

Vermont Planners Association (VPA)
2023 Legislative Summary
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Overall, 680 bills were introduced during the 2023 legislative session - 523 in the House and 157 in the Senate. Many weren't discussed at all, and most never made it out of their assigned committee. However, since 2023 is the first year of the legislative biennium, all bills that didn't become law are still "active" - meaning, they can be discussed and advanced in the 2024 session. VPA tracked a total of 70 bills with a planning nexus. See below for a summary of those that went somewhere, with an emphasis on those that made it across the finish line to become law.

CAVEAT. The 2023 session isn't over yet! The Legislature will reconvene on/around June 20 to consider various bills that the Governor vetoed. The most significant of which is the "big bill" - i.e., the State budget for the fiscal year that starts July 1, 2023. It's possible that the Legislature could do additional work as well - e.g., passing other bills that didn't quite make the finish line for the May adjournment.

H.31 – Aquatic Nuisance Control Committee & Report – Signed by the Governor on 6/12/2023

Originally written with a one-year moratorium on the use of pesticides to control aquatic nuisances (e.g., Eurasian water milfoil), this bill was revised to simply create a study committee. The committee's charge is to assess the environmental and public health effects of the use of pesticides, chemicals other than pesticides, biological controls, and other controls in comparison to the efficacy of their use in controlling aquatic nuisances. The committee shall provide a report with recommendations regarding whether and when pesticides, chemicals other than pesticides, or biological controls should be used to control aquatic nuisances in Vermont. Report due by December 15, 2023. Committee ceases to exist on April 1, 2024.

H.42 (Act 1) - Public Meetings, Covid-era Procedures Extension – Signed by the Governor on 1/25/2023

This bill was fast tracked and became law early in the session. It extends most of the covid-era public meeting allowances until July 1, 2024 - e.g., annual meeting scheduling, remote participation, fully remote public meetings, etc. Will there be a bill in 2024 to make fully remote public meetings an option more permanently? Stay tuned!

H.110 (Act 20) - Telecom Facility Review Authority – Signed by the Governor 5/25/2023

Municipalities lost the ability to regulate telecom facilities many years ago, in favor of review by the State Public Utility Commission (PUC). What you might forget, is that PUC authority over telecom facilities was supposed to sunset; thereby, returning regulatory authority to municipalities. This sunset has been extended time and time again, and this bill was just the most recent example. PUC authority will now sunset on July 1, 2026. The bill also requires the State Public Service Department and the PUC to collaborate on a report on the PUC process of siting telecom facilities, and how to make participation easier for municipalities and individuals. Input from VLCT, utilities, and any other interested parties required. Report due by January 15, 2024.

H.126 - Community Resilience and Biodiversity Protection – Became law without signature 6/12/2023

This bill sets a conservation vision and goals to conserve a percentage of Vermont's total land area - 30% by 2030 and 50% by 2050. Conserved land to include State, federal, municipal, and private lands. Conserved land shall include a mix within three categories: ecological reserve areas, biodiversity

conservation areas, and natural resource management areas. Each category is defined in the bill, but the percentage mix is to be determined, and guided by the conservation targets within Vermont Conservation Design. The bill charges the VT Housing and Conservation Board and the VT Agency of Natural Resources with an inventory of Vermont's conserved land and conservation policies by July 1, 2024. The bill also requires that VHCB and ANR develop a plan by December 31, 2025 to implement the conservation goals. Developing the plan requires at least 12 public meetings to solicit stakeholder input.

H.222 (Act 22) - Recovery Residences and Drug Treatment – Signed by the Governor on 5/25/2023

This bill seeks to reduce drug overdoses in a variety of ways – e.g., needle disposal, opioid treatments, drug checking for contaminants, etc. Section 9 of the law makes changes to the equal treatment of housing provision in 24 V.S.A. § 4412(1)(G) by stipulating that a recovery residence serving not more than eight persons shall be considered a permitted single-family residential use of property. A definition of recovery residence is also included. Effective on passage.

H.270 - Cannabis Regulation Revisions – Became law without Governor's signature on 6/14/2023

This bill makes a variety of changes to the State's regulation of the new cannabis industry. Section 5 of the bill clarifies and emphasizes limitations on municipal regulation of cannabis establishments – e.g., public nuisance ordinances cannot regulate outdoor cultivators; municipalities shall not regulate in a manner that has the effect of prohibiting the operation of a cannabis establishment. Section 6 of the bill exempts all outdoor cultivators subject to the Required Agricultural Practices from Act 250 review and from municipal zoning regulation (previously the exemption was much narrower). Essentially, this grants outdoor cannabis cultivators the same Act 250 and municipal zoning exemptions enjoyed by farming/agricultural uses. Effective on passage, but still awaiting action by the Governor.

H.479 - Transportation Bill – Signed by the Governor on 6/12/2023

Also known as the annual "T-Bill," this year's most significant provision (Section 35) is to establish a new Chapter 24 of Title 19 (Highways) that requires the state and municipalities to use "complete streets" principles (rather than simply considering them) when completing ANY transportation project, with some exceptions based on site / traffic factors as well as municipal and regional plan policies. The state and RPCs will be responsible for providing training on complete streets to municipalities. The T-bill also includes lots of relevant funding for roads, public transit, e-bike and electric vehicle incentives (including an "Electrify Your Fleet" program for which municipalities and businesses are eligible). The bill also establishes a new mileage-based fee for electric vehicles starting July 1, 2025.

H.145 (Act 3) – FY23 Budget Adjustment Act – Became law without Governor's signature 3/20/2023.

There is always a lot to unpack in budget bills, but here are the planning-related highlights:

- Section 45: \$30 million for the Department of Public Service and Vermont Community Broadband Board to leverage federal money and reduce the overall cost of universal broadband
- Section 65: \$6 million for the statewide Brownfields Revitalization Fund for direct grants of up to \$200,000 for assessment and remediation, as well as \$1 million total to be distribute to RPCs for their brownfields programs
- Section 95: \$3 million in assistance for municipal capacity to apply for state / federal funds, which can be distributed through RPCs, contractors, or directly to municipalities

H.494 – FY2024 Budget Bill – Vetoed by Governor 5/27/2023, awaiting potential override 6/20/2023

Again, planning-related highlights from this 336-page bill:

- Sec. B.1100(a)(3): \$500,000 in community grants related to health equity, pending creation of the Office of Health Equity
- Sec. B.1102(a) allocates \$10 million for the Vermont Rental Housing Improvement Program
- Sec. B.1102(b) allocates \$3 million to VAPDA to hire Housing Navigators included in S.100

- Sec. B.1102(c) allocates \$50 million in one-time funding for VHCBC to provide additional mixed-income housing and housing to address homelessness
- Sec. D.100 allocates \$7,545,993 in total to the Municipal and Regional Planning Fund, including:
 - \$6,211,650 million for RPCs
 - \$898,323 for municipal planning grants, of which up to \$500,000 may be used specifically for bylaw modernization grants
 - The remaining \$436,060 for the Vermont Center for Geographic Information
- Sec. F.5: another \$1 million was allocated to the Brownfields Revitalization Fund for assessment grants to property owners looking to redevelop contaminated sites. This is in addition to the \$1 million included in the FY2023 budget adjustment act (H.145 / Act 3).
- Sec. F.9 (Better Places Program): municipalities are now eligible for up to three projects in a given year (rather than just one)

S.3 (Act 13) – Prohibitions on Paramilitary Training Camps – Signed by the Governor on 5/8/2023

Those who have been following the [Slate Ridge case](#) will be interested to know that with this fairly short bill, the issue of regulating paramilitary training camps has passed out of the hands of zoning and into law enforcement (Chapter 13 of statute). However, this does not affect existing protections for hunting and sport shooting ranges in other sections of statute.

S.5 (Act 18) – Affordable Heat Act – Governor’s veto overridden on 5/11/2023

Act 18 is the result of two years of debate (and two vetoes) on a Clean Heat Standard that advances the state’s greenhouse gas emissions reduction goals from heating of buildings. The law is essentially a cap-and-trade system administered by the Public Utilities Commission (PUC) that requires fossil fuel providers to create or purchase “clean heat credits” for implementing measures like weatherization, fuel switching away from fossil sources, and increasing heating system efficiency. Though there are provisions ensuring equitable access to clean heat measures for low- and moderate-income customers, the Governor’s veto was based on concern about increased up-front costs for clean heat measures at a time when Vermonters are already struggling with affordability. The credit system will generate PUC-tracked data that may be informative for enhanced energy planning, but it’s unclear if that data will be shared with planners. Ultimately, this law does not implement the clean heat standard. It simply directs the PUC to come up with the rules/logistics to implement the clean heat standard, and deliver this by January 15, 2025 for review/approval by the Legislature.

S.100 (Act 47) – Housing Opportunities Made for Everyone – Signed by the Governor on 6/5/2023

The biggest piece of planning legislation to come out of this session, the HOME Act makes numerous changes to statutes related to municipal zoning, Act 250, and planning generally to equitably increase housing availability and affordability across the state. Several other studies related to regional planning, the designation program, Act 250, rural recovery, and energy code compliance are included in the bill, along with funding for housing programs. Most statutory changes are effective December 31, 2024, but a few are as early as July 1, 2023. [DHCD guidance on the bill is forthcoming](#), but here is a brief summary:

- In residential areas served by municipal water and sewer as defined in the bill, zoning must establish building and lot standards that allow for a minimum density of 5 dwellings per acre.
- In water / sewer service areas, affordable housing projects are entitled to a 40% density bonus and an additional floor of height.
- Duplexes must be allowed with the same dimensional standards as single-unit homes.
- Dwellings with up to 4 units must be an allowed use in residential zones served by municipal water and sewer.
- Municipal zoning cannot require more than 1.5 parking spaces per dwelling unit, and no more than 1 space per dwelling in areas served by public water and sewer or areas less than 0.25 miles from public parking.

- There are new statutory definitions for accessory dwelling unit, duplex, emergency shelter, multi-unit dwelling, and areas “served by municipal water and sewer infrastructure.”
- There is a new process for reporting to and review of municipal bylaw amendments by DHCD.
- Statute now enables administrative minor subdivision review in municipal bylaws.
- New “by-right” provisions limit the modifications and conditions Appropriate Municipal Panels can impose on housing developments.
- Regional plans must include affordable housing targets, disaggregated to municipalities, and more detailed assessment of housing needs.
- Municipal plans must include specific actions to address housing needs.
- Rural towns under 24 V.S.A. §4303 can no longer vote to adopt municipal bylaws through town-wide Australian ballot by default, though the legislative body can still elect to use this process on a case-by-case basis.
- Until July 1, 2026 priority housing projects and certain housing projects with 25 or more units in designated centers are not considered “development” under Act 250.
- Municipalities can now apply for Act 250 master plan permits in downtowns and NDAs.

S.115 (Act 42) – Misc. Agriculture & Stormwater Provisions – Signed by the Governor on 6/1/2023

Among other things, this bill exempts properties regulated under Required Agricultural Practices from municipal stormwater fees. There was considerable debate and advocacy by VLCT and municipal stormwater regulators attempting to clarify that state or municipal stormwater operating permits and fees (for private / on-site stormwater management practices) are distinct from municipal stormwater utilities and fees, which are used to fund public stormwater initiatives implemented by municipalities as required under MS4 permits. Municipalities were concerned that exempting some land uses would lead to other exemptions and reduce funding to meet MS4 requirements. In the end, the Agency of Agriculture’s legal counsel prevailed on the basis of aligning with their interpretation of statutory limits.

For additional perspective, and information on a host of other bills related to municipalities, check out the 2023 legislative summary done by the Vermont League of Cities and Towns (VLCT):

<https://www.vlct.org/weeklylegislativereport/2023-legislative-wrap>

For more perspective on bills related to planning, check out the upcoming VT Department of Housing and Community Development (DHCD) legislative summary - <https://accd.vermont.gov/community-development/resources-rules/planning>. This one isn’t ready yet, but should be posted in the coming weeks. DHCD staff are highly involved in the legislative action, and often report on bills with a planning connection that VPA didn’t focus on. In other words, we highly recommend checking out their summary when it becomes available.

Online Resources

[Bill, Act and Resolution search page](#)

Past [VPA Legislative Reports](#)

DHCD Legislative Summary

VLCT Legislative Summary