



# Act 250 and the Natural Resources Board

Two Rivers-Ottawaquechee  
Regional Commission  
November 16, 2023



# Topics:

1. Act 250 basics
2. Land Use Permitting statistics for recent years
3. Application Reviews: Opportunities for Municipal/RPC Involvement and Avoiding Delays.
4. ARPA-funded projects and Act 250's response



# Key Messages to Applicants

- **Discuss your project and the land use permit application process with your District Coordinator before you apply.**
- **Submit American Rescue Plan Act (ARPA)-funded project applications ASAP to reduce potential for application bottleneck later.**
- **Review application proposals for conformance with Regional and Town Plans**

# Act 250 Basics

- The Natural Resources Board oversees Vermont's statewide land use review process known as Act 250.
- Act 250 review is a quasi-judicial process through which District Commissions review proposed jurisdictional projects for adherence to a list of criteria established in statutes by the Legislature.
- The review integrates water quality, wildlife, traffic, historic preservation, aesthetics, town planning and service capacity, and other reviews in one efficient and cohesive permitting process.

# A Total of 32 Criteria & Sub-criteria:

- Criterion 1: Air and water pollution

- 1(A): Headwaters
- 1(B): Waste disposal
- 1(C): Water conservation
- 1(D): Floodways
- 1(E): Streams
- 1(F): Shorelines
- 1(G): Wetlands

- Criterion 2: Water supply

- Criterion 3: Impact on water supply

- Criterion 4: Erosion and capacity of soil to hold water

- Criterion 5: Transportation

- 5(A): Traffic
- 5(B): Transportation

- Criterion 6: Educational services

- Criterion 7: Municipal services

- Criterion 8: Aesthetics, scenic & natural beauty

- Historic sites

- Historic sites - archeology

- Rare and irreplaceable natural areas

- 8(A): Necessary wildlife habitat

- Criterion 9

- 9(A): Impact of growth

- 9(B): Primary agricultural soils

- 9(C): Productive forest soils

- 9(D): Earth resources

- 9(E): Extraction of earth resources

- 9(F): Energy conservation

- 9(G): Private utility services

- 9(H): Costs of scattered development

- 9(J): Public utility services

- 9(K): Public investments

- 9(L): Settlement patterns (*formerly* "Rural growth areas")

- Criterion 10: Local and regional plans





# Criterion 9(E) Extraction of Earth Resources

## 10 V.S.A. § 6086(a)(9)(E)

- Blasting
- Noise
- Hours of Operation
- Dust
- Erosion and Sedimentation
- Truck traffic
- Overextraction
- Inadequate reclamation
- Long duration of operations





# What's in...

## Act 250 Jurisdiction

- Subdivisions of 10 lots or more, or 6 lots in towns without permanent zoning and subdivision regulations
- Commercial development on >1 or >10 acres, depending on a town's zoning and subdivision regulations
- State or municipal projects when >10 acres of land are used
- Housing projects with 10 or more units (higher unit thresholds for affordable housing in state designated centers)
- Communication towers >50 feet
- Commercial, residential, or industrial development above 2,500 feet elev.
- Material change to an Act 250-permitted project, and
- Substantial change to a pre-1970 project

# What's NOT in...

## Act 250 Exemptions

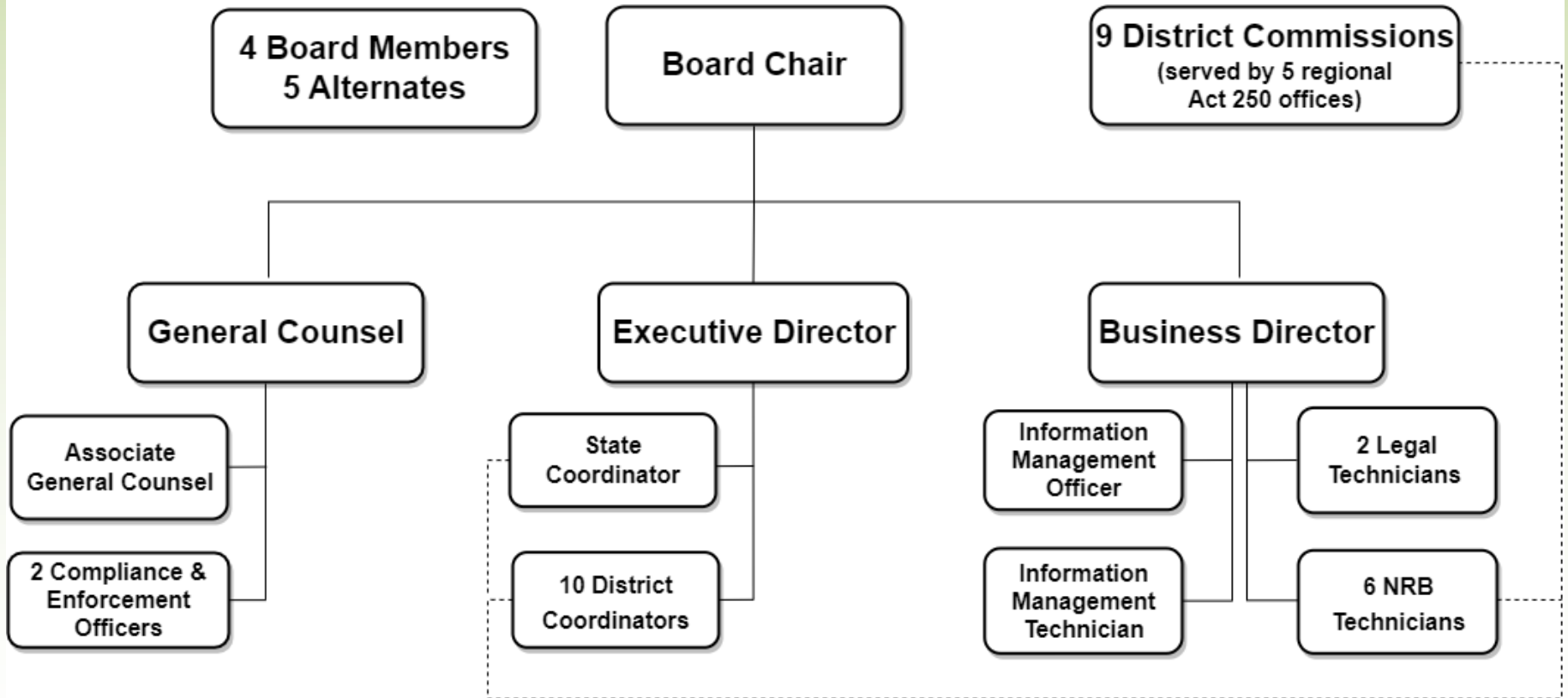
- Farming below 2,500 feet in elevation
- Logging below 2,500 feet in elevation
- Many other exemptions for specific project types



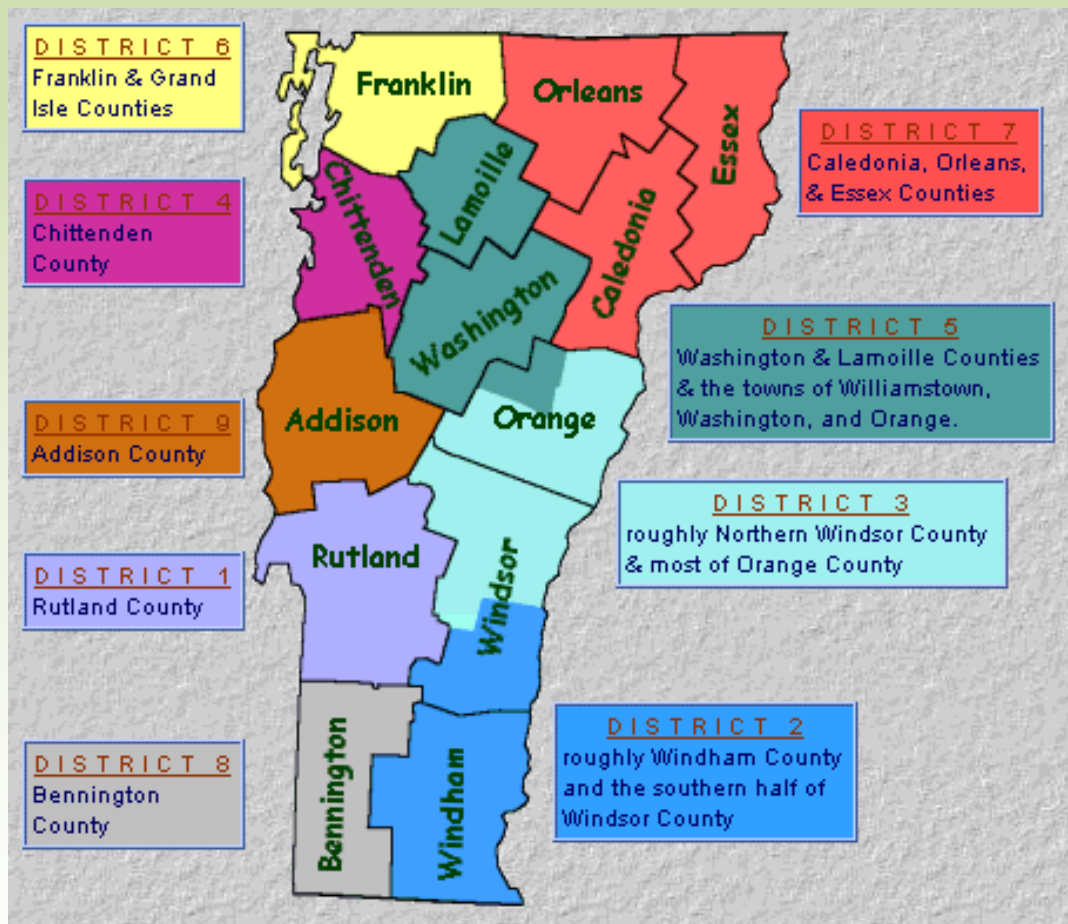
The NRB is an independent entity in state government that oversees the administration of Act 250. It is not part of any other state agency.

## Natural Resources Board

11-21-22



# 9 District Environmental Commissions



[District Staff and Environmental Commissions | Natural Resources Board \(vermont.gov\)](http://vermont.gov)



## **District Commissioners**

Our 10 District Coordinators work with 63 volunteer District Commissioners to review projects. Commissioners are appointed by the Governor for staggered 2-4-year terms.



# **District 3 Environmental Commission**

## **Chair:**

- Kevin Marshia (Exp. 2/29/24)

## **Members:**

- Suzanne Butterfield (Exp. 2/28/25)
- Roderick J. Maclay (Exp. 2/28/27)

## **Alternates:**

- Cheryl Harvey (Exp. 2/28/25)
- Clotilde Hryshko (Exp. 1/31/21)
- Ashley Lincoln (Exp. 2/28/25)
- Anne Margolis (Exp. 2/28/25)

## Your Act 250 District Coordinator is your navigator.

Their role in permitting is threefold:

- **Jurisdictional Opinions:** To determine whether a project requires a permit under the law.
- **Coordination:** To facilitate the review process for applicants, the Commission, & other parties (if any).
- **As a “Clerk:”** To draft the Commission’s written decision.



## If you are a municipal official,

- Feel free to reach out to [your district coordinator](#) at any time for guidance about whether a **municipal** project will require a permit or amendment.
- Please do not advise people about whether their project will require an Act 250 land use permit or an amendment.
- Feel free to refer people to their [Act 250 district coordinator](#) for guidance.
- To determine which ANR permits might be needed for a project, use ANR's online [Permit Navigator](#) tool. It asks a series of questions and generates a report with referrals to specific ANR programs. For further assistance, contact your [ANR Community Assistance Specialist](#).



# Local Contacts

District 3 Environmental Commission  
100 Mineral Street, Suite 305  
Springfield, VT 05156-3168

- Peter Kopsco, District 3 Coordinator  
[Peter.Kopsco@vermont.gov](mailto:Peter.Kopsco@vermont.gov)  
(802) 261-1947
- Gina St. Sauveur, NRB Technician  
[gina.stsauveur@vermont.gov](mailto:gina.stsauveur@vermont.gov)  
(802) 751-0120

# Potential Application Review Methods

- **Major Review Process**: the Commission convenes a hearing, invites persons to participate as parties, and takes testimony on the application.
- **Minor Review Process**: the Commission drafts a land use permit, puts the draft permit on public notice, and then considers any comments received in response to the draft.

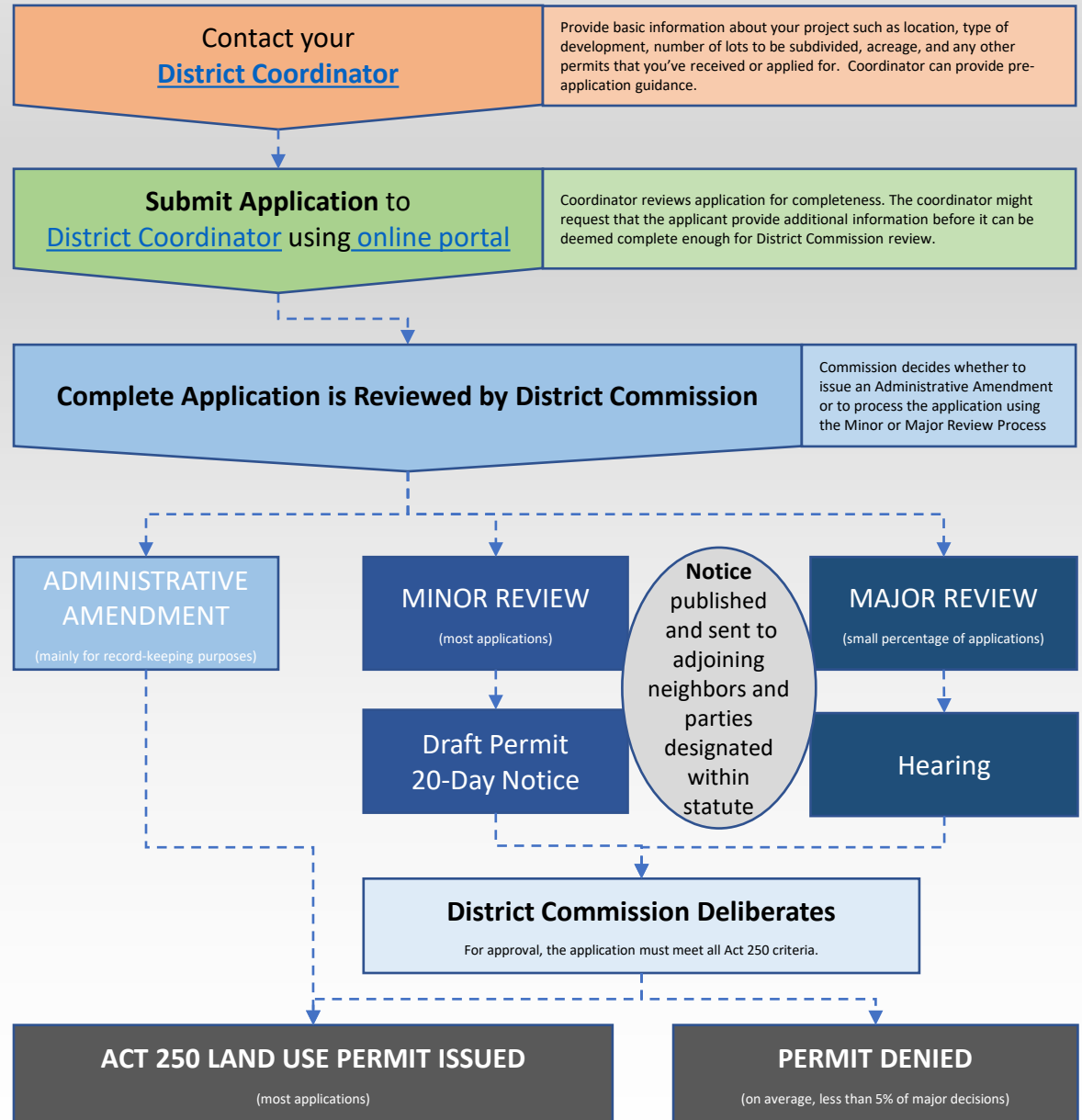
**Administrative Amendments:** exclusively for record-keeping purposes or to authorize minor revisions to permitted projects raising no likelihood of impacts under the criteria of the Act.

- The District Commission does not sign the permit amendment.
- No notice to the public or other State Agencies.
- No notice to adjoining until amendment issues.
- Not suitable for enlargement or reconfiguration of the footprint of any component of a project.
- Example: a short-term extension of a permitted construction completion deadline, subject to 10 V.S.A. § 6091(d) and Act 250 Rule 32(B)(1).
- Link to [Guidance](#).



# Act 250 Application Process

If you are planning construction or subdivision of land in Vermont, you might need to obtain an Act 250 Permit. The steps outlined here provide a simplified overview of the application process. For more detailed information, visit [nrb.vermont.gov](http://nrb.vermont.gov) or contact your [Act 250 District Coordinator](#).



# The Statistics

On average, in recent years,

404 decisions issued per year.

24 applications (6%) go to a hearing each year.

380 permits are issued without a hearing.

Over 65% of decisions issued within 90 days.

7 decisions are appealed each year.

1 decision (0.2%) is denied each year

# Act 250 Permits by the numbers...

## 2022:

379 decisions issued

22 major reviews

209 minor reviews

148 Administrative Amendments

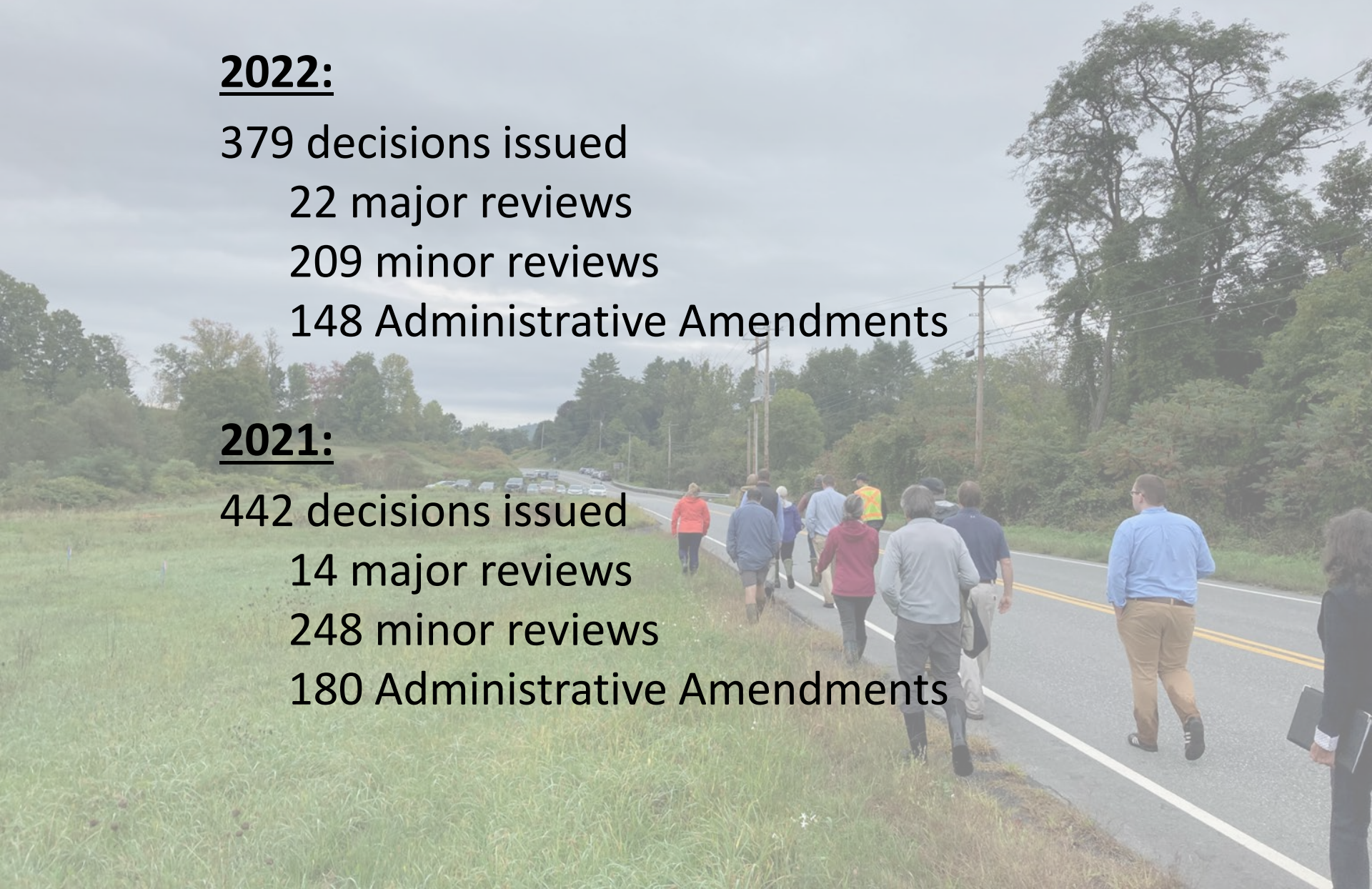
## 2021:

442 decisions issued

14 major reviews

248 minor reviews

180 Administrative Amendments



# Application Reviews: Opportunities for Municipal/ RPC Involvement and Avoiding Delays



- Hearings

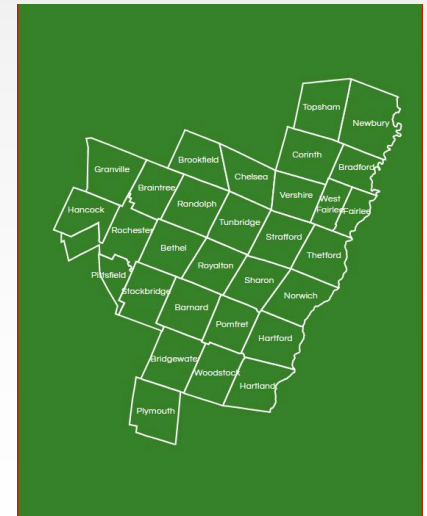
- Application completeness



## Criterion 10: Local & Regional Plans

Commissions look for mandatory and specific language in those plans.

- “*Should*” and “*strongly encourage*” indicate non-mandatory language.
- “*Shall*” and “*must*” indicate mandatory language.
- Plan provisions must pertain to the area proposed for the project and be clear to the average person.





# Statutory Parties

**10 V.S.A. §  
6085(c)(1):**  
**“The following  
persons shall be  
entitled to party  
status:”**

The applicant

The landowner

The municipality in which the project site is located, and the municipal and regional planning commissions for that municipality

Municipalities and regional planning commissions adjacent to the project

State agencies affected by the project

# **Opportunities for Participation: Municipalities and other Statutory Parties**

- Will receive email notice when an application is received.
- Once district coordinator deems application complete, the district commission will determine whether a hearing is necessary.
- Statutory parties will receive email notice of a 20-day public notice period.
- Statutory parties may provide written comments and/or request a hearing during that notice period, based on application's compliance with the Act 250 criteria.
- If a hearing is scheduled, statutory parties automatically have status to participate in the hearing.

## How to facilitate a smooth Act 250 review and approval process

- Encourage applicants to engage project **neighbors & stakeholders** early in the process.
  - Listen to their concerns.
  - If possible, developers should address stakeholder concerns in project design.
- Applicants can meet with their Act 250 **district coordinator** during initial project scoping.
  - Redesign the project if necessary to ensure that all Act 250 criteria are addressed.
- Fill out the **Municipal Impact Questionnaire**.
  - Document whether the Town has capacity to provide services to the development.

# Engagement on the front end can help to avoid . . .

- Letters from the Coordinator or District Commission, requesting additional materials.
  - to ensure that all Act 250 criteria are addressed and that project is complete enough for the Commission to review.
- Hearings.
  - Scheduling delays.
  - Including Findings of Fact and Conclusions of Law in the written decision.
- Appeals.
- Future land use permit violations.
  - Design projects to minimize the potential for violations.





# Federal ARPA Funding and Program Updates:

- ARPA funding used to secure two additional **District Coordinator** positions and an **Executive Director** position.
- **Goal:** manage workload across districts and provide additional support for review of ARPA-funded projects without impacting review of other project applications.





# ARPA Funding and Program Updates continued:

- New and Improved Database and Application Platforms

[Act 250 Database Search \(vt.gov\)](#)

[Online Application Portal](#)

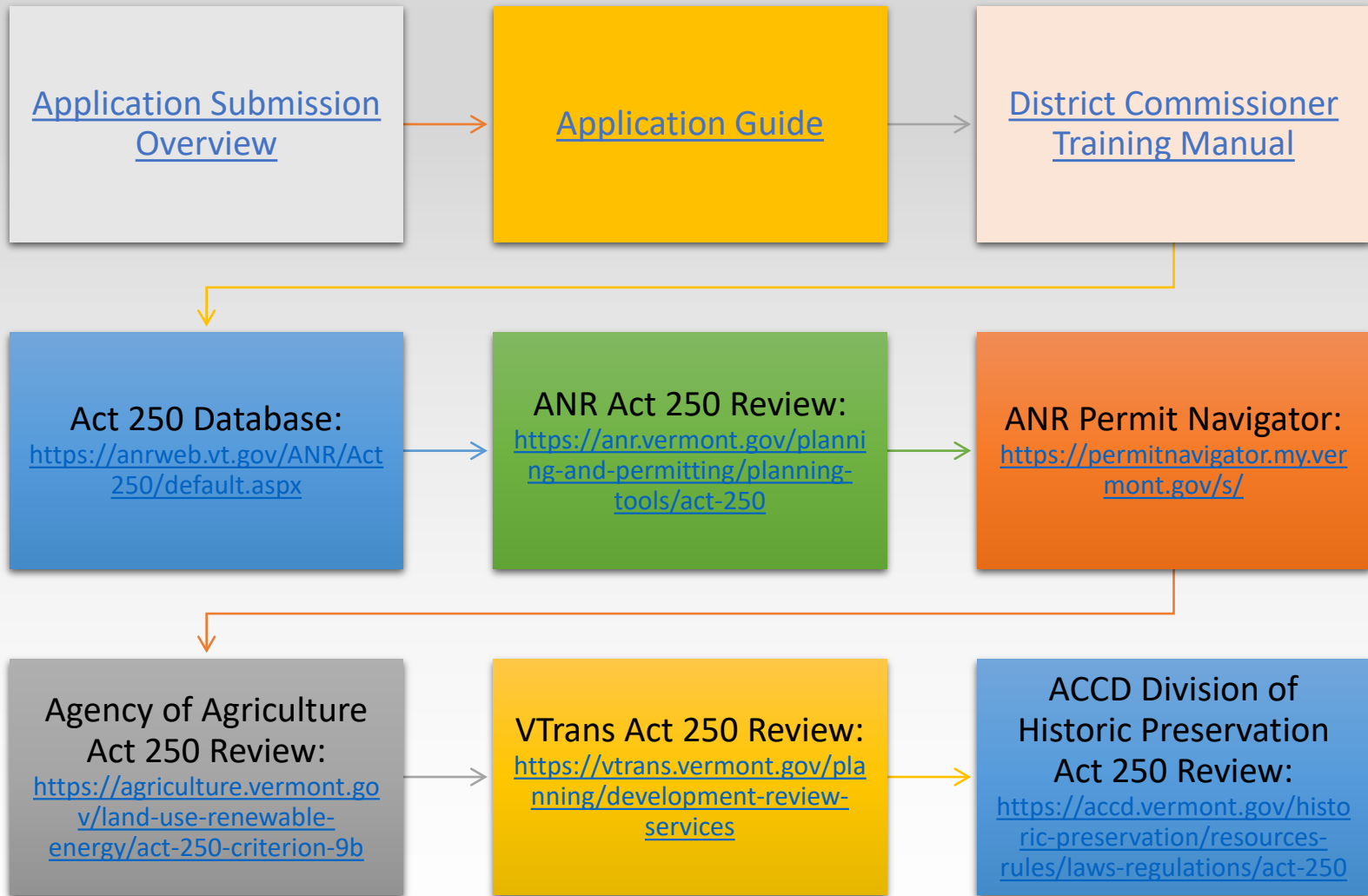
- Scanning Project: Districts 4 & 7

Will scan the first 11,000 of almost 30,000 paper records extending back to 1970.

2 million+/- pages of documents & site plans will go digital in Phase I.



# RESOURCES



# Subscribing to the Weekly Act 250 Agenda

Stay up-to-date with what's going on in Act 250 by signing up for weekly Act 250 Agenda updates via email. Here's how to sign up:

- Visit the [Act 250 Agenda Page](#). You can get there by clicking on "AGENDA" at the top of the [Act 250 database portal](#).
- Scroll down to the bottom of the AGENDA page.
- Click on "Subscribe to Act 250 Notifications."
- Enter your email address.
- Click "Subscribe."

The AGENDA page displays a list, updated daily, and links to the following information:

- All Act 250 jurisdictional opinions (JOs) and district commission decisions issued during the current week, the prior week, and the week before that.
- All Act 250 land use permit applications that are currently subject to a public notice period.

If you subscribe, you will receive an email every Monday morning, including a link to the most current Act 250 Agenda. However, you don't need to subscribe to check the Act 250 Agenda. You can [check it online](#) at any time.



# Additional Contacts

Natural Resources Board  
10 Baldwin Street  
Montpelier, VT 05633-3201

- Sabina Haskell, Chair  
[Sabina.Haskell@vermont.gov](mailto:Sabina.Haskell@vermont.gov)  
802-461-8072
- Peter J. Gill, Executive Director  
[Peter.Gill@vermont.gov](mailto:Peter.Gill@vermont.gov)  
802-522-7150
- Aaron J. Brondyke, State Coordinator  
[Aaron.Brondyke@vermont.gov](mailto:Aaron.Brondyke@vermont.gov)  
802-595-2735
- Quin Mann, District Coordinator  
[Quin.Mann@vermont.gov](mailto:Quin.Mann@vermont.gov)  
802-661-8041

# Key Messages to Applicants

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Questions?

