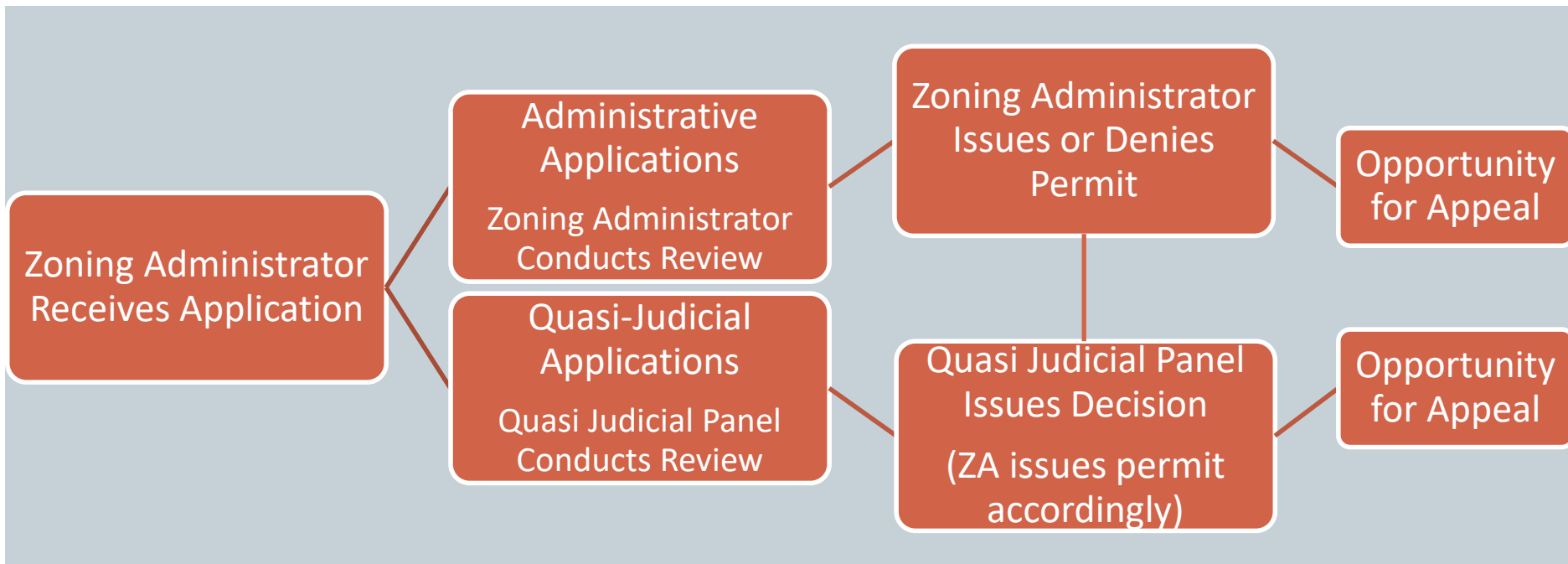


Make communities more flood resilient

Limits of Local Regulation

- Land use regulations can only regulate what is enabled in Vermont Statute (Dillon's Rule)
- Local regulations have statutory limitations and prohibited effects (§4412 - §4413)
- Land use regulations tell people what they can and cannot do with their land, but cannot deprive landowners of all use of property

Players and processes potentially involved in local land use regulation



Land Use & Development Regulation

Land Development

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

Type of Review	Function of Review
Zoning	Establishes land use & development standards
Permitted Use	Allowed by right
Site Plan	Ensures good site design
Conditional Use	Allowed if found to be compatible
Variance	Stringent statutory standards
Waiver	Flexible local standards
Subdivision	Controls the pattern of future development
Planned Unit Development	Allows for flexible design

Decisions by the Municipal Panel

Decisions must:

- Be in writing and contain:
 - ✓ Findings of fact on which decision is based
 - ✓ Conclusions of law on how bylaw applies
 - ✓ Any required conditions of approval
- Be based on review standards in bylaw
- Document concurrence of majority of the panel

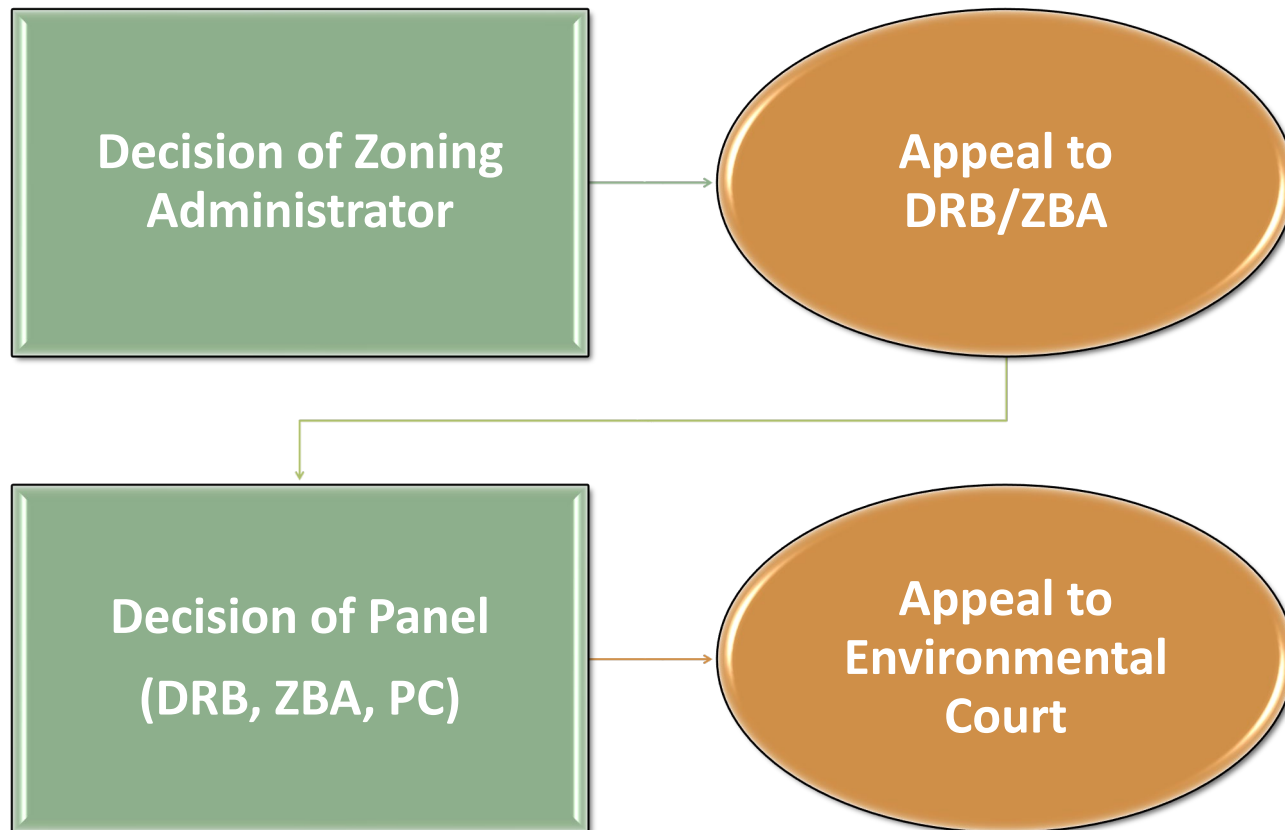
Timeline:

- The panel must issue written decision within 45 days of close of public hearing
- ***Does not need to be same night of hearing!***

Who is responsible for preparing decisions?

- Citizen volunteer or paid staff (can be ZA)

Appeals



Interested Persons May Appeal

Decision of the ZA - pursuant to §4465(b)

- The applicant, landowner, or abutting landowner
- The municipality and any adjoining municipality
- Petition of ten persons (combination of voters, residents, or property owners)
- Any department or administrative subdivision of the state owning property or any interest within the municipality
- Agency of Commerce and Community Development (ACCD)

Decision of Quasi Judicial Panel - pursuant to §4471

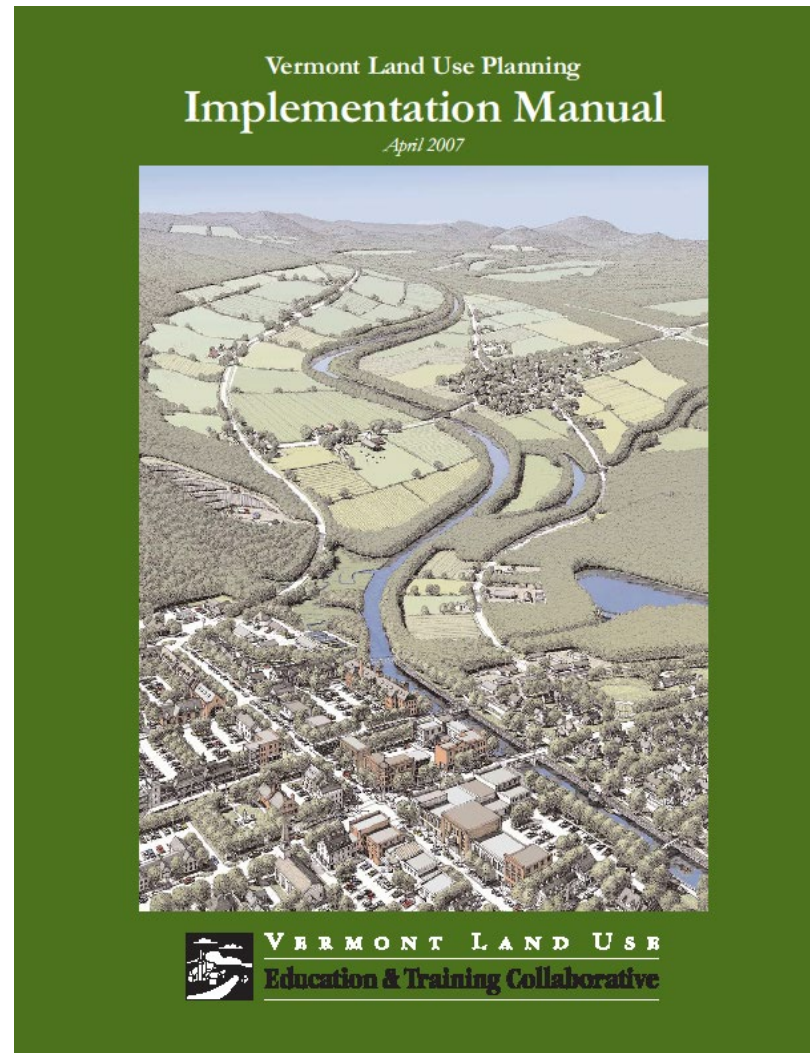
- Interested person who has participated in the municipal regulatory proceeding (provided written or oral testimony)

Non-Regulatory Implementation

24 VSA Chapter 117 authorizes:

- Capital Budget and Program
- Tax Stabilization Contracts
- Purchase/Acceptance of Development Rights
- Supporting Plans
- Advisory Commissions (design, conservation, equity, housing)
- Other projects and studies

Learn More at www.vpic.info





MEETINGS, HEARINGS AND DUE PROCESS

Section 4

Meetings vs. Hearings

What happens...

(Quorum of members = Meeting)

Who does it...

Meetings

- Discuss business or take action
- Generally legislative

- All Public Bodies

Legislative Hearings

- Receive public comment on a course of action (e.g., plan or bylaw update)

- Planning Commission
- Selectboard or Trustees

Quasi-judicial Hearings

- Hear from parties seeking decision on application or appeal

- Panel reviewing proposed development or appeal (DRB or PC/ZBA)

Vermont's Open Meeting Law

(1 V.S.A. §§310-314)

- Post advance notice by making **agenda available before meeting:**
- At the municipal office
- 2 other designated places
- Website
- Allow public participation
- **Make minutes available within five days**
- Address complaints of violations

Exemptions

Remote Meetings

www.vlct.org/vermont-local-government/vermont-open-meeting-law/

Public Notice

Meetings

- Agenda with at least 48 hours notice for regular meetings
- At least 24 hours notice for special meetings with media alert
- ASAP for emergency meetings
- Notice posted at municipal offices and 2 other places

Legislative Hearings

- For plans and bylaw adoption/amendments
- 15 days notice
- Newspaper of record
- Certified mailings or electronic notification with verification of receipt to ACCD, RPC, and adjoining municipalities

Quasi-Judicial Hearings

- 7 or 15 days notice depending on type of application
- Newspaper of record
- 3 or more public places
- Mailed to applicants and adjoiners
- Posting on site within view of nearest public ROW

Flow of Quasi-Judicial Public Hearing

1. Chair opens hearing & administers oath

2. The applicant presents the proposal/request

3. Board members ask questions in relation to conformance with specific provisions in land use regulations

4. Comment from interested parties/public

5. Chair closes public hearing and board deliberates (open or closed)

6. Board deliberates on application and issues a written decision

Conducting a Quasi-Judicial Hearing

1. Review order of events.
2. Remind of the importance of order.
3. Make copies of the **rules of procedure/ethics policies** available.
4. Request disclosure of **conflicts of interests** or **ex parte communications**.
5. Review definition of **interested persons** and ensure documentation of participants.
6. Administer oath to applicants/interested parties wishing to offer testimony.
7. Close the hearing only if all information needed to make a decision has been provided. Otherwise, continue the hearing to a specified time and place.

Role of the Board Chair

A good chair should:

- Administer the agenda and ensure the meeting proceeds on schedule
- Keep the meeting focused on the issue at hand
- Recap discussion
- Ask for discussion (without giving own opinion)
- Bring the board to resolution after discussion



Board Member Role at Quasi-Judicial Hearing

To determine a project's conformance with your regulations and protect due process:

- Avoid conflicts of interest
- Listen to testimony and evidence
- Ask questions
- Refer to the regulations
- Base decision on evidence presented and conformance with regulations
- Do not prejudge a matter or publicly express opinions on a pending case



Deliberative Session

- Exempt from Open Meeting Law
- No requirement for notice or minutes
- Open or closed
- Don't have to reveal how board members voted
- 45 days to issue a decision or deemed approved



Conflicts of Interest

- Financial interest (direct or indirect)
- Personal interest (direct or indirect)
- Known bias or prejudice
- *Ex parte* communication



*It takes years to build trust with the public,
but just one misstep to destroy it.*

Managing Conflicts of Interest

- Adopt Rules of Procedure
- Avoid *ex parte* communication & always disclose
- Recuse when there is conflict of interest
- Use alternates



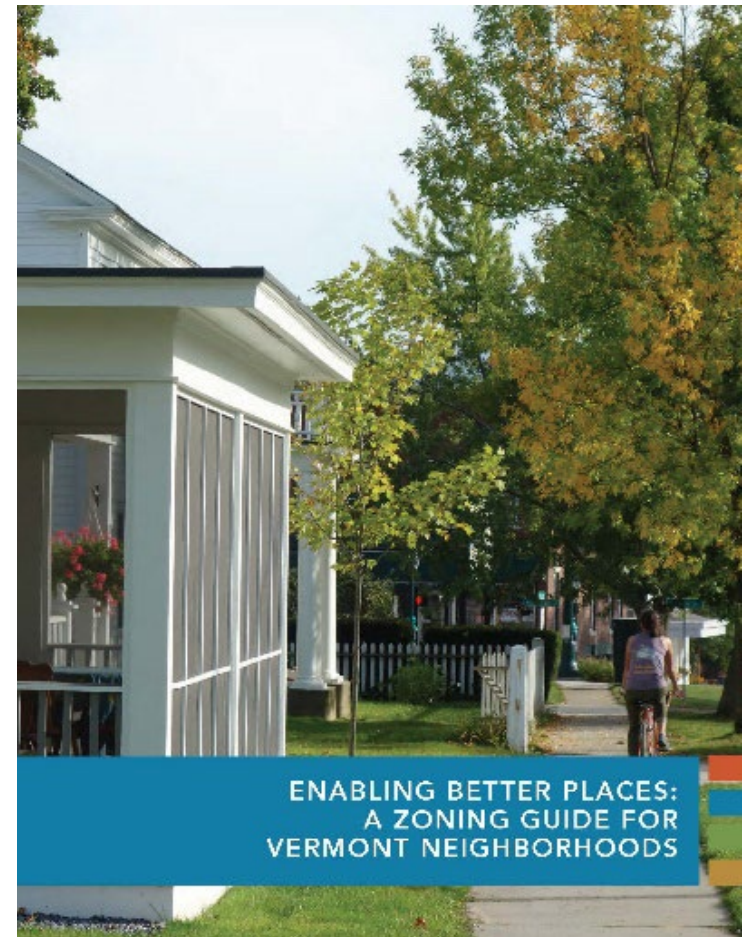
In Summary: Protecting Due Process

- Proper public notice
- People are given an opportunity to be heard
- An orderly proceeding
- Proper management of evidence
- Proper management of conflicts of interest and *ex parte* communications
- Close a hearing only once all information needed to render a decision has been provided
- Issue a written decision with findings, conclusions, and decision with any conditions

Legislative and Funding Updates:

Removing barriers to housing development and incentivizing clean energy conversion continue to be discussed this legislative session.

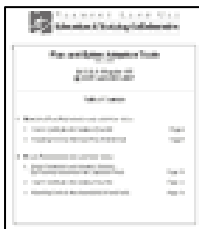
The BCRC will provide a summary of changes once the session is over and any new law affecting local regulatory jurisdiction is made.



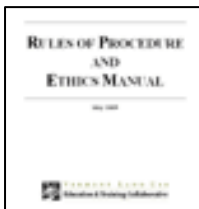
Learn more: www.vpic.info



Essentials of Local Land Use Planning and Regulation



Plan and Bylaw Adoption Tools



Rules of Procedure and Ethics Manual

And more ...

Tools and Resources Available:

www.leg.state.vt.us/statutes

- V.S.A Title 1, Chapter 5 (Public Meetings and Records)
- V.S.A Title 24, Chapter 117 (Municipal Land Use & Development)
- Your Regional Planning Commission www.bcrcvt.org
- Vermont League of Cities and Towns (VLCT)
www.vlct.org
- Department of Housing and Community Development
<http://accd.vermont.gov/community-development>



THANK YOU

