



**Statutory Authorization:** 10 V.S.A. §§6615, 6615a

**Type:** NONREGULATORY

**Related Topic Areas:** Bicycle & Pedestrian Facilities; Facilities Management; Impact Fees; Official Map; Roads & Highways

3

# Brownfields

## Overview

Vermont is characterized by small villages and community centers, well distributed throughout the state. While they are precious resources as community centers, they also contain many old manufacturing and commercial buildings that contain the hazardous wastes of past operations. These abandoned or underutilized properties are referred to as “brownfields.” A lack of funding for addressing the contamination problems and the potential for liability have limited developers’ interest in the reuse and redevelopment of these village and downtown brownfields sites. Not making full use of existing buildings within communities is helping to drive suburban sprawl. The deterioration and underuse of historic buildings also leads to reduced local property values and taxes and loss of potential economic opportunities, while environmental hazards persist, including threats to area drinking supplies.

The statewide remediation of these brownfields sites is a critical step to remove environmental hazards and to encourage viable projects that will strengthen villages and downtowns by providing housing, job opportunities, and/or recreational space. Municipalities with brownfields sites can now access a number of programs to turn these sites from community liabilities to community development assets.



**The Waypoint Interpretive Center in Bellows Falls, a part of the Connecticut River Byway, was developed by the Town of Rockingham on a brownfields site, where tetrachloroethene (TCE) in groundwater from former industrial uses had had been found to exceed Vermont’s Groundwater Enforcement Standards. With EPA Brownfields Assessment funding, further investigations and monitoring were undertaken to address the contamination, and development of the site was completed in 2003.** Photos provided by the Windham Regional Commission.

### Brownfields Definition

Buildings or sites that have or may have a hazardous substance, pollutant, or contaminant, which complicates or compromises their potential for expansion, redevelopment, or reuse.

Vermont’s state brownfields program is a collaborative effort of the state’s Commerce and Community Development and Natural Resources Agencies. The program provides various means of support to municipalities interested in undertaking, or facilitating, the revitalization of aban-

doned or underutilized properties. Assistance ranges from technical support for environmental assessments, to remediation planning and cleanup oversight, to financial support for all phases of the process required to make a property suitable for redevelopment.

## Application

It is estimated that there are several hundred brownfields sites across the state that are stagnating economic growth and potentially affecting public health and the environment of the communities because of their neglect. Numerous sites contain buildings that are in such a state of disrepair that the fear of collapse is real, which hinders the ability to assess the environmental conditions of these sites. Environmental and public health threats have been documented at dozens of sites that contain chlorinated organics, dioxins, PCBs, and other recalcitrant and persistent contaminants of concern. These sites contain problems that often exceed the capacity of the local communities to solve without financial assistance from state and federal authorities.

To encourage and assist with brownfields cleanup, the federal government, through the Environmental Protection Agency and the State of Vermont, has made financial resources available. Municipalities can work with state and regional entities, nonprofits, and private developers to access the following programs.

- Through grant funds obtained from the EPA, regional planning commissions are able to conduct environmental assessments, characterizations (detailed evaluation of the nature and extent of any on-site contamination), and cleanup planning, which are free of charge to qualifying property owners.

### Reuse of Former Dump

#### Example: *Windsor*

On the Burnham property in Windsor, a privately owned house sat vacant because it was the site of a former town dump and was included on the state's hazardous sites list. The site was tested and found to be suitable for development for a small office building subject to some deed restrictions.

- The Vermont Community Development Program (VCDP), through the Brownfields NOFA, has set aside grant funds for municipalities for brownfields assessment, characterization, cleanup planning, and cleanup. These grants may be sub-granted to a not-for-profit organization or loaned to a for-profit.
- The Agency of Commerce and Community Development administers the Brownfields Revitalization Fund, which makes revolving loans available to prospective purchasers or innocent landowners for assessment, characterization, cleanup planning, and cleanup. The fund offers subordinated loans to enhance the credit worthiness of conventional or other alternative loans and may fill gaps in the financial mix of a project. The maximum loan amount is \$250,000, and the term of the loan and interest rate is determined on a case-by-case basis based on a financial analysis of the borrower's ability to repay the loan.
- The Agency of Natural Resources (ANR) administers the Petroleum Cleanup Fund, which provides assistance with the investigation and clean up of releases from underground and aboveground storage tanks. For sites that involve more than just petroleum contamination, the ANR's brownfields program is able to perform investigations to identify and characterize contamination, including instances where it goes beyond property boundaries. This broader approach can positively influence redevelopment potential for downtown neighborhoods. Such neighborhood characterization studies were recently performed in downtown Windsor and in Burlington. The ANR's liability protection program (10 V.S.A. §6615a) enables a municipality to obtain state liability protection as a purchaser of a contaminated property. This program offers the added benefits of the ANR's expertise in overseeing the cleanup; access to

grants and loans for investigation and cleanup costs; and complete resolution of contamination issues leading to a developable and marketable property.

## Considerations

There are four potential roles that a municipality may take in the development of a brownfields project.

1. The municipality as owner of a property may obtain assessment and cleanup planning assistance from its regional planning commission and a grant to clean up the site from VCDP (as long as it is not for a governmental purpose).
2. The municipality may cooperate with a for-profit or a not-for-profit developer and provide access to a VCDP grant or loan to finance the remediation or the project to be constructed on the remediated site.
3. The municipality may foreclose on a property for back taxes due and cleanup and use or sell the property as in number 1, as long as it coordinates the foreclosure with the approval of the ANR. There is even the possibility of taking the property through eminent domain and accessing funding that is not available to a private landowner.
4. The municipality can actively advocate for the clean up and development of a brownfields site by identifying, assisting, and encouraging a viable developer for the site.

While a municipality needs to be careful not to become legally liable for a cleanup that it did not cause, §6615a does provide specific liability exceptions for a municipality, which should be followed closely. In all instances, the municipality should contact the ANR brownfields program at the outset of any project and certainly before acquiring a property that may be contaminated. Being informed of the options and risks involved with brownfields redevelopment will foster sound decision making and protect municipal interests.