



Chapter 117 Overview

Chapter 117

In Vermont, municipal authority to adopt plans and bylaws, including local land use regulations, is derived from the state. The chapter in state statutes that governs municipal planning and land use regulation is the **Vermont Municipal and Regional Planning and Development Act** (24 V.S.A., Chapter 117), or simply “Chapter 117.”

Although the local authority to plan for and regulate development is governed by the state, the powers granted to municipalities under Chapter 117 are broad. Vermont municipalities are not required to plan or to adopt land use regulations. However, if a city, town, or incorporated village decides to adopt a

municipal plan, regulations, or other planning tools authorized by statute, the procedures and requirements found in Chapter 117 must be followed. **So, if you’re a...**

- **planning commissioner** responsible for drafting and updating local plans and bylaws,
- **member of an “appropriate municipal panel”** (a planning commission, zoning board of adjustment or a development review board charged with reviewing development applications), or a
- **zoning administrator** who administers and enforces local bylaws,

...it’s important that you become familiar with Chapter 117 and use it to guide your work!

The chapter is divided into twelve “subchapters” that are further subdivided into numbered “sections” (e.g., §4301) used to cite particular provisions in the statutes.

Act 200 Amendments

Chapter 117 was first enacted in 1967 and, over the years has been amended many times. “Act 200,” the first major overhaul, went into effect in 1988, resulting in significant changes to subchapters one through five that govern municipal and regional planning. Act 200 amendments included a list of state planning goals to be considered in local and regional planning [§4302], and also lists the required subjects or “elements” that must be addressed in municipal and regional plans. Act 200, however, did not address the “implementation” subchapters of Chapter 117, including those governing local land use regulations.

Act 115: Legislative Intent

Under Act 115, the regulatory subchapters of Chapter 117 were amended to:

- Improve the organization of the statutes.
- Explicitly enable many current practices in planning and land use regulation.
- Respond to issues raised in court decisions.
- “Streamline” the local permitting process.
- Promote the equal treatment of housing, including affordable housing.

Act 115 Amendments

The regulatory sections of Chapter 117 have been amended many times over the years, usually to address court rulings or specific areas of concern. Additional powers such as the creation of design control districts, expanded site plan review, and local Act 250 review were added. Other powers, such as the ability to regulate accepted agricultural practices were taken away. Court decisions resulted in new permit recording requirements and statutory limitations on enforcement. Provisions for the establishment of “development review boards” - to do the local development review work - were enacted to help streamline the permitting process.

In 2001, a legislative study committee - the Chapter 117 Committee - was established to review the regulatory subchapters of Chapter 117 and recommend ways to further improve the local permitting process for affordable housing development. The Committee’s report to the legislature -

Chapter 117 Subchapters

The chapter is divided into 12 subchapters that are further divided into numbered sections (e.g., §4301) use to cite particular provisions in the statutes.

1. General Provisions; Definitions
2. Municipal Planning Commissions
3. Regional Planning Commissions
4. Regional Development
5. Municipal Development Plan
6. Implementation of the Plan
7. Bylaws
8. Non-regulatory Implementation of the Plan
9. Adoption, Administration & Enforcement
10. Appropriate Municipal Panels
11. Appeals
12. Construction, Savings Clause, Severability

Where to Find Chapter 117

A complete set of state statutes, including Chapter 117, is available on-line at www.leg.state.vt.us/statutes/statutes2.htm.

Paper copies are available through the Vermont Department of Housing and Community Affairs (DHCA) or your Regional Planning Commission (RPC).

Versions of Chapter 117 that include “annotations” are especially helpful, since they also include references to Vermont Supreme Court decisions (opinions) that provide guidance on how a particular section of the law should be interpreted and applied.

Affordable Housing under 24 V.S.A. Chapter 117 - outlined a number of detailed recommendations for amending Chapter 117. These included the recommendation for a complete and comprehensive update of its regulatory provisions.

The Chapter 117 Committee, after fulfilling its legislative mandate, reconvened in 2002 to develop statutory language. These efforts resulted in the second major update of Chapter 117 and became part of Act 115 - the state’s “permit reform” legislation - that was signed into law in May 2004.

Act 115 changes to Chapter 117 are extensive, and are addressed in more detail in other bulletins and subsequent information and training materials. The changes include:

- Revised statutory definitions.
- Provisions for both regulatory and non-regulatory plan implementation, including a requirement that *all* implementation measures, including bylaws, conform to the municipal plan.
- Streamlined bylaw adoption and amendment procedures, particularly for rural municipalities.
- Provisions for the adoption of “unified” and “freestanding” regulations.
- Additional protections for affordable housing - including mobile home parks, multi-family and accessory

dwellings - under local land use regulations.

- New requirements for the issuance of zoning permits and municipal approvals.
- New requirements for public hearing notices, party status (interested persons), and appeals.

Effective Dates

Act 115 went into effect almost immediately after being signed into law and on **July 1, 2004** existing sections of Chapter 117 pertaining to local land use regulation were repealed. All bylaws and bylaw amendments adopted after July 1st must conform to the new statutory requirements. A “savings clause” [§4481] protects existing zoning and subdivision regulations through **September 1, 2011**; however, to the extent that existing bylaws conflict with particular requirements of the new law, local regulations will be “overridden” after **September 1, 2005**. Additional guidance regarding effective dates is available from the Vermont Department of Housing & Community Affairs, the Vermont League of Cities & Towns, and your regional planning commission. Chapter 117 materials are also available on-line at the Vermont Planning Information Center’s web site: www.vpic.info.

“Dillon’s Rule”

Vermont is not a Home Rule State

Vermont is one of thirty-nine states that operate under “Dillon’s Rule” - a relatively little known judicial doctrine named for Judge John F. Dillon of Iowa, the nation’s premier authority on municipal law in the 1860s. Judge Dillon was deeply troubled by widespread municipal corruption during

his day. His landmark decision in *Clark v. City of Des Moines* (1865) first established the rule of statutory construction that would later be named for him - that municipal corporations possess and can exercise only those powers granted to them in express words, those necessarily implied or incident to powers expressly granted, and those essential to the declared objects and purposes of the corporation.

Effective Dates Summary

July 1, 2004

Chapter 117

- New statutory provisions governing local bylaws, and other plan implementation measures, go into effect
- Affected sections of the previous Chapter 117 are repealed
- “Savings Clause” [§4481] protects existing local bylaws through August 2005

Local Bylaws

- Existing bylaws remain in effect
- Existing development review procedures remain in effect to the extent that they are specified in the bylaws
- New bylaws and bylaw amendments must conform to new statutory requirements
- New bylaw adoption procedures go into effect, unless otherwise specified under local bylaws

September 1, 2005

Chapter 117

- Required provisions under the savings clause go into effect

Local Bylaws

- Local bylaws are overridden, to the extent they conflict with the following statutory provisions:
 - Statutory Definitions* [§4302]
 - Required Provisions* [§4412]
 - Limitations* [§4413]
 - Adoption, Administration, Enforcement* [§§4440-4454]
 - Appropriate Municipal Panels* [§§4460 -4464]
 - Appeal Procedures* [§§4465-4472]

September 1, 2011

Chapter 117

- Savings clause expires

Local Bylaws

- Bylaws must be amended to conform to new statutory requirements by this date

Notes on Effective Dates

Act 115 established three important dates or deadlines under Chapter 117 that affect municipal bylaws with the effects shown above.

If your bylaw incorporates bylaw adoption, and public notice, hearing and development review procedures by reference to former (repealed) statutory sections, you should check with your municipal attorney regarding their continued application through September 1, 2005. **As of September 1, 2005, new statutory requirements will apply.**

The override provision under the savings clause applies only to required (mandated) provisions in statute, and not to optional (enabled) provisions that include permissible types of regulation [§§4414-4424] and non-regulatory implementation measures [§§4430-4433].

Statutory definitions [§4302] include new definitions pertaining to “affordable housing”, “conformance with the plan” and “nonconformities” which include nonconforming lots, uses and structures.

Required Provisions (and Prohibited Effects) [§4412] includes new requirements pertaining to housing (mobile homes, mobile home parks, group homes, multi-family and accessory dwelling units), lots (merger, frontage and access) and protections for home occupations, child care homes, and nonconformities.

Limitations [§4413] extends and clarifies existing limitations under local bylaws for the regulation of public facilities, power generation and transmission facilities, accepted agricultural and silvicultural practices, and also restricts municipal regulation of hunting, fishing and trapping.

Adoption, Administration and Enforcement [Subchapter 9] deals with all aspects of bylaw adoption, administration and enforcement - including: new requirements for bylaw adoption; zoning administrator appointments; the issuance of zoning permits; and also incorporates former requirements relating to violations and enforcement.

Appropriate Municipal Panels [Subchapter 10] incorporates new development review procedures, including development review board,

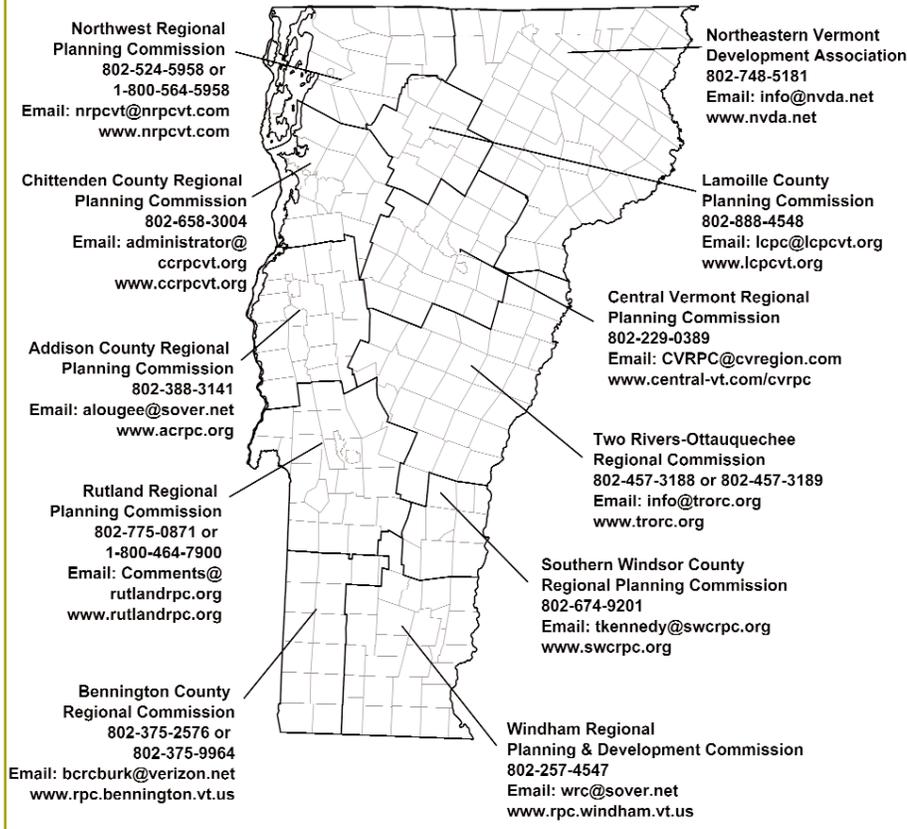
public notice, hearing and decision requirements. It also allows for expanded administrative review, as specified in the bylaw, and clarifies the role of advisory commissions (e.g., conservation, design review, housing commissions) in the development review process.

Appeals [Subchapter 11] incorporates revised appeal provisions, including new definitions and participation requirements for “interested persons” allowed to appeal a local decision to Environmental Court.

“Savings Clause”

This provision, found in §4481, explains that except for certain provisions that have a separate trigger date (September 1, 2005), the new Chapter 117 language and the amendment and repeal of the prior Chapter 117 statute does not invalidate any local zoning ordinance, subdivision regulation or other bylaws enacted under that prior law - i.e. they are “saved” from the effect of the new law until September 1, 2011, when all other provisions need to be amended to be in conformance.

**Contact information:
Regional Planning Commissions**



Chapter 117 Bulletins

The following ten bulletins were published in November 2004 to provide information about the changes to 24 V.S.A. Chapter 117, the state statute governing local planning and regulation, enacted in 2004. These all are available through www.vpic.info and from the Education and Training Collaborative partners listed below.

1. **Chapter 117 Overview** (legislative intent and effective dates)
2. **Conformance with the Municipal Plan**
3. **Permissible Regulations**
4. **Bylaw Preparation & Adoption**
5. **Required Provisions & Limitations**
6. **Equal Treatment of Housing**
7. **Zoning Permits**
8. **Development Review Procedures**
9. **Appeals**
10. **Appropriate Municipal Panels**

Vermont Land Use Education and Training Collaborative

Working Together to Provide Improved Learning Opportunities for Vermont's Local Boards and Commissions

Questions about this bulletin and other chapter 117 materials produced by the Collaborative may be directed to the following members of the Vermont Land Use Education and Training Collaborative Steering Committee. For links to websites go to "About Us" at www.vpic.info.

Center for Rural Studies (CRS) at the University of Vermont
207 Morrill Hall
University of Vermont, Burlington, VT 05405
(802)656-3021

Department of Housing and Community Affairs (DHCA), Planning Division
National Life Building Dr. 20
Montpelier, VT 05620-0501
(802)828-5249

Vermont Association of Planning and Development Agencies (VAPDA)
Contact your Regional Planning Commission

Vermont League of Cities and Towns (VLCT)
89 Main Street, Suite 4
Montpelier, VT 05602
(802)229-9111

Vermont Secretary of State's Office
26 Terrace Street
Montpelier, Vermont 05609
(802) 828-2363

Vermont Planners Association (VPA)
c/o VLCT
89 Main Street, Suite 4
Montpelier, VT 05602