

The Vermont Statutes Online

Title 10: Conservation And Development

Chapter 31: Soil Conservation Act

Subchapter 1: Conservation, Development, And Use Of Natural Resources

§ 701. Policy

It is hereby declared to be the policy of the Legislature to provide for the conservation, development, and use of the natural resources of this State and that the lands, water, forests, and wildlife of the State of Vermont are among the basic assets of the State, and that the preservation of these lands, water, forests, and wildlife by conservation, development, and use is necessary to protect and promote the health, safety, and general welfare of its people. (Amended 1967, No. 303 (Adj. Sess.), § 1, eff. March 22, 1968.)

§ 702. Definitions

Wherever used or referred to in this chapter unless a different meaning clearly appears from the context:

(1) "Council" or "State Natural Resources Conservation Council" means the Agency created in section 703 of this title;

(2) "District" or "natural resources conservation district" means a corporate body and governmental subdivision organized in accordance with the provisions of this chapter;

(3) "Union" or "supervisory union" means the agency created in accordance with section 803 of this title;

(4) "Due notice" means notice published once a week for two consecutive weeks in a newspaper of general circulation within the proposed district, stating the time and place of such meeting and questions to be voted on, the last publication being not less than two days before such meeting, or ten days' notice by mail, postage prepaid, addressed to the owners of land within the proposed district, stating the time and place of such meeting and questions to be voted on;

(5) "Owner" means any person, firm, or corporation who shall hold title in fee to one or more acres of land lying within a district organized under the provisions of this chapter. (Amended 1963, No. 79, § 1 (b), eff. May 7, 1963; 1967, No. 303 (Adj. Sess.), § 2, eff. March 22, 1968.)

§ 703. State Natural Resources Conservation Council; members; duties

A State Natural Resources Conservation Council is hereby established to serve as an Agency of the State to perform the functions conferred upon it in this chapter, which shall have as members: the Director of the State Extension Service, or a designated representative; the Secretary of Agriculture, Food and Markets, or a designated representative; the Secretary of Natural Resources, or a designated representative; and one member elected by the board of each supervisory union who is a supervisor for a district within the union or their officially elected alternate. Until such time as there are four unions, the Governor shall appoint members who shall be supervisors from districts not in a union to make a total of four whose terms of office shall be two years. In addition the Chair of the State Forests and Parks Board, or a designated representative; the Chair of the State Fish and Wildlife Board, or a designated representative; and the Director of the State Planning Office or a designee shall be advisory members. The Council may invite the secretary of agriculture of the United States to appoint one person to serve with the above mentioned members in an advisory capacity only. The Council shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold public hearings, and adopt rules as may be necessary for the execution of the functions under this chapter. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961; 1967, No. 303 (Adj. Sess.), § 3, eff. March 22, 1968; 1981, No. 122 (Adj. Sess.); 1981, No. 222 (Adj. Sess.), § 4; 1983, No. 158 (Adj. Sess.), eff. April 13, 1984; 1987, No. 76, § 18; 1995, No. 163 (Adj. Sess.), § 1, eff. May 15, 1996; 2003, No. 42, § 2, eff. May 27, 2003.)

§ 704. Powers of Council

The State Natural Resources Conservation Council may employ an administrative officer and such technical experts and such other agents and employees as it may require. The Council may call upon the Attorney General of the State for such legal services as it may require, or may employ its own counsel. It shall have authority to delegate to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. If designated as a clean water service provider under section 924 of this title, provide for the identification, prioritization, development, construction, inspection, verification, operation, and maintenance of clean water projects in the basin assigned to a natural resources conservation district in accordance with the requirements of chapter 37, subchapter 5 of this title. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961; 1967, No. 303 (Adj. Sess.), § 16, eff. March 28, 1968; 1971, No. 191 (Adj. Sess.), § 11; 2019, No. 76, § 6.)

§ 705. Chair, quorum, compensation, surety bonds

The Council shall designate its chair, and may, from time to time, change the designation. A member of the Council shall hold office so long as the member retains the office by virtue of serving on the Council. A majority of the Council shall constitute a quorum, and the concurrence of the majority in any matter within their duties shall be required for its determination. The members appointed by the Governor or the members

representing each of the unions or their officially elected alternates shall receive compensation for services at a rate not to exceed the per diem rate as defined by 32 V.S.A. § 1010(b) for time spent on the work of the Council in addition to expenses, including traveling expenses, necessarily incurred in the discharge of the duties of the Council. The Council shall provide for the execution of surety bonds for all employees and officers entrusted with funds or property. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961; 1963, No. 193, § 14, eff. June 28, 1963; 1967, No. 303 (Adj. Sess.), § 4, eff. March 22, 1968; 1995, No. 163 (Adj. Sess.), § 2, eff. May 15, 1996.)

§ 706. Funds; allocation of by Council

Unless otherwise provided by law, any funds appropriated by the State or any federal agency to the State Natural Resources Conservation Council for allocation to districts organized under the provisions of this chapter shall be available for the administrative and other expenses of the districts. The Council shall allocate such money among the districts already organized or likely to be organized during a biennial fiscal period in such manner and in such amounts as shall be fair, reasonable, and in the public interest; due consideration being given to the total acreage of land within each district, to the greater relative expense of carrying on operations within the particular districts because of such factors as unusual topography, unusual conservation measures needed as approved in the district work plan, special difficulty of carrying on operations, the volume of work to be done, and the special importance of instituting conservation operations immediately. The Council may also allocate funds to unions for administrative and other expenses. In making allocations of monies, the Council shall reserve an amount estimated by it to be adequate to enable it to make subsequent allocations in accordance with the provisions of this chapter, from time to time, among unions and districts that may be organized after the initial allocations are made, but within the ensuing biennial fiscal period. Subject to the requirements of 32 V.S.A. § 5 regarding approval of the acceptance of any sum of money, the Council is authorized to accept contributions in the furtherance of the work contemplated by this chapter including grants in aid from any agency of the federal government, from government or private institutions and sources and make agreements with such federal agency as to the terms and conditions of the use of such grants in aid. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961; 1967, No. 303 (Adj. Sess.), § 5, eff. March 22, 1968; 1995, No. 163 (Adj. Sess.), § 3, eff. May 15, 1996.)

§ 707. Repealed. 2013, No. 142 (Adj. Sess.), § 86.

§ 708. Districts; unions; expenditure statement; duties of Council

(a) The supervisors of the respective districts and directors of the respective unions, twice during each fiscal year, shall submit statements to the Council as to expenditures made and estimates as to expenditures likely to be incurred to the end of the fiscal year, such statements to be made at such times and in such manner as the Council may require.

(b) In addition to the duties and powers hereinafter conferred upon the Council, it shall:

(1) Offer appropriate assistance to the supervisors and directors of districts and unions;

(2) Keep the supervisors and directors of each district and union organized under this chapter informed of the activities and experience of all other districts and unions and facilitate an interchange of advice and experience between districts and unions;

(3) Coordinate the programs of the districts and unions so far as this may be done by advice and consultation;

(4) Secure the cooperation and assistance of the United States and any of its agencies and of agencies of this State in the work of districts or unions;

(5) Disseminate information throughout the State concerning the activities and programs of the districts and unions organized hereunder;

(6) Act upon petition by any two or more districts lying within the limits of the territory proposed to be organized into a union asking that a supervisory union be organized to function in the territory described in the petition;

(7) Supervise and oversee annual election of district supervisors. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961; 1967, No. 303 (Adj. Sess.), § 7, eff. March 22, 1968; 1995, No. 163 (Adj. Sess.), § 4, eff. May 15, 1996.)

§ 709. Petition to organize district

Any 25 owners of land lying within the limits of the territory proposed to be organized into a district may file a petition with the State Natural Resources Conservation Council asking that a natural resources conservation district be organized to function in the territory described in the petition. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961; 1963, No. 79, § 1(b), eff. May 7, 1963; 1967, No. 303 (Adj. Sess.), §§ 15(b), 16(b), eff. March 22, 1968.)

§ 710. Hearing on petition

Within 30 days after such a petition has been filed with the State Natural Resources Conservation Council, it shall cause due notice to be given of a proposed hearing upon such petition as to the necessity, in the interest of the public health, safety, and welfare, for the creation of such district, and upon all questions relevant to such petition. All owners of land within the limits of the territory described in the petition and all other interested parties shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district and such further hearing held.

(Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961; 1967, No. 303 (Adj. Sess.), § 16(b), eff. March 22, 1968.)

§ 711. Determination of need; boundaries of proposed district

(a) After hearing thereon, if the Council shall determine that there is need, in the interest of the public health, safety, and welfare for a district, it shall make and record such determination, and shall define the boundaries of such districts by metes and bounds.

(b) In making such determination and in defining such boundaries, the Council shall give due weight and consideration to the topography of the area considered and of the State, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other natural resources conservation districts already organized or proposed for organization under the provisions of this chapter, and such other physical, geographical, and economic factors as are relevant. The territory to be included within such boundaries need not be contiguous.

(c) If the Council shall determine after such hearing that there is no need for a natural resources conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed and new hearings held and determinations made thereon. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961; 1963, No. 79, § 1(b), eff. May 7, 1963; 1967, No. 303 (Adj. Sess.), § 15(b), eff. March 22, 1968.)

§ 712. Referendum

(a) If after the Council has found and recorded a determination that there is need, in the interest of the public health, safety and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall hold a referendum within the proposed district upon the question of the creation of the district. Due notice of the proposed district meeting shall be given for a vote upon the following question:

Shall a natural resources conservation district of the lands below described and lying in the county (counties) of and be created?

The vote shall be by ballot in the following form:

Shall a natural resources conservation district of the lands below described and lying in the county (counties) of and be created?

YES []

NO []

(b) The ballot shall set forth the boundaries of such proposed district as determined by the committee. All owners of lands lying within the boundaries of the territory, as determined by the State Natural Resources Conservation Council, shall be eligible to vote in such referendum. In writing signed by him, a landowner may designate a person to vote for him at any meeting herein authorized and such designated person shall file such written authority with the Council before voting. The Council shall pay all expenses for the issuance of such notices and the conduct of such hearings, and shall supervise the conduct of such hearings.

(Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961; 1963, No. 79, § 1(b), eff. May 7, 1963; 1967, No. 303 (Adj. Sess.), §§ 15(b), 16(b), eff. March 22, 1968.)

§ 713. Publication of results of referendum; determination of feasibility

The Council shall publish the result of such referendum and, if a majority of the votes cast at the referendum is for the establishment of a district, and the Council determines that the operation of such district is administratively practicable and feasible, it shall record in its minutes such determination and shall proceed with the organization of the district. In making such determination, the Council shall give due regard to the attitudes of the owners of lands lying within the defined boundaries, and the proportion of the votes cast in such referendum in favor of the creation of the district, the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961.)

§ 714. Appointment and election of supervisors; application for creation of district

(a) When a district is established, the Council shall appoint two supervisors to act, with three supervisors elected by the landowners as the governing body of the district.

(b) The two appointed supervisors shall present to the Secretary of State an application signed by them, which shall set forth that a petition for the creation of the district was filed with the State Natural Resources Conservation Council pursuant to the provisions of this chapter, and that the proceedings specified in this chapter were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a public body, corporate and politic, under this chapter; and that the application shall be subscribed to by each of the supervisors.

(c) The application shall be accompanied by a statement by the State Natural Resources Conservation Council that a petition was filed; that due notice was given and a referendum held on the question of the creation of such district; that a majority of the votes cast in such referendum were in favor of the creation of the district; that thereafter the Council did duly determine that the operation of the proposed district is

administratively practicable and feasible. Such statement shall set forth the boundaries of the district as they have been defined by the Council.

(d) The term of office of an appointed supervisor shall end when his or her elected successor qualifies. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961; 1967, No. 303 (Adj. Sess.), §§ 8, 16(b), eff. March 22, 1968.)

§ 715. Establishment of district as governmental subdivision; certificate

The Secretary of State shall file and record the application and statement in an appropriate book of record in his or her office. When the application and statement have been filed and recorded, the district shall constitute a governmental subdivision of this State and a public body corporate and politic, for the purposes set forth in this chapter. Without cost, the Secretary of State shall make and issue to the supervisors a certificate, under the seal of the State, of the due organization of the district, and shall record a copy of such certificate with the application and statement.

§ 716. Subsequent petition may be filed; when

After six months shall have expired from the date of entry of a determination by the council that the operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed and action taken thereon in accordance with the provisions of this chapter. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961.)

§ 717. Additional territory; petition to include

Petitions for including additional territory within an existing district may be filed with the Council, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The Council shall prescribe the form for such petition. In referendum upon petitions for such inclusion, all owners of land lying within the proposed additional area shall be eligible to vote. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961.)

§ 718. Certificate as proof of validity of district

In any suit, action or proceeding involving the validity or enforcement of, or relating to any contract, proceeding or action of the district, the district shall be deemed to have been established in accordance with the provisions of this chapter upon proof of the issuance of the certificate by the Secretary of State.

§ 719. Elections

After the issuance of a certificate by the Secretary of State certifying to the organization of a natural resources conservation district, nominating petitions shall be filed with the districts and shall be submitted to the Council once the nominee is approved by the districts as defined in section 720 of this title, who shall be qualified voters as hereinafter specified. No such nominating petition shall be accepted unless it

shall be subscribed to by 25 or more owners of land lying within the boundaries of the district. Landowners may sign more than one nominating petition to nominate more than one candidate for supervisor. The names of all nominees shall appear, arranged in the alphabetical order of the surnames, upon ballots with a square before each name and a direction to insert an X mark in the square before one name to indicate the voter's choice. Only landowners shall be eligible to vote. The candidates who shall receive the largest number of the votes cast in the election shall be the elected supervisors for the districts. The Council shall pay all the expenses, supervise, prescribe rules, determine eligibility of voters, and publish the results of all elections. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961; 1963, No. 79, § 1(b), eff. May 7, 1963; 1967, No. 303 (Adj. Sess.), § 9, eff. March 22, 1968; 1995, No. 163 (Adj. Sess.), § 5, eff. May 15, 1996; 2019, No. 14, § 16, eff. April 30, 2019.)

§ 720. Supervisors as governing body of district; qualifications

The governing body of the district shall consist of five supervisors, elected or appointed under this chapter. The supervisors shall be persons residing within the district who are by training or experience, or both, as determined by the district qualified to perform the services which will be required of them, and shall not be employees of the federal government. Advisory supervisors may be appointed to a district board by a majority vote of the supervisors of that district. Term of office shall be designated at the time of appointment, and they shall serve without compensation. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961; 1967, No. 303 (Adj. Sess.), § 10, eff. March 22, 1968; 1995, No. 163 (Adj. Sess.), § 6, eff. May 15, 1996.)

§ 721. Terms, vacancies, compensation

The supervisors shall designate a chair and, from time to time, may change the designation. One supervisor shall be elected each year for a term of five years. A supervisor shall continue to hold office until a successor has been elected or appointed and has qualified. Vacancies resulting from any cause shall be filled by appointment for the unexpired terms by the remaining supervisors. A majority of the supervisors shall constitute a quorum. A supervisor shall be entitled to receive compensation for services at a rate not to exceed the per diem rate as defined by 32 V.S.A. § 1010(b). A supervisor shall also be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of duties, from such district funds as are available. The supervisors, acting through the Council, may call upon the Attorney General of the State for such legal services as they may require, including rendering opinions and providing defense to suits. (Amended 1967, No. 303 (Adj. Sess.), § 11, eff. March 22, 1968; 1983, No. 142 (Adj. Sess.), § 2, eff. April 6, 1984; 1995, No. 163 (Adj. Sess.), § 7, eff. May 15, 1996.)

§ 722. Duties of supervisors; bonds; records; removal

(a) The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds. They shall keep a full record of all

proceedings and of all resolutions, rules, and orders issued, and shall provide for an annual audit of the receipts and disbursements.

(b) The supervisors shall conduct an annual meeting of the district after first publicizing such meeting in a manner approved by the council.

(c) Any supervisor may be removed by the State Natural Resources Conservation Council, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961; 1967, No. 303 (Adj. Sess.), §§ 12, 13, 16(b), eff. March 22, 1968; 2019, No. 14, § 17, eff. April 30, 2019.)

§ 723. Powers of supervisors

The supervisors shall have the following powers:

(1) To conduct surveys, investigations and research relating to the character of soil erosion and its prevention and control measures and natural resources conservation;

(2) To conduct demonstration projects within the district on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction, and on any other lands within the district upon obtaining the consent of the owners of the lands or the necessary rights or interests in the lands in order to demonstrate by example the means, methods and measures by which soil erosion, in all its forms can be prevented and controlled and the conservation of natural resources;

(3) To carry out measures for the prevention and control of soil and stream bank erosion and the protection and conservation of natural resources, within the district including, engineering operations, methods of cultivation, the growing of vegetation, and the changes in use of land, on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction, and on any other lands within the district upon obtaining the consent of the owner of the lands;

(4) To cooperate, or enter into agreements with, and, within the limits of appropriations duly made available, to furnish financial or other aid to any agency, governmental or otherwise, or any owner of lands within the district, in the carrying on of erosion-control and prevention operations and conservation of natural resources within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this chapter;

(5) To obtain options upon and to acquire by purchase, exchange, lease, gift, grant or bequest, any property, real or personal; to maintain, administer and improve any properties acquired; to receive income from the properties and to expend the income in carrying out the purposes and provisions of this chapter; and to borrow money, mortgage, sell, lease, or otherwise dispose of any of its property or interests in property in furtherance of the purposes and the provisions of this chapter, provided however, that

real estate shall not be mortgaged, and provided however, that the sale, lease, or other disposition of real property of the district is approved by the written consent of the governor;

(6) To make available, on such terms as it shall prescribe, to landowners within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment as will assist the land owners to carry on operations upon their lands for the conservation of soil resources, control of soil and stream bank erosion, and protection and conservation of natural resources;

(7) To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this chapter;

(8) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion and the protection and conservation of natural resources within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances that are necessary or desirable, and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

(9) To administer by purchase, grant, or lease any soil conservation, erosion-control or natural resources conservation project located within its boundaries that are undertaken by the United States or any of its agencies; to manage as agent of the United States or any of its agencies, any soil-conservation, erosion-control, or natural resources conservation project within its boundaries; to act as agent for the United States, or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, erosion-control, or natural resources conservation project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies or any private institution or source, and to use or expend such monies, services, materials, or other contributions in carrying on its operations;

(10) To sue and be sued in the name of the district; to have a seal which shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and to execute contracts necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules not inconsistent with the provisions of this chapter, to carry into effect its purposes and powers;

(11) As a condition to the extending of any benefits under this chapter, the supervisors may require contributions to any operations conferring such benefits. (Amended 1964, No. 12 (Sp. Sess.), eff. March 5, 1964; 1995, No. 163 (Adj. Sess.), § 8, eff. May 15, 1996.)

§ 724. Land-use, erosion control, and natural resources conservation rules; approval

The supervisors of any district shall have authority to formulate rules, as set forth in this chapter, governing the use of lands within the district in the interest of conserving soil, controlling soil and stream bank erosion, and promoting conservation of natural resources and drainage. The supervisors may conduct such public meetings and public hearings upon rules proposed to be enacted as may be necessary to assist them in this work. The supervisors shall not have authority to enact such land-use rules into ordinances unless a majority of the owners of land lying within the boundaries of the district cast their votes for the approval of the proposed ordinance. The approval of the proposed ordinance by a majority of the votes cast in the referendum shall not be deemed to require the supervisors to enact the proposed ordinance. The rules to be adopted by the supervisors under the provisions of this chapter may include provisions for conserving soil resources, soil and stream bank erosion, water quality improvement, and conservation of natural resources and drainage. (Amended 1995, No. 163 (Adj. Sess.), § 9, eff. May 15, 1996; 2019, No. 14, § 18, eff. April 30, 2019.)

§ 725. Uniformity of rules

The rules shall be uniform throughout the district, except that the supervisors may classify, prior to the adoption of such ordinances, the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors, and may provide rules varying with the type or class of land affected, but uniform as to the lands within each class or type, provided however, that such classification has first been included in the notice published for such meeting. Copies of land-use rules adopted under the provisions of this chapter shall be made available to all owners and persons in possession of lands lying within the district, but such ordinances shall not apply to forestlands. (Amended 2019, No. 14, § 19, eff. April 30, 2019.)

§ 726. Ordinances prescribing rules; referendum

A referendum shall be conducted as follows:

(1) The ordinances proposed to be enacted shall be delivered by the supervisors or by agents authorized by them, or by mail to the last known address of such owners of land within the district, together with a warning of a district meeting, which warning shall contain an article for a vote upon the following question:

Shall the proposed ordinance, No., prescribing land-use rules for conserving soil resources, soil and stream bank erosion, and conservation of natural resources, be adopted, the substance of which is as follows?

(2) The vote under such article shall be by ballot in the following form:

Shall the proposed ordinance No., prescribing land-use rules for conserving soil resources, soil and stream bank erosion, and conservation of natural resources be adopted?

YES []

NO []

(Amended 1995, No. 163 (Adj. Sess.), § 10, eff. May 15, 1996; 2019, No. 14, § 20, eff. April 30, 2019.)

§ 727. Conduct of referendum

The supervisors shall prescribe appropriate rules governing the conduct of the referendum, and shall publish and record the result of the ballot. All owners of lands within the district shall be eligible to vote in such referendum. (Amended 2019, No. 14, § 21, eff. April 30, 2019.)

§ 728. Amendment or repeal of rules

Any owner or person in possession of land within a district may at any time file a petition with the supervisors asking that any or all of the land-use rules prescribed in any ordinance adopted by the supervisors under the provisions of this chapter shall be amended, supplemented, or repealed. Land-use rules prescribed in any ordinance adopted pursuant to the provisions of this chapter shall not be amended, supplemented, or repealed except in accordance with the procedure prescribed in this chapter for adoption of land-use rules. Referenda on adoption, amendment, supplementation, or repeal of land-use rules shall not be held more often than once in six months. (Amended 2019, No. 14, § 22, eff. April 30, 2019.)

§ 729. Termination of district

At any time after five years after the organization of a district under the provisions of this chapter, any 25 owners of land lying within the boundaries of the district may file a petition with the State Natural Resources Conservation Council praying that the operations of the district be terminated and the existence of the district discontinued. Proceedings to determine whether a district shall be discontinued shall follow so far as appropriate the procedure for the establishment of the district as set forth in this chapter. If a majority of the landowners of such district present and voting, vote to disband, the chair of the board of supervisors or a member of the board shall so certify to the Secretary of State. The Secretary of State shall issue to the supervisors a certificate of dissolution, and make proper record of this action. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961; 1967, No. 303 (Adj. Sess.), § 16(b), eff. March 22, 1968; 1995, No. 163 (Adj. Sess.), § 11, eff. May 15, 1996.)

§ 730. Effect of termination

Upon issuance of a certificate of dissolution under the provisions of this chapter, all ordinances and rules previously adopted and in force within such districts shall be of no further force and effect. All contracts previously entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The State Natural Resources Conservation Council shall have the right to be substituted for the district or supervisors as party to such contracts and, if it elects, the

Council shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the district would have had. Such dissolution shall not affect the lien of any judgment entered under the provisions of this chapter, nor the pendency of any action instituted under the provisions of this chapter, and the Council shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961; 1967, No. 303 (Adj. Sess.), § 16(b), eff. March 22, 1968; 2019, No. 14, § 23, eff. April 30, 2019.)

§ 731. Failure to observe land-use ordinance; conferences

(a) In the event that the supervisors of a district find that the provisions of a land-use ordinance adopted according to the provisions of this chapter are not being observed on particular lands, and that such nonobservance tends substantially to increase erosion on such lands and substantially interferes with the prevention or control of erosion or conservation of natural resources on other lands within the district, the supervisors may summon the owner of the land to appear before them to discuss the failure of the owner to observe the rules, and to perform particular work, operations, or avoidances as required by ordinance of the district, when the nonobservance tends substantially to increase erosion on the lands and substantially interferes with the prevention or control of erosion or conservation of natural resources on other lands within the district.

(b) By conference thus summoned, the supervisors and the owner of land not observing the ordinance adopted by the district, shall together make and sign a finding as to the issues that are involved in the failure of the owner to observe the ordinance of the district.

(c)(1) On the basis of such findings and if, after conference, it appears to the supervisors that there are great practical difficulties or unnecessary hardship involved in the full observance of the ordinance of the district, the supervisors shall endeavor to work out a program with the owner, as shall be acceptable to the owner and shall enable the owner to comply with the ordinance.

(2)(A) Alternatively, upon the basis of their findings, the supervisors may authorize such variance from the ordinances in their application to the lands of the owner who has not complied with the ordinance of the district, when such variance will relieve practical difficulties or unnecessary hardship to that owner and when such variance is not contrary to public interest and is in accordance with the purpose of land use regulations.

(B) The supervisors may request the landowner not complying with an ordinance to sign a stipulation setting forth the conditions agreed upon by the landowner and supervisors so that the practical difficulties or unnecessary hardship may be overcome and the work proceed by the consent of such landowner upon the land.

(d) Nothing in this chapter shall be construed so as to make ineffective any remedies

available under the laws of the State. (Amended 1995, No. 163 (Adj. Sess.), § 12, eff. May 15, 1996; 2019, No. 14, § 24, eff. April 30, 2019; 2019, No. 61, § 13.)

§§ 732, 733. Repealed. 2019, No. 61, § 13.

§ 734. Supervisors may petition Superior Court

If a landowner does not sign such stipulation, the supervisors may petition the Superior Court to require such landowner to bring his or her land into conformity with the ordinance, and the court shall order such relief as it may deem necessary in the interest of public health, safety, and welfare. However, no landowner shall by ordinance or otherwise be required to pay any money or perform any act that shall not be for the protection of his or her own land nor shall he or she be required to pay any money, perform any act, or carry out any practice that shall not be in just proportion to the benefits that he or she will receive and further provided that he or she shall not be required to pay any money, perform any act, or carry out any practice that shall not be deemed to be necessary for the public good. (Amended 1973, No. 193 (Adj. Sess.), § 3, eff. April 9, 1974; 2019, No. 61, § 13.)

§ 735. Validation of defectively organized districts

All natural resources conservation districts heretofore organized are hereby recognized and declared to be natural resources conservation districts subject to the provisions of this chapter, notwithstanding any defect in the process of their organization. (Amended 1963, No. 79, § 1(b), eff. May 7, 1963; 1967, No. 303 (Adj. Sess.), § 15(b), eff. March 22, 1968.)

§ 736. Division and combination of districts and unions - Generally

Any district or union organized under the provisions of this chapter may be divided and the divided portions may become separate districts or unions or may be combined with one or more districts or unions as hereinafter provided. When the State Council deems it advisable to divide a district or union, the divided portions to become one or more separate districts or unions, or to be combined with one or more existing districts or unions, it shall first determine whether such divisions, or divisions and combinations, are administratively practicable and feasible. In making such determination, the State Council may hold hearings, conduct referenda, or use any other means that it deems adequate to assist it. However, no such determination may be made until after the district or union governing bodies of all districts or unions concerned have approved by resolution the proposed divisions, or divisions and combinations. When the State Council has determined such moves to be practicable and feasible, it shall by resolution declare the proposed divisions, or divisions and combinations, to be in effect. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961; 1967, No. 303 (Adj. Sess.), § 14, eff. March 22, 1968.)

§ 737. Not more than three towns

When the portion to be separated from a district and combined with another district does not comprise more than three towns, and the State Council has declared the move to be effective, that portion will come under the jurisdiction of the district to which it has been added. Where a supervisor resides in the portion of a district that has been added to another district, he or she shall resign and his or her successor shall be appointed by the remaining supervisors of the district where the vacancy occurs. When any district has had its boundaries so changed, the supervisors of the districts concerned shall apply to the Secretary of State for a new certificate of organization covering the area then within the district. If it is desirable to change the name of any district, the application shall so state. When the new certificate has been issued, the new district shall be duly organized and the old district which it replaces will cease to exist. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961.)

§ 738. More than three towns

When the portion to be separated from a district and combined with another district consists of more than three towns, and the State Council has declared the move to be effective, the Council shall appoint two supervisors for each of the new districts. Where possible, these appointments shall be made from among the existing supervisors. In each case, the two appointed supervisors will proceed to organize the new district in the same manner in which a district is organized following a referendum. When the governing body of each of the new districts has been organized, the supervisors of both the old and the new districts shall apportion the assets, rights, and properties of the divided district among the new districts. If the supervisors of the affected districts cannot agree within 60 days from the date of election of the new supervisors, the State Council will make the apportionment. In doing this, the Council shall conduct hearings with the supervisors and others who may have an interest to assist them in making a decision. Upon completion of the distribution of the assets of the old districts, the old districts shall cease to exist and the supervisors thereof will no longer serve as their governing bodies. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961.)

§ 739. Divided portion as new district

When the portion to be divided from a district consists of more than three adjacent towns, the divided portion may either become a separate district or be combined with an existing district as provided in section 738 of this title. When the State Council has determined that it is administratively feasible and practicable for the divided portion to become a separate district and by resolution has declared such a change to be in effect, it shall appoint two supervisors for each of the new districts. The procedure outlined in section 738 shall then be followed in completing the organization of the two new districts and in apportioning the assets, rights, and properties of the divided district among the new districts. (Amended 1959, No. 329 (Adj. Sess.), § 11(c), eff. March 1, 1961.)

§ 740. Assumption of commitments

In any case where the boundaries of districts have been changed in accordance with the provisions of this chapter, any commitments made by districts to landowners will be assumed by the districts in which their land is located after the changes in boundaries have been made.

Subchapter 2: On-site Sewage Program

§§ 746, 747. Repealed. 2001, No. 133 (Adj. Sess.), § 14, eff. June 13, 2002.

§ 747a. Limitation; liability

(a) An action against the on-site sewage program provided by this subchapter, regarding the design, installation, or operation of any system, shall be brought against a conservation district only, and shall be brought within six years from certification of the system by an on-site sewage technician.

(b) An employee of a conservation district or the Vermont association of conservation districts, hired to implement the on-site sewage program provided by this subchapter, shall be immune from liability under the provisions of 24 V.S.A. § 901 regarding municipal officers. (Added 1995, No. 163 (Adj. Sess.), § 13a, eff. May 15, 1996.)

§§ 748, 749. Repealed. 2001, No. 133 (Adj. Sess.), § 14, eff. June 13, 2002.