

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Environment and Energy to which was referred House
3 Bill No. 687 entitled “An act relating to community resilience and biodiversity
4 protection through land use” respectfully reports that it has considered the
5 same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 * * * Act 250 * * *

8 Sec. 1. PURPOSE

9 The purpose of this act is to further assist the State in achieving the
10 conservation vision and goals for the State established in 10 V.S.A. § 2802. It
11 provides a regulatory framework that supports the vision for Vermont of
12 human and natural community resilience and biodiversity protection in the face
13 of climate change, as described in 2023 Acts and Resolves No. 59. It would
14 strengthen the administration of the Act 250 program by changing the
15 structure, function, and name of the Natural Resources Board. It requires that
16 appeals of Act 250 permit decisions be heard by a five-member board called
17 the Environmental Review Board. The Environmental Division of the
18 Superior Court would continue to hear the other types of cases within its
19 jurisdiction. The Environmental Review Board would retain the current duties
20 of the Natural Resources Board in addition to hearing appeals, reviewing
21 applications for the planned growth area designation, review the future land

1 use maps of regional plans, and review the maps that establish the rural and
2 working lands areas. The Board would provide oversight, management, and
3 training to the Act 250 program staff and District Commissions and develop
4 Act 250 program policy through permit decisions and rulemaking. This
5 change would allow the Act 250 program to be a more citizen-friendly process.
6 The structure established under this act would be used to guide State financial
7 investment in infrastructure.

8 Sec. 2. 10 V.S.A. § 6000 is added to read:

9 § 6000. PURPOSE; CONSTRUCTION

10 The purposes of this chapter are to protect and conserve the environment of
11 the State and to support the achievement of the goals of the Capability and
12 Development Plan, of 24 V.S.A. § 4302(c), and of the conservation vision and
13 goals for the State established in section 2802 of this title.

14 Sec. 3. 10 V.S.A. § 6021 is amended to read:

15 § 6021. BOARD; VACANCY; REMOVAL

16 (a) ~~A Natural Resources~~ Board established. The Environmental Review
17 Board is created to administer the Act 250 program and hear appeals.

18 (1) The Board shall consist of five members appointed by the Governor,
19 after review and approval by the Environmental Review Board Nominating
20 Committee in accordance with subdivision (2) of this subsection and
21 confirmed with the advice and consent of the Senate, so that one appointment

1 expires in each year. The Chair shall be a full-time position, and the other four
2 members shall be half-time positions. In making these appointments, the
3 Governor and the Senate shall give consideration to candidates who have
4 experience, expertise, or skills relating to the environment or land use one or
5 more of the following areas: environmental science, natural resources law and
6 policy, land use planning, community planning, or environmental justice.

7 (A) The Governor shall appoint a chair of the Board, a position that
8 shall be a full-time position. The Governor shall ensure Board membership
9 reflects, to the extent possible, the racial, ethnic, gender, and geographic
10 diversity of the State. The Board shall not contain two members who reside in
11 the same county.

12 (B) Following initial appointments, the members, ~~except for the~~
13 ~~Chair,~~ shall be appointed for terms of ~~four~~ five years. All terms shall begin on
14 July 1 and expire on June 30. A member may continue serving until a
15 successor is appointed. The initial appointments shall be for staggered terms
16 of one year, two years, three years, four years, and five years.

17 (2) ~~The Governor shall appoint up to five persons, with preference given~~
18 ~~to former Environmental Board, Natural Resources Board, or District~~
19 ~~Commission members, with the advice and consent of the Senate, to serve as~~
20 ~~alternates for Board members.~~

1 (A) ~~Alternates shall be appointed for terms of four years, with initial~~
2 ~~appointments being staggered~~ The Environmental Review Board Nominating
3 Committee shall advertise the position when a vacancy will occur on the
4 Environmental Review Board.

5 (B) ~~The Chair of the Board may assign alternates to sit on specific~~
6 ~~matters before the Board in situations where fewer than five members are~~
7 ~~available to serve~~ The Nominating Committee shall review the applicants to
8 determine which are well qualified for appointment to the Board and shall
9 recommend those candidates to the Governor. The names of candidates shall
10 be confidential.

11 (C) The Governor shall appoint, with the advice and consent of the
12 Senate, a chair and four members of the Board from the list of well-qualified
13 candidates sent to the Governor by the Committee.

14 (b) ~~Any vacancy occurring in the membership of the Board shall be filled~~
15 ~~by the Governor for the unexpired portion of the term~~ Terms; vacancy;
16 succession. The term of each appointment subsequent to the initial
17 appointments described in subsection (a) of this section shall be five years.
18 Any appointment to fill a vacancy shall be for the unexpired portion of the
19 term vacated. A member may seek reappointment by informing the Governor.
20 If the Governor decides not to reappoint the member, the Nominating
21 Committee shall advertise the vacancy.

1 (c) Removal. Notwithstanding the provisions of 3 V.S.A. § 2004, members
2 shall only be removable for cause ~~only, except the Chair, who shall serve at the~~
3 ~~pleasure of the Governor~~ by the remaining members of the Board in
4 accordance with the Vermont Administrative Procedures Act. The Board shall
5 adopt rules pursuant to 3 V.S.A. chapter 25 to define the basis and process for
6 removal.

7 (d) Disqualified members. The Chair of the Board, upon request of the
8 Chair of a District Commission, may appoint and assign former Commission
9 members to sit on specific Commission cases when some or all of the regular
10 members and alternates of the District Commission are disqualified or
11 otherwise unable to serve.

12 (e) Retirement from office. When a Board member who hears all or a
13 substantial part of a case retires from office before the case is completed, the
14 member may remain a member of the Board, at the member's discretion, for
15 the purpose of concluding and deciding that case and signing the findings and
16 judgments involved. A retiring chair shall also remain a member for the
17 purpose of certifying questions of law if a party appeals to the Supreme Court.
18 For the service, the member shall receive a reasonable compensation to be
19 fixed by the remaining members of the Board and necessary expenses while on
20 official business.

21 Sec. 4. 10 V.S.A. § 6032 is added to read:

1 § 6032. ENVIRONMENTAL REVIEW BOARD NOMINATING

2 COMMITTEE

3 (a) Creation. The Environmental Review Board Nominating Committee is
4 created for the purpose of assessing the qualifications of applicants for
5 appointment to the Environmental Review Board in accordance with section
6 6021 of this title.

7 (b) Members. The Committee shall consist of six members who shall be
8 appointed as follows:

9 (1) The Governor shall appoint two members from the Executive
10 Branch, with at least one being an employee of the Department of Human
11 Resources.

12 (2) The Speaker of the House of Representatives shall appoint two
13 members from the House of Representatives.

14 (3) The Senate Committee on Committees shall appoint two members
15 from the Senate.

16 (c) Terms. The members of the Committee shall serve for terms of two
17 years. Members shall serve until their successors are appointed. Members
18 shall serve not more than three consecutive terms. A legislative member who
19 is appointed as a member of the Committee shall retain the position for the
20 term appointed to the Committee even if the member is subsequently not

1 reelected to the General Assembly during the member's term on the
2 Committee.

3 (d) Chair. The members shall elect their own chair.

4 (e) Quorum. A quorum of the Committee shall consist of four members.

5 (f) Staff and services. The Committee is authorized to use the staff and
6 services of appropriate State Agencies and Departments as necessary to
7 conduct investigations of applicants.

8 (g) Confidentiality. Except as provided in subsection (h) of this section,
9 proceedings of the Committee, including the names of candidates considered
10 by the Committee and information about any candidate submitted to the
11 Governor, shall be confidential. The provisions of 1 V.S.A. § 317(e)
12 (expiration of Public Records Act exemptions) shall not apply to the
13 exemptions or confidentiality provisions in this subsection.

14 (h) Public information. The following shall be public:

15 (1) operating procedures of the Committee;

16 (2) standard application forms and any other forms used by the
17 Committee, provided they do not contain personal information about a
18 candidate or confidential proceedings;

19 (3) all proceedings of the Committee prior to the receipt of the first
20 candidate's completed application; and

1 (4) at the time the Committee sends the names of the candidates to the
2 Governor, the total number of applicants for the vacancies and the total number
3 of candidates sent to the Governor.

4 (i) Reimbursement. Legislative members of the Committee shall be
5 entitled to per diem compensation and reimbursement for expenses in
6 accordance with 2 V.S.A. § 23. Compensation and reimbursement shall be
7 paid from the legislative appropriation.

8 (j) Duties.

9 (1) When a vacancy occurs, the Committee shall review applicants to
10 determine which are well qualified for the Board and submit those names to
11 the Governor. The Committee shall submit to the Governor a summary of the
12 qualifications and experience of each candidate whose name is submitted to the
13 Governor together with any further information relevant to the matter.

14 (2) An applicant for the position of member of the Environmental
15 Review Board shall not be required to be an attorney. If the candidate is
16 admitted to practice law in Vermont or practices a profession requiring
17 licensure, certification, or other professional regulation by the State, the
18 Committee shall submit the candidate's name to the Court Administrator or the
19 applicable State professional regulatory entity, and that entity shall disclose to
20 the Committee any professional disciplinary action taken or pending
21 concerning the candidate.

1 (3) Candidates shall be sought who have experience, expertise, or skills
2 relating to one or more of the following areas: environmental science, natural
3 resources law and policy, land use planning, community planning, or
4 environmental justice.

5 (4) The Committee shall ensure a candidate possesses the following
6 attributes:

7 (A) Integrity. A candidate shall possess a record and reputation for
8 excellent character and integrity.

9 (B) Impartiality. A candidate shall exhibit an ability to make judicial
10 determinations in a manner free of bias.

11 (C) Work ethic. A candidate shall demonstrate diligence.

12 (D) Availability. A candidate shall have adequate time to dedicate to
13 the position.

14 Sec. 5. 10 V.S.A. § 6025 is amended to read:

15 § 6025. RULES

16 (a) The Board may adopt rules of procedure for itself and the District
17 Commissions. The Board shall adopt rules of procedure that govern appeals
18 and other contested cases before it that are consistent with this chapter. The
19 Board’s rules of procedure for approving regional plans and regional plan
20 maps shall ensure that the maps are consistent with legislative intent.

21

* * *

1 Sec. 6. 10 V.S.A. § 6027 is amended to read:

2 § 6027. POWERS

3 (a) The Board and District Commissions ~~each~~ shall have supervisory
4 authority in environmental matters respecting projects within their jurisdiction
5 and shall apply their independent judgment in determining facts and
6 interpreting law. Each shall have the power, with respect to any matter within
7 its jurisdiction, to:

8 (1) administer oaths, take depositions, subpoena and compel the
9 attendance of witnesses, and require the production of evidence;

10 (2) allow parties to enter upon lands of other parties for the purposes of
11 inspecting and investigating conditions related to the matter before the Board
12 or Commission;

13 (3) enter upon lands for the purpose of conducting inspections,
14 investigations, examinations, tests, and site evaluations as it deems necessary
15 to verify information presented in any matter within its jurisdiction; and

16 (4) apply for and receive grants from the federal government and from
17 other sources.

18 (b) The powers granted under this chapter are additional to any other
19 powers ~~which~~ that may be granted by other legislation.

20 (c) The ~~Natural Resources~~ Board may designate or establish ~~such~~ regional
21 offices as it deems necessary to implement the provisions of this chapter and

1 the rules adopted hereunder. The ~~Natural Resources~~ Board may designate or
2 require a regional planning commission to receive applications, provide
3 administrative assistance, perform investigations, and make recommendations.

4 (d) At the request of a District Commission, if the Board Chair determines
5 that the workload in the requesting district is likely to result in unreasonable
6 delays or that the requesting District Commission is disqualified to hear a case,
7 the Chair may authorize the District Commission of another district to sit in the
8 requesting district to consider one or more applications.

9 (e) The ~~Natural Resources~~ Board may by rule allow joint hearings to be
10 conducted with specified State agencies or specified municipalities.

11 (f) The Board shall publish its decisions online. The Board may publish
12 online or contract to publish annotations and indices of its decisions, the
13 decisions of the Environmental Division of the Superior Court and the
14 Supreme Court, and the text of those decisions. The published product shall be
15 available at a reasonable rate to the general public and at a reduced rate to
16 libraries and governmental bodies within the State.

17 (g) The ~~Natural Resources~~ Board shall manage the process by which land
18 use permits are issued under section 6086 of this title, may initiate enforcement
19 on related matters under the provisions of chapters 201 and 211 of this title,
20 and may ~~petition the Environmental Division~~ initiate and hear petitions for

1 revocation of land use permits issued under this chapter. Grounds for
2 revocation are:

3 (1) noncompliance with this chapter, rules adopted under this chapter, or
4 an order that is issued that relates to this chapter;

5 (2) noncompliance with any permit or permit condition;

6 (3) failure to disclose all relevant and material facts in the application or
7 during the permitting process;

8 (4) misrepresentation of any relevant and material fact at any time;

9 (5) failure to pay a penalty or other sums owed pursuant to, or other
10 failure to comply with, court order, stipulation agreement, schedule of
11 compliance, or other order issued under Vermont statutes and related to the
12 permit; or

13 (6) failure to provide certification of construction costs, as required
14 under subsection 6083a(a) of this title, or failure to pay supplemental fees as
15 required under that section.

16 (h) The ~~Natural Resources Board~~ may shall hear appeals of decisions made
17 by District Commissions and district coordinators, including fee refund
18 requests under section 6083a of this title.

19 (i) The Chair, subject to the direction of the Board, shall have general
20 charge of the offices and employees of the Board and the offices and
21 employees of the District Commissions.

1 (j) ~~The Natural Resources Board may participate as a party in all matters~~
2 ~~before the Environmental Division that relate to land use permits issued under~~
3 ~~this chapter~~ The Board shall review applications for planned growth areas and
4 critical resource areas and approve or disapprove based on whether a municipal
5 application demonstrates compliance with the requirements of section 6033 of
6 this title. The Board shall produce guidelines for municipalities seeking to
7 obtain the planned growth area designation.

8 (k) The Board shall review for compliance regional plans and the future
9 land use maps developed by the regional planning commissions pursuant to 24
10 V.S.A. § 4348a.

11 * * *

12 Sec. 7. 10 V.S.A. § 6022 is amended to read:

13 § 6022. PERSONNEL

14 (a) Regular personnel. The Board may appoint legal counsel, scientists,
15 engineers, experts, investigators, temporary employees, and administrative
16 personnel as it finds necessary in carrying out its duties, ~~unless the Governor~~
17 ~~shall otherwise provide~~ in providing personnel to assist the District
18 Commissions and in investigating matters within its jurisdiction.

19 (b) Executive Director. The Board shall appoint an Executive Director.
20 The Director shall be a full-time State employee, shall be exempt from the

1 State classified system, and shall serve at the pleasure of the Board. The

2 Director shall be responsible for:

3 (1) supervising and administering the operation and implementation of
4 this chapter and the rules adopted by the Board as directed by the Board;

5 (2) assisting the Board in its duties and administering the requirements
6 of this chapter;

7 (3) employing any staff as may be required to carry out the functions of
8 the Board; and

9 (4) preparing an annual budget for submission to the Board.

10 Sec. 8. 10 V.S.A. § 6084 is amended to read:

11 § 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF
12 REVIEW

13 (a) ~~On or before the date of~~ Upon the filing of an application with the
14 District Commission, the ~~applicant~~ District Commission shall send, by
15 electronic means, notice ~~and a copy~~ of the ~~initial~~ application to the owner of
16 the land if the applicant is not the owner; the municipality in which the land is
17 located; the municipal and regional planning commissions for the municipality
18 in which the land is located; the Vermont Agency of Natural Resources; and
19 any adjacent Vermont municipality and municipal and regional planning
20 commission if the land is located on a municipal or regional boundary. The
21 ~~applicant shall furnish to the District Commission the names of those furnished~~

1 ~~notice by affidavit, and shall post~~ send by electronic means a copy of the notice
2 ~~in~~ to the town clerk’s office of the town or towns in which the project lies. The
3 town clerk shall post the notice in the town office. The applicant shall also
4 provide a list of adjoining landowners to the District Commission. Upon
5 request and for good cause, the District Commission may authorize the
6 applicant to provide a partial list of adjoining landowners in accordance with
7 Board rules.

8 * * *

9 (e) Any notice for a major or minor application, as required by this section,
10 shall also be published by the District Commission in a local newspaper
11 generally circulating in the area where the development or subdivision is
12 located and on the Board’s website not more than ~~ten~~ 10 days after receipt of a
13 complete application.

14 * * *

15 Sec. 9. 10 V.S.A. § 6086(f) is amended to read:

16 (f) Prior to any appeal of a permit issued by a District Commission, any
17 aggrieved party may file a request for a stay of construction with the District
18 Commission together with a declaration of intent to appeal the permit. The
19 stay request shall be automatically granted for seven days upon receipt and
20 notice to all parties and pending a ruling on the merits of the stay request
21 pursuant to Board rules. The automatic stay shall not extend beyond the 30-

1 day appeal period unless a valid appeal has been filed with the ~~Environmental~~
2 ~~Division~~ Board. The automatic stay may be granted only once under this
3 subsection during the 30-day appeal period. Following appeal of the District
4 Commission decision, any stay request must be filed with the ~~Environmental~~
5 ~~Division pursuant to the provisions of chapter 220 of this title~~ Board. A
6 District Commission shall not stay construction authorized by a permit
7 processed under the Board's minor application procedures.

8 Sec. 10. 10 V.S.A. § 6089 is amended to read:

9 § 6089. APPEALS

10 ~~Appeals of any act or decision of a District Commission under this chapter~~
11 ~~or a district coordinator under subsection 6007(c) of this title shall be made to~~
12 ~~the Environmental Division in accordance with chapter 220 of this title. For~~
13 ~~the purpose of this section, a decision of the Chair of a District Commission~~
14 ~~under section 6001e of this title on whether action has been taken to~~
15 ~~circumvent the requirements of this chapter shall be considered an act or~~
16 ~~decision of the District Commission.~~

17 (a)(1) Appeals to the Board. An appeal of any act or decision of a District
18 Commission shall be to the Board and shall be accompanied by a fee
19 prescribed by section 6083a of this title.

20 (2) Participation before District Commission. A person shall not appeal
21 an act or decision that was made by a District Commission unless the person

1 was granted party status by the District Commission pursuant to subdivision
2 6085(c)(1)(E) of this title, participated in the proceedings before the District
3 Commission, and retained party status at the end of the District Commission
4 proceedings. In addition, the person may only appeal those issues under the
5 criteria with respect to which the person was granted party status. However,
6 notwithstanding these limitations, a person may appeal an act or decision of the
7 District Commission if the Board determines that:

8 (A) there was a procedural defect that prevented the person from
9 obtaining party status or participating in the proceeding;

10 (B) the decision being appealed is the grant or denial of party status;
11 or

12 (C) some other condition exists that would result in manifest injustice
13 if the person’s right to appeal was disallowed.

14 (3) Filing the appeal. An appellant to the Board, under this section,
15 shall file with the notice of appeal a statement of the issues to be addressed in
16 the appeal, a summary of the evidence that will be presented, and a preliminary
17 list of witnesses who will testify on behalf of the appellant.

18 (4) De novo hearing. The Board shall hold a de novo hearing on all
19 findings requested by any party that files an appeal or cross appeal, according
20 to the rules of the Board. The hearing shall be held in the municipality where
21 the project subject to the appeal is located, if possible, or as close as possible.

1 (5) Notice of appeal. Notice of appeal shall be filed with the Board
2 within 30 days following the act or decision by the District Commission. The
3 Board shall notify the parties who had party status before the District
4 Commission of the filing of any appeal.

5 (6) Prehearing discovery.

6 (A) A party may obtain discovery of expert witnesses who may
7 provide testimony relevant to the appeal. Expert witness prefiled testimony
8 shall be in accordance with the Vermont Rules of Evidence. The use of
9 discovery for experts shall comply with the requirements in the Vermont Rules
10 of Civil Procedure 26–37.

11 (B) Interrogatories served on nonexpert witnesses shall be limited to
12 discovery of the identity of witnesses and a summary of each witness'
13 testimony, except by order of the Board for cause shown. Interrogatories
14 served on expert witnesses shall be in accordance with the Vermont Rules of
15 Civil Procedure.

16 (C) Parties may submit requests to produce and requests to enter
17 upon land pursuant to the Vermont Rule of Civil Procedure 34.

18 (D) Parties may not take depositions of witnesses, except by order of
19 the Board for cause shown.

20 (E) The Board may require a party to supplement, as necessary, any
21 prehearing testimony that is provided.

1 (b) Prior decisions. Prior decisions of the former Environmental Board, the
2 Water Resources Board, the Waste Facilities Panel, and the Environmental
3 Division of the Superior Court shall be given the same weight and
4 consideration as prior decisions of the Environmental Review Board.

5 (c) Appeals to Supreme Court. An appeal from a decision of the Board
6 under subsection (a) of this section shall be to the Supreme Court by a party as
7 set forth in subsection 6085(c) of this title.

8 (d) Objections. No objection that has not been raised before the Board may
9 be considered by the Supreme Court, unless the failure or neglect to urge such
10 objection shall be excused because of extraordinary circumstances.

11 (e) Appeals of decisions. An appeal of a decision by the Board shall be
12 allowed pursuant to 3 V.S.A. § 815, including the unreasonableness or
13 insufficiency of the conditions attached to a permit. An appeal from the
14 District Commission shall be allowed for any reason, except no appeal shall be
15 allowed when an application has been granted and no hearing was requested.

16 (f) Precedent. Precedent from the former Environmental Board and of the
17 Environmental Review Board that interpret this chapter shall be provided the
18 same deference by the Supreme Court as precedents accorded to other
19 Executive Branch agencies charged with administering their enabling act. On
20 appeal to the Supreme Court from the Environmental Review Board, decisions

1 of the Environmental Review Board interpreting this act also shall be accorded
2 that deference.

3 (g) Clearly erroneous. Upon appeal to the Supreme Court, the Board’s
4 findings of fact shall be accepted unless clearly erroneous.

5 (h) Completion of case. A case shall be deemed completed when the Board
6 enters a final decision even though that decision is appealed to the Supreme
7 Court and remanded by that Court.

8 (i) Court of record; jurisdiction. The Board shall have the powers of a
9 court of record in the determination and adjudication of all matters within its
10 jurisdiction. It may initiate proceedings on any matter within its jurisdiction.
11 It may render judgments and enforce the same by any suitable process issuable
12 by courts in this State. An order issued by the Board on any matter within its
13 jurisdiction shall have the effect of a judicial order. The Board’s jurisdiction
14 shall include:

15 (1) the issuance of declaratory rulings on the applicability of this chapter
16 and rules or orders issued under this chapter, pursuant to 3 V.S.A. § 808; and

17 (2) the issuance of decisions on appeals pursuant to sections 6007 and
18 6089 of this title.

1 Sec. 11. 10 V.S.A. § 6007 is amended to read:

2 § 6007. ACT 250 DISCLOSURE STATEMENT; JURISDICTIONAL
3 DETERMINATION

4 * * *

5 (c) With respect to the partition or division of land, or with respect to an
6 activity that might or might not constitute development, any person may
7 submit to the district coordinator an “Act 250 Disclosure Statement” and other
8 information required by the rules of the Board and may request a jurisdictional
9 opinion from the district coordinator concerning the applicability of this
10 chapter. If a requestor wishes a final determination to be rendered on the
11 question, the district coordinator, at the expense of the requestor and in
12 accordance with rules of the Board, shall publish notice of the issuance of the
13 opinion in a local newspaper generally circulating in the area where the land
14 that is the subject of the opinion is located and shall serve the opinion on all
15 persons listed in subdivisions 6085(c)(1)(A) through (D) of this title. In
16 addition, the requestor who is seeking a final determination shall consult with
17 the district coordinator and obtain approval of a subdivision 6085(c)(1)(E) list
18 of persons who shall be notified by the district coordinator because they are
19 adjoining property owners or other persons who would be likely to be able to
20 demonstrate a particularized interest protected by this chapter that may be
21 affected by an act or decision by a District Commission.

1 (d) A person who seeks review of a jurisdictional opinion issued by a
2 district coordinator shall bring to the Board an appeal of issues addressed in the
3 opinion.

4 (1) The appellant shall provide notice of the filing of an appeal to each
5 person entitled to notice under subdivisions 6085(c)(1)(A) through (D) of this
6 title and to each person on an approved subdivision 6085(c)(1)(E) list.

7 (2) Failure to appeal within 30 days following the issuance of the
8 jurisdictional opinion shall render the decision of the district coordinator under
9 subsection (c) of this section the final determination regarding jurisdiction
10 unless the underlying jurisdictional opinion was not properly served on persons
11 listed in subdivisions 6085(c)(1)(A) through (D) of this title and on persons on
12 a subdivision 6085(c)(1)(E) list approved under subsection (c) of this section.

13 Sec. 12. 10 V.S.A. § 6083a is amended to read:

14 § 6083a. ACT 250 FEES

15 * * *

16 (i) All persons filing an appeal, cross appeal, or petition from a District
17 Commission decision or jurisdictional opinion shall pay a fee of \$295.00, plus
18 publication costs.

19 (j) Any municipality filing an application for a planned growth area
20 designation shall pay a fee of \$295.00.

1 (k) Any regional planning commission filing a regional plan or future land
2 use map to be reviewed by the Board shall pay a fee of \$295.00.

3 * * * Appeals * * *

4 Sec. 13. 10 V.S.A. chapter 220 is amended to read:

5 CHAPTER 220. CONSOLIDATED ENVIRONMENTAL APPEALS

6 § 8501. PURPOSE

7 It is the purpose of this chapter to:

8 (1) consolidate existing appeal routes for municipal zoning and
9 subdivision decisions and acts or decisions of the Secretary of Natural
10 Resources, ~~district environmental coordinators, and District Commissions,~~
11 excluding enforcement actions brought pursuant to chapters 201 and 211 of
12 this title and the adoption of rules under 3 V.S.A. chapter 25;

13 (2) standardize the appeal periods, the parties who may appeal these acts
14 or decisions, and the ability to stay any act or decision upon appeal, taking into
15 account the nature of the different programs affected;

16 (3) ~~encourage people to get involved in the Act 250 permitting process~~
17 ~~at the initial stages of review by a District Commission by requiring~~
18 ~~participation as a prerequisite for an appeal of a District Commission decision~~
19 ~~to the Environmental Division;~~

20 (4) ~~assure~~ ensure that clear appeal routes exist for acts and decisions of
21 the Secretary of Natural Resources; and

1 ~~(5)~~(4) consolidate appeals of decisions related to renewable energy
2 generation plants and telecommunications facilities with review under,
3 respectively, 30 V.S.A. §§ 248 and 248a, with appeals and consolidation of
4 proceedings pertaining to telecommunications facilities occurring only while
5 30 V.S.A. § 248a remains in effect.

6 § 8502. DEFINITIONS

7 As used in this chapter:

8 (1) ~~“District Commission” means a District Environmental Commission~~
9 ~~established under chapter 151 of this title. [Repealed.]~~

10 (2) ~~“District coordinator” means a district environmental coordinator~~
11 ~~attached to a District Commission established under chapter 151 of this title.~~
12 ~~[Repealed.]~~

13 (3) “Environmental Court” or “Environmental Division” means the
14 Environmental Division of the Superior Court established by 4 V.S.A. § 30.

15 (4) ~~“Natural Resources~~ Environmental Review Board” or “Board”
16 means the Board established under chapter 151 of this title.

17 (5) “Party by right” means the following:

18 (A) the applicant;

19 (B) the landowner, if the applicant is not the landowner;

20 (C) the municipality in which the project site is located and the
21 municipal and regional planning commissions for that municipality;

1 (D) if the project site is located on a boundary, any Vermont
2 municipality adjacent to that border and the municipal and regional planning
3 commissions for that municipality;

4 (E) the solid waste management district in which the land is located,
5 if the development or subdivision constitutes a facility pursuant to subdivision
6 6602(10) of this title; and

7 (F) any State agency affected by the proposed project.

8 (6) “Person” means any individual; partnership; company; corporation;
9 association; joint venture; trust; municipality; the State of Vermont or any
10 agency, department, or subdivision of the State; any federal agency; or any
11 other legal or commercial entity.

12 (7) “Person aggrieved” means a person who alleges an injury to a
13 particularized interest protected by the provisions of law listed in section 8503
14 of this title; attributable to an act or decision by ~~a district coordinator, District~~
15 ~~Commissioner~~, the Secretary; or the Environmental Division that can be
16 redressed by the Environmental Division or the Supreme Court.

17 (8) “Secretary” means the Secretary of Natural Resources or the
18 Secretary’s duly authorized representative. As used in this chapter,
19 “Secretary” ~~shall also mean~~ means the Commissioner of Environmental
20 Conservation; the Commissioner of Forests, Parks and Recreation; and the

1 Commissioner of Fish and Wildlife; with respect to those statutes that refer to
2 the authority of that commissioner or department.

3 § 8503. APPLICABILITY

4 (a) This chapter shall govern all appeals of an act or decision of the
5 Secretary, excluding enforcement actions under chapters 201 and 211 of this
6 title and rulemaking, under the following authorities and under the rules
7 adopted under those authorities:

8 * * *

9 (b) ~~This chapter shall govern:~~

10 ~~(1) all appeals from an act or decision of a District Commission under~~
11 ~~chapter 151 of this title, excluding appeals of application fee refund requests;~~

12 ~~(2) appeals from an act or decision of a district coordinator under~~
13 ~~subsection 6007(c) of this title;~~

14 ~~(3) appeals from findings of fact and conclusions of law issued by the~~
15 ~~Natural Resources Board in its review of a designated growth center for~~
16 ~~conformance with the criteria of subsection 6086(a) of this title, pursuant to~~
17 ~~authority granted at 24 V.S.A. § 2793e(f). [Repealed.]~~

18 (c) This chapter shall govern all appeals arising under 24 V.S.A.
19 chapter 117, the planning and zoning chapter.

20 (d) This chapter shall govern all appeals from an act or decision of the
21 Environmental Division under this chapter.

1 (e) This chapter shall not govern appeals from rulemaking decisions by the
2 ~~Natural Resources~~ Environmental Review Board under chapter 151 of this title
3 or enforcement actions under chapters 201 and 211 of this title.

4 (f) This chapter shall govern all appeals of acts or decisions of the
5 legislative body of a municipality arising under 24 V.S.A. chapter 61,
6 subchapter 10, relating to the municipal certificate of approved location for
7 salvage yards.

8 (g) This chapter shall govern all appeals of an act or decision of the
9 Secretary of Natural Resources that a solid waste implementation plan for a
10 municipality proposed under 24 V.S.A. § 2202a conforms with the State Solid
11 Waste Implementation Plan adopted pursuant to section 6604 of this title.

12 § 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

13 (a) ~~Act 250 and Agency~~ appeals. Within 30 days of the date of following
14 the act or decision, any person aggrieved by an act or decision of the Secretary,
15 ~~a District Commission, or a district coordinator~~ under the provisions of law
16 listed in section 8503 of this title, or any party by right, may appeal to the
17 Environmental Division, except for an act or decision of the Secretary under
18 subdivision 6086b(3)(E) of this title or governed by section 8506 of this title.

19 * * *

20 (c) Notice of the filing of an appeal.

1 (1) ~~Upon filing an appeal from an act or decision of the District~~
2 ~~Commission, the appellant shall notify all parties who had party status as of the~~
3 ~~end of the District Commission proceeding, all friends of the Commission, and~~
4 ~~the Natural Resources Board that an appeal is being filed. In addition, the~~
5 ~~appellant shall publish notice not more than 10 days after providing notice as~~
6 ~~required under this subsection, at the appellant’s expense, in a newspaper of~~
7 ~~general circulation in the area of the project that is the subject of the decision.~~

8 [Repealed.]

9 * * *

10 (d) Requirement to participate before ~~the District Commission or the~~
11 Secretary.

12 (1) ~~Participation before District Commission. An aggrieved person shall~~
13 ~~not appeal an act or decision that was made by a District Commission unless~~
14 ~~the person was granted party status by the District Commission pursuant to~~
15 ~~subdivision 6085(e)(1)(E) of this title, participated in the proceedings before~~
16 ~~the District Commission, and retained party status at the end of the District~~
17 ~~Commission proceedings. In addition, the person may only appeal those issues~~
18 ~~under the criteria with respect to which the person was granted party status.~~
19 ~~However, notwithstanding these limitations, an aggrieved person may appeal~~
20 ~~an act or decision of the District Commission if the Environmental judge~~
21 ~~determines that:~~

1 ~~(A) there was a procedural defect that prevented the person from~~
2 ~~obtaining party status or participating in the proceeding;~~

3 ~~(B) the decision being appealed is the grant or denial of party status;~~
4 ~~or~~

5 ~~(C) some other condition exists that would result in manifest injustice~~
6 ~~if the person’s right to appeal was disallowed. [Repealed.]~~

7 (2) Participation before the Secretary.

8 * * *

9 (e) Act 250 jurisdictional determinations by a district coordinator.

10 ~~(1) The appellant shall provide notice of the filing of an appeal to each~~
11 ~~person entitled to notice under subdivisions 6085(c)(1)(A) through (D) of this~~
12 ~~title, to each person on an approved subdivision 6085(c)(1)(E) list, and to the~~
13 ~~Natural Resources Board.~~

14 ~~(2) Failure to appeal within the time required under subsection (a) of~~
15 ~~this section shall render the decision of the district coordinator under~~
16 ~~subsection 6007(c) of this title the final determination regarding jurisdiction~~
17 ~~under chapter 151 of this title unless the underlying jurisdictional opinion was~~
18 ~~not properly served on persons listed in subdivisions 6085(c)(1)(A) through~~
19 ~~(D) of this title and on persons on a subdivision 6085(c)(1)(E) list approved~~
20 ~~under subsection 6007(c) of this title. [Repealed.]~~

21 * * *

1 (g) Consolidated appeals. The Environmental Division may consolidate or
2 coordinate different appeals where those appeals all relate to the same project.

3 * * *

4 (i) ~~Deference to Agency technical determinations. In the adjudication of~~
5 ~~appeals relating to land use permits under chapter 151 of this title, technical~~
6 ~~determinations of the Secretary shall be accorded the same deference as they~~
7 ~~are accorded by a District Commission under subsection 6086(d) of this title.~~
8 [Repealed.]

9 * * *

10 (k) Limitations on appeals. Notwithstanding any other provision of this
11 section;

12 ~~(1) there shall be no appeal from a District Commission decision when~~
13 ~~the Commission has issued a permit and no hearing was requested or held, or~~
14 ~~no motion to alter was filed following the issuance of an administrative~~
15 ~~amendment;~~

16 ~~(2) a municipal decision regarding whether a particular application~~
17 ~~qualifies for a recorded hearing under 24 V.S.A. § 4471(b) shall not be subject~~
18 ~~to appeal;~~

19 ~~(3) if a District Commission issues a partial decision under subsection~~
20 ~~6086(b) of this title, any appeal of that decision must be taken within 30 days~~
21 ~~of the date of that decision.~~

1 (l) Representation. The Secretary may represent the Agency of Natural
2 Resources in all appeals under this section. ~~The Chair of the Natural~~
3 ~~Resources Board may represent the Board in any appeal under this section,~~
4 ~~unless the Board directs otherwise.~~ If more than one State agency, ~~other than~~
5 ~~the Board,~~ either appeals or seeks to intervene in an appeal under this section,
6 only the Attorney General may represent the interests of those agencies of the
7 State in the appeal.

8 (m) Precedent. Prior decisions of the Environmental Board, Water
9 Resources Board, and Waste Facilities Panel shall be given the same weight
10 and consideration as prior decisions of the Environmental Division.

11 (n) Intervention. Any person may intervene in a pending appeal if that
12 person:

13 (1) appeared as a party in the action appealed from and retained party
14 status;

15 (2) is a party by right;

16 (3) ~~is the Natural Resources Board;~~ [Repealed.]

17 (4) is a person aggrieved, as defined in this chapter;

18 (5) qualifies as an “interested person,” as established in 24 V.S.A.

19 § 4465, with respect to appeals under 24 V.S.A. chapter 117; or

20 (6) meets the standard for intervention established in the Vermont Rules
21 of Civil Procedure.

1 (o) With respect to review of an act or decision of the Secretary pursuant to
2 3 V.S.A. § 2809, the Division may reverse the act or decision or amend an
3 allocation of costs to an applicant only if the Division determines that the act,
4 decision, or allocation was arbitrary, capricious, or an abuse of discretion. In
5 the absence of such a determination, the Division shall require the applicant to
6 pay the Secretary all costs assessed pursuant to 3 V.S.A. § 2809.

7 (p) Administrative record. The Secretary shall certify the administrative
8 record as defined in chapter 170 of this title and shall transfer a certified copy
9 of that record to the Environmental Division when:

10 ~~(1) there is an appeal of an act or decision of the Secretary that is based~~
11 ~~on that record; or~~

12 ~~(2) there is an appeal of a decision of a District Commission, and the~~
13 ~~applicant used a decision of the Secretary based on that record to create a~~
14 ~~presumption under a criterion of subsection 6086(a) of this title that is at issue~~
15 ~~in the appeal.~~

16 § 8505. APPEALS TO THE SUPREME COURT

17 (a) Any person aggrieved by a decision of the Environmental Division
18 pursuant to this subchapter, any party by right, or any person aggrieved by a
19 decision of the Environmental Review Board may appeal to the Supreme Court
20 within 30 days ~~of~~ following the date of the entry of the order or judgment
21 appealed from, provided that:

1 (1) the person was a party to the proceeding before the Environmental
2 Division; ~~or~~

3 (2) the decision being appealed is the denial of party status; or

4 (3) the Supreme Court determines that:

5 (A) there was a procedural defect that prevented the person from
6 participating in the proceeding; or

7 (B) some other condition exists that would result in manifest injustice
8 if the person’s right to appeal were disallowed.

9 * * *

10 * * * Environmental Division * * *

11 Sec. 14. 4 V.S.A. § 34 is amended to read:

12 § 34. JURISDICTION; ENVIRONMENTAL DIVISION

13 The Environmental Division shall have:

14 (1) jurisdiction of matters arising under 10 V.S.A. chapters 201 and 220;

15 and

16 (2) jurisdiction of matters arising under 24 V.S.A. chapter 61,

17 subchapter 12 and 24 V.S.A. chapter 117; ~~and~~

18 ~~(3) original jurisdiction to revoke permits under 10 V.S.A. chapter 151.~~

1 * * * Transition; Revision Authority * * *

2 Sec. 15. ENVIRONMENTAL REVIEW BOARD POSITIONS;

3 APPROPRIATION

4 (a) The following new positions are created at the Environmental Review
5 Board for the purposes of carrying out this act:

6 (1) two Staff Attorneys; and

7 (2) four half-time Environmental Review Board members.

8 (b) The sum of \$484,000.00 is appropriated to the Environmental Review
9 Board from the General Fund in fiscal year 2025 for the positions established
10 in subsection (a) of this section and for additional operating costs required to
11 implement the appeals process established in this act.

12 Sec. 16. NATURAL RESOURCES BOARD TRANSITION

13 (a) The Governor shall appoint the members of Environmental Review
14 Board on or before July 1, 2025, and the terms of any Natural Resources Board
15 member not appointed consistent with the requirements of 10 V.S.A.
16 § 6021(a)(1)(A) or (B) shall expire on that day.

17 (b) As of July 1, 2025, all appropriations and employee positions of the
18 Natural Resources Board are transferred to the Environmental Review Board.

19 (c) The Environmental Review Board shall adopt rules of procedure for its
20 hearing process pursuant to 10 V.S.A. § 6025(a) on or before July 1, 2026.

1 Sec. 17. ENVIRONMENTAL DIVISION; CONTINUED JURISDICTION

2 Notwithstanding the repeal of its jurisdictional authority to hear appeals
3 relative to land use permits under Sec. 13 of this act, the Environmental
4 Division of the Superior Court shall continue to have jurisdiction to complete
5 its consideration of any appeal that is pending before it as of July 1, 2026 if the
6 act or appeal has been filed. The Environmental Review Board shall have
7 authority to be a party in any appeals pending under this section until July 1,
8 2026.

9 Sec. 18. REVISION AUTHORITY

10 In preparing the Vermont Statutes Annotated for publication in 2024, the
11 Office of Legislative Counsel shall replace all references to the “Natural
12 Resources Board” with the “Environmental Review Board” in Title 3, Title 10,
13 Title 24, Title 29, Title 30, and Title 32.

14 * * * Forest Blocks * * *

15 Sec. 19. 10 V.S.A. § 6001 is amended to read:

16 § 6001. DEFINITIONS

17 As used in this chapter:

18 * * *

19 (45) “Connecting habitat” means land or water, or both, that links
20 patches of habitat within a landscape, allowing the movement, migration, and
21 dispersal of wildlife and plants and the functioning of ecological processes. A

1 connecting habitat may include features including recreational trails and
2 improvements constructed for farming, logging, or forestry purposes.

3 (46) “Forest block” means a contiguous area of forest in any stage of
4 succession and not currently developed for nonforest use. A forest block may
5 include features including recreational trails, wetlands, or other natural features
6 that do not themselves possess tree cover and improvements constructed for
7 farming, logging, or forestry purposes.

8 (47) “Fragmentation” means the division or conversion of a forest block
9 or connecting habitat by the separation of a parcel into two or more parcels; the
10 construction, conversion, relocation, or enlargement of any building or other
11 structure, or of any mining, excavation, or landfill; and any change in the use
12 of any building or other structure, or land, or extension of use of land.

13 However, fragmentation does not include the division or conversion of a forest
14 block or connecting habitat by a recreational trail or by improvements
15 constructed for farming, logging, or forestry purposes below the elevation of
16 2,500 feet.

17 (48) “Habitat” means the physical and biological environment in which
18 a particular species of plant or wildlife lives.

19 (49) As used in subdivisions (45), (46), and (47) of this section,
20 “recreational trail” means a corridor that is not paved and that is used for

1 recreational purposes, including hiking, walking, bicycling, cross-country
2 skiing, snowmobiling, all-terrain vehicle riding, and horseback riding.

3 Sec. 20. 10 V.S.A. § 6086(a)(8) is amended to read:

4 (8) Ecosystem protection; scenic beauty; historic sites. Will not have an
5 undue adverse effect on the scenic or natural beauty of the area, aesthetics,
6 historic sites, or rare and irreplaceable natural areas.

7 (A) Necessary wildlife habitat and endangered species. A permit will
8 not be granted if it is demonstrated by any party opposing the applicant that a
9 development or subdivision will destroy or significantly imperil necessary
10 wildlife habitat or any endangered species; and

11 (i) the economic, social, cultural, recreational, or other benefit to
12 the public from the development or subdivision will not outweigh the
13 economic, environmental, or recreational loss to the public from the
14 destruction or imperilment of the habitat or species; ~~or~~

15 (ii) all feasible and reasonable means of preventing or lessening
16 the destruction, diminution, or imperilment of the habitat or species have not
17 been or will not continue to be applied; or

18 (iii) a reasonably acceptable alternative site is owned or controlled
19 by the applicant which would allow the development or subdivision to fulfill
20 its intended purpose.

21 (B) Forest blocks.

1 (i) A permit will not be granted for a development or subdivision
2 within or partially within a forest block unless the applicant demonstrates that:

3 (I) the development or subdivision will avoid fragmentation of
4 the forest block through the design of the project or the location of project
5 improvements, or both;

6 (II) it is not feasible to avoid fragmentation of the forest block
7 and the design of the development or subdivision minimizes fragmentation of
8 the forest block; or

9 (III) it is not feasible to avoid or minimize fragmentation of the
10 forest block and the applicant will mitigate the fragmentation in accordance
11 with section 6094 of this title.

12 (ii) Methods for avoiding or minimizing the fragmentation of a
13 forest block may include:

14 (I) Locating buildings and other improvements and operating
15 the project in a manner that avoids or minimizes incursion into and disturbance
16 of the forest block, including clustering of buildings and associated
17 improvements.

18 (II) Designing roads, driveways, and utilities that serve the
19 development or subdivision to avoid or minimize fragmentation of the forest
20 block. Such design may be accomplished by following or sharing existing
21 features on the land such as roads, tree lines, stonewalls, and fence lines.

1 (C) Connecting habitat.

2 (i) A permit will not be granted for a development or subdivision
3 unless the applicant demonstrates that:

4 (I) the development or subdivision will avoid fragmentation of
5 connecting habitat through the design of the project or the location of project
6 improvements, or both; or

7 (II) it is not feasible to avoid fragmentation of the connecting
8 habitat and the design of the development or subdivision minimizes
9 fragmentation of the connector;

10 (ii) Methods for avoiding or minimizing the fragmentation of a
11 connecting habitat may include:

12 (I) locating buildings and other improvements at the farthest
13 feasible location from the center of the connector;

14 (II) designing the location of buildings and other improvements
15 to leave the greatest contiguous portion of the area undisturbed in order to
16 facilitate wildlife travel through the connector; or

17 (III) when there is no feasible site for construction of buildings
18 and other improvements outside the connector, designing the buildings and
19 improvements to facilitate the continued viability of the connector for use by
20 wildlife.

21 Sec. 21. CRITERION 8(B) AND (C) RULEMAKING

1 On or before June 15, 2025, the Natural Resources Board shall file a final
2 proposed rule with the Secretary of State and Legislative Committee on
3 Administrative Rules to implement the requirements for the administration of
4 10 V.S.A. § 6086(a)(8)(B) and (C).

5 Sec. 22. 10 V.S.A. § 6094 is added to read:

6 § 6094. MITIGATION OF FOREST BLOCKS

7 (a) A District Commission may consider a proposal to mitigate, through
8 compensation, the fragmentation of a forest block if the applicant demonstrates
9 that it is not feasible to avoid or minimize fragmentation of the block in
10 accordance with the requirements of subdivision 6086(a)(8)(B) of this chapter.

11 A District Commission may approve the proposal only if it finds that the
12 proposal will meet the requirements of the rules adopted under this section and
13 will preserve a forest block of similar quality and character to the block
14 affected by the development or subdivision.

15 (b) The Natural Resources Board, in consultation with the Secretary of
16 Natural Resources, shall adopt rules governing mitigation under this section.

17 (1) The rules shall state the acreage ratio of forest block to be preserved
18 in relation to the block affected by the development or subdivision.

19 (2) Compensation measures to be allowed under the rules shall be based
20 on the ratio of land developed pursuant to subdivision (1) of this subsection
21 and shall include:

1 (A) Preservation of a forest block of similar quality and character to
2 the block that the development or subdivision will affect.

3 (B) Deposit of an off-site mitigation fee into the Vermont Housing
4 and Conservation Trust Fund under section 312 of this title.

5 (i) This mitigation fee shall be derived as follows:

6 (I) Determine the number of acres of forest block affected by
7 the proposed development or subdivision.

8 (II) Multiply this number of affected acres by three.

9 (III) Multiply the resulting product by a “price-per-acre” value,
10 which shall be based on the amount that the Commissioner of Forests, Parks
11 and Recreation determines to be the recent, per-acre cost to acquire
12 conservation easements for forest blocks of similar quality and character in the
13 same geographic region as the proposed development or subdivision.

14 (ii) The Vermont Housing Conservation Board shall use such a fee
15 to preserve a forest block of similar quality and character to the affected by the
16 development or subdivision.

17 (C) Any other compensation measures as the rules may authorize.

18 (c) The mitigation of impact on a forest block shall be structured also to
19 mitigate the impacts, under the criteria of subsection 6086(a) of this title other
20 than subdivisions (8)(B) to land or resources within the block.

1 (d) All forest blocks preserved pursuant to this section shall be protected by
2 permanent conservation easements that grant development rights and include
3 conservation restrictions and are conveyed to a qualified holder, as defined in
4 section 821 of this title, with the ability to monitor and enforce easements in
5 perpetuity.

6 Sec. 23. 10 V.S.A. § 127 is amended to read:

7 § 127. RESOURCE MAPPING

8 (a) ~~On or before January 15, 2013, the~~ The Secretary of Natural Resources
9 shall complete and maintain resource mapping based on the Geographic
10 Information System (GIS) or other technology. The mapping shall identify
11 natural resources throughout the State, including forest blocks and connecting
12 habitat, that may be relevant to the consideration of energy projects and
13 projects subject to chapter 151 of this title. The Center for Geographic
14 Information shall be available to provide assistance to the Secretary in carrying
15 out the ~~GIS-based~~ resource mapping.

16 (b) The Secretary ~~of Natural Resources~~ shall consider the ~~GIS-based~~
17 resource maps developed under subsection (a) of this section when providing
18 evidence and recommendations to the Public Utility Commission under
19 30 V.S.A. § 248(b)(5) and when commenting on or providing
20 recommendations under chapter 151 of this title to District Commissions on
21 other projects.

1 (c) The Secretary shall establish and maintain written procedures that
2 include a process and science-based criteria for updating resource maps
3 developed under subsection (a) of this section. Before establishing or revising
4 these procedures, the Secretary shall provide opportunities for affected parties
5 and the public to submit relevant information and recommendations.

6 * * * Location-Based Jurisdiction * * *

7 Sec. 24. 10 V.S.A. § 6001 is amended to read:

8 § 6001. DEFINITIONS

9 As used in this chapter:

10 * * *

11 (3)(A) “Development” means each of the following:

12 (i) The construction of improvements on a tract or tracts of land,
13 owned or controlled by a person, involving more than 10 acres of land within a
14 radius of five miles of any point on any involved land, for commercial or
15 industrial purposes in a municipality that has adopted permanent zoning and
16 subdivision bylaws.

17 (ii) The construction of improvements on a tract or tracts of land,
18 owned or controlled by a person, involving more than one acre of land within a
19 radius of five miles of any point on any involved land, for commercial or
20 industrial purposes in a municipality that has not adopted permanent zoning
21 and subdivision bylaws.

1 (iii) The construction of improvements for commercial or
2 industrial purposes on a tract or tracts of land, owned or controlled by a person,
3 involving more than one acre of land within a municipality that has adopted
4 permanent zoning and subdivision bylaws, if the municipality in which the
5 proposed project is located has elected by ordinance, adopted under 24 V.S.A.
6 chapter 59, to have this jurisdiction apply.

7 (iv) The construction of housing projects such as cooperatives,
8 condominiums, or dwellings, or construction or maintenance of mobile homes
9 or mobile home parks, with 10 or more units, constructed or maintained on a
10 tract or tracts of land, owned or controlled by a person, within a radius of five
11 miles of any point on any involved land and within any continuous period of
12 five years. However:

13 * * *

14 (vi) The construction of improvements for commercial, industrial,
15 or residential use at or above the elevation of 2,500 feet or in or within 25 feet
16 of a critical resource area.

17 * * *

18 (xii) The construction of improvements for commercial, industrial,
19 or residential use on a tract or tracts of land more than 500 feet from the center
20 line of a State or town highway located in a rural and working lands area. This

1 shall not include existing residential buildings or the construction of a garage
2 or other buildings incidental to residential use.

3 (xiii) The construction of a road, roads, driveway, or driveways,
4 which in combination is greater than 2,000 feet and any single road or
5 driveway is greater than 800 feet, to provide access to or within a tract or
6 tracts of land of more than one acre owned or controlled by a person.

7 (I) For the purposes of determining jurisdiction under this
8 subdivision (xiii), any tract or tracts of land that will be provided access by the
9 road or driveway is involved land.

10 (II) As used in this subdivision (xiii), “road” shall include any
11 new road or upgrade of a Class 4 highway by a person other than a
12 municipality, including a road that will be transferred to or maintained by a
13 municipality after its construction or upgrade. For the purposes of this
14 subdivision (II), routine maintenance of a Class 4 highway or stormwater
15 improvement required pursuant to section 1264 of this title shall not constitute
16 an “upgrade.”

17 (aa) Routine maintenance shall include replacing a culvert
18 or ditch, applying new stone, grading, or making repairs after adverse weather.

19 (bb) Routine maintenance shall not include changing the
20 size of the road, changing the location or layout of the road, or adding
21 pavement.

1 (III) For the purpose of determining the length under this
2 subdivision, the length of all roads and driveways within the tract or tracts of
3 land constructed ~~within any continuous period of 10 years~~ after October 1,
4 2024 shall be included.

5 (IV) This subdivision (xiii) shall not apply to:

6 (aa) a road constructed for a municipal, county, or State
7 purpose; a utility corridor of an electric transmission or distribution company;
8 or a road located entirely within in a designated downtown or neighborhood
9 development area.

10 (bb) a road used primarily for farming or forestry purposes
11 unless used for residential purpose.

12 * * *

13 (19)(A) “Subdivision” means each of the following:

14 (i) A tract or tracts of land, owned or controlled by a person, that
15 the person has partitioned or divided for the purpose of resale into ~~10~~ four or
16 more lots within a radius of five miles of any point on any lot, or within the
17 jurisdictional area of the same District Commission, within any continuous
18 period of five years located within a rural and working lands area. In
19 determining the number of lots, a lot shall be counted if any portion is within
20 an area and within five miles or within the jurisdictional area of the same
21 District Commission.

1 (ii) A tract or tracts of land, owned or controlled by a person, that
2 the person has partitioned or divided for the purpose of resale into six or more
3 lots, within a continuous period of five years, in a municipality that does not
4 have duly adopted permanent zoning and subdivision bylaws.

5 (iii) A tract or tracts of land, owned or controlled by a person, that
6 have been partitioned or divided for the purpose of resale into five or more
7 separate parcels of any size within a radius of five miles of any point on any
8 such parcel, and within any period of ~~ten~~ 10 years, by public auction.

9 (I) ~~In~~ As used in this subdivision (iii), “public auction” means
10 any auction advertised or publicized in any manner or to which more than ~~ten~~
11 10 persons have been invited.

12 (II) If sales described under this subdivision (iii) are of interests
13 that, when sold by means other than public auction, are exempt from the
14 provisions of this chapter under the provisions of subsection 6081(b) of this
15 title, the fact that these interests are sold by means of a public auction shall not,
16 in itself, create a requirement for a permit under this chapter.

17 * * *

18 (50) “Critical resource area” means a river corridor, a significant
19 wetland as defined under section 902 of this title, land characterized by slopes
20 greater than 15 percent and shallow depth to bedrock, an area with any amount

1 of prime agricultural soil, and a parcel containing all or part of a connecting
2 habitat.

3 (51) “Rural and working lands area” means an area that is not a
4 designated planned growth area or a critical resource area.

5 * * * Planned Growth Area Designation * * *

6 Sec. 25. 10 V.S.A. § 6033 is added to read:

7 § 6033. PLANNED GROWTH AREA DESIGNATION

8 (a) Application and approval.

9 (1) Beginning on January 1, 2027, a municipality, by resolution of its
10 legislative body, may apply to the Environmental Review Board for
11 designation of a planned growth area for the core area of the municipality that
12 is suitable for dense development and meets the requirements of subsection (b)
13 of this section.

14 (2) A municipality may apply for designation as a Tier 1A or Tier 1B
15 planned growth area.

16 (3) The Board shall issue an affirmative determination on finding that
17 the municipality meets the requirements of subsection (b) of this section within
18 45 days after the application is received.

19 (b) Planned growth area designation requirements.

1 (1) To obtain a Tier 1A planned growth area designation under this
2 section, a municipality must demonstrate to the Board that it has each of the
3 following:

4 (A) A municipal plan that is approved in accordance with 24 V.S.A.
5 § 4350.

6 (B) Municipal flood hazard planning, applicable to the entire
7 municipality, in accordance with 24 V.S.A. V.S.A. § 4382(12) and the
8 guidelines issued by the Department pursuant to 24 V.S.A. § 2792(d).

9 (C) Flood hazard and river corridor bylaws, applicable to the entire
10 municipality, that are consistent with the standards established pursuant to
11 subsection 755(b) of this title (flood hazard) and subsection 1428(b) of this
12 title (river corridor).

13 (D) A capital budget and program pursuant to 24 V.S.A. § 4430 that
14 make substantial investments in the ongoing development of the planned
15 growth area, are consistent with the plan’s implementation program, and are
16 consistent with the smart growth principles defined in 24 V.S.A. § 2791(13).

17 (E) Permanent zoning and subdivision bylaws that do not include
18 broad exemptions that exclude significant private or public land development
19 from requiring a municipal land use permit.

20 (F) Urban form bylaws for the planned growth area that further the
21 smart growth principles of 24 V.S.A. chapter 117, adequately regulate the

1 physical form and scale of development, make reasonable provision for
2 buildings in areas with sewer and water to have at least six stories, and
3 conform to the guidelines established by the Board.

4 (G) Historic preservation bylaws for established design review
5 districts, historic districts, or historic landmarks pursuant to 24 V.S.A.
6 § 4414(1)(E) and (F) for the planned growth area that meet State historic
7 preservation guidelines issued by the Department of Housing and Community
8 Development pursuant to subsection 2792(d) of this title.

9 (H) Wildlife habitat planning bylaws for the planned growth area that
10 comply with standards established by the Board in consultation with the
11 Department of Fish and Wildlife.

12 (I) Permitted water and wastewater systems with the capacity to
13 support additional development within the planned growth area. The
14 municipality shall have adopted consistent policies, by municipal plan and
15 ordinance, on the allocation, connection, and extension of water and
16 wastewater lines that include a defined service area to support the planned
17 growth area.

18 (J) Municipal staff adequate to support coordinated comprehensive
19 and capital planning, development review, and zoning administration in the
20 planned growth area.

21 (K) The applicable regional plan has been approved by the Board.

1 (2) To obtain a Tier 1B planned growth area designation under this
2 section, a municipality must demonstrate to the Board that it has the following
3 requirements described in subdivisions (A), (E), (I), (J), and (K) of this
4 subsection (b).

5 (3) If any party entitled to notice under subdivision (c)(4)(A) of this
6 section or any resident of the municipality raises concerns about the
7 municipality’s compliance with the requirements for the underlying
8 designation, those concerns must be addressed as part of the municipality’s
9 application.

10 (c) Process for issuing determinations of planned growth area designation.

11 (1) A preapplication meeting shall be held with staff of the relevant
12 regional planning commission (RPC) to review the requirements of subsection
13 (b) of this section. The meeting shall be held in the municipality unless
14 another location is agreed to by the municipality.

15 (2) An application by the municipality shall include the information and
16 analysis required by the Board’s guidelines on how to meet the requirements of
17 subsection (b) of this section.

18 (3) The relevant regional planning commission shall establish a
19 procedure for submission of a draft application that involves review and
20 comment by all the parties to be noticed in subdivision (4)(A) of this
21 subsection. The RPC shall issue a preapplication memorandum incorporating

1 the comments to the applicant after receipt of a draft preliminary application
2 and a preliminary approval or denial of the application. A municipality shall
3 not submit an application to the Environmental Review Board unless it has
4 been approved the RPC.

5 (4) After receipt of a complete final application, the Environmental
6 Review Board shall convene a public hearing in the municipality to consider
7 whether to issue a determination of planned growth area designation under this
8 section.

9 (A) Notice.

10 (i) At least 35 days in advance of the Board’s meeting, the
11 regional planning commission shall provide notice to the municipality and post
12 it on its website.

13 (ii) The municipality shall publish notice of the meeting at least 30
14 days in advance of the Board’s meeting in a newspaper of general circulation
15 in the municipality, and deliver physically or electronically, with proof of
16 receipt or by certified mail, return receipt requested to the Agency of Natural
17 Resources, the Division for Historic Preservation, the Agency of Agriculture,
18 Food and Markets, the Agency of Transportation, the regional planning
19 commission, the regional development corporations, and the entities providing
20 educational, police, and fire services to the municipality.

1 (iii) The notice shall also be posted by the municipality in or near
2 the municipal clerk's office and in at least two other designated public places
3 in the municipality, and on the websites of the municipality and the regional
4 planning commission.

5 (iv) The municipality shall also certify in writing that the notice
6 required by this subsection (c) has been published, delivered, and posted within
7 the specified time.

8 (B) No defect in the form or substance of any requirements of this
9 subsection (c) shall invalidate the action of the Board where reasonable efforts
10 are made to provide adequate posting and notice. However, the action shall be
11 invalid when the defective posting or notice was materially misleading in
12 content. If an action is ruled to be invalid by the Superior Court or by the
13 Board itself, the regional planning commission shall provide and the
14 municipality shall issue new posting and notice, and the Board shall hold a
15 new hearing and take a new action.

16 (5) The Board may recess the proceedings on any application pending
17 submission of additional information. The Board shall close the proceedings
18 promptly after all parties have submitted the requested information.

19 (6) The Board shall issue its determination in writing. The
20 determination shall include explicit findings on each of the requirements in
21 subsection (b) of this section.

1 (d) Review of designation status.

2 (1) Length of designation. Initial determination of designation status
3 may be made at any time. Thereafter, review of a designation shall occur
4 every eight years with a check-in after four years.

5 (2) The Board, on its motion, may review compliance with the planned
6 growth area requirements at more frequent intervals.

7 (3) If at any time the Board determines that the planned growth area no
8 longer meets the standards for the designation, it shall take one of the
9 following actions:

10 (A) require corrective action within a reasonable time frame; or

11 (B) terminate the designation.

12 (e) Appeal.

13 (1) An interested person may appeal any act or decision of the Board
14 under this section to the Supreme Court within 30 days following the act or
15 decision.

16 (2) As used in this section, an “interested person” means any one of the
17 following:

18 (A) A person owning title to or occupying property within or abutting
19 the designated area.

20 (B) The municipality making the application or a municipality that
21 adjoins the municipality making the application.

1 (2) A land use plan, which shall consist of a map and statement of
2 present and prospective land uses, that:

3 * * *

4 (C) Identifies those areas, if any, proposed for designation under
5 chapter 76A of this title or 10 V.S.A. § 6033, together with, for each area
6 proposed for designation, an explanation of how the designation would further
7 the plan’s goals and the goals of section 4302 of this title; and how the area
8 meets the requirements for the type of designation to be sought.

9 * * *

10 Sec. 28. 10 V.S.A. § 6081 is amended to read:

11 § 6081. PERMITS REQUIRED; EXEMPTIONS

12 * * *

13 (z) Notwithstanding any other provision of this chapter to the contrary, no
14 permit or permit amendment is required for any subdivision, development, or
15 change to an existing project that is located entirely within a Tier 1A planned
16 growth area designated under section 6033 of this chapter. Notwithstanding
17 any other provision of this chapter to the contrary, no permit or permit
18 amendment is required for 50 units or fewer of housing located entirely within
19 a Tier 1B planned growth area designated under section 6033 of this chapter.
20 Upon receiving notice and a copy of the permit issued by an appropriate
21 municipal panel pursuant to 24 V.S.A. § 4460(f), a previously issued permit

1 for a development or subdivision located in a planned growth area shall remain
2 attached to the property. However, neither the Board nor the Agency of
3 Natural Resources shall enforce the permit or assert amendment jurisdiction on
4 the tract or tracts of land unless the designation is revoked or the municipality
5 has not taken any action to enforce the conditions of the permit.

6 Sec. 29. 24 V.S.A. § 4460 is amended to read:

7 § 4460. APPROPRIATE MUNICIPAL PANELS

8 * * *

9 (g)(1) This subsection shall apply to a subdivision or development that:

10 (A) was previously permitted pursuant to 10 V.S.A. chapter 151;

11 (B) is located in a planned growth area designated pursuant to 10

12 V.S.A. § 6033; and

13 (C) has applied for a permit or permit amendment required by zoning
14 regulations or bylaws adopted pursuant to this subchapter.

15 (2) The appropriate municipal panel reviewing a municipal permit or
16 permit amendment pursuant to this subsection shall include conditions
17 contained within a permit previously issued pursuant to 10 V.S.A. chapter 151
18 unless the panel determines that the permit condition pertains to any of the
19 following:

20 (A) the construction phase of the project that has already been
21 constructed;

1 (B) compliance with another State permit that has independent
2 jurisdiction;

3 (C) federal or State law that is no longer in effect or applicable;

4 (D) an issue that is addressed by municipal regulation and the project
5 will meet the municipal standards; or

6 (E) a physical or use condition that is no longer in effect or
7 applicable or that will no longer be in effect or applicable once the new project
8 is approved.

9 (3) After issuing or amending a permit containing conditions pursuant to
10 this subsection, the appropriate municipal panel shall provide notice and a
11 copy of the permit to the Environmental Review Board.

12 (4) The appropriate municipal panel shall comply with the notice and
13 hearing requirements provided in subdivision 4464(a)(1) of this title. In
14 addition, notice shall be provided to those persons requiring notice under
15 10 V.S.A. § 6084(b) and shall explicitly reference the existing Act 250 permit.

16 (5) The appropriate municipal panel’s decision shall be issued in
17 accordance with subsection 4464(b) of this title and shall include specific
18 findings with respect to its determinations pursuant to subdivision (2) of this
19 subsection.

1 (6) Any final action by the appropriate municipal panel affecting a
2 condition of a permit previously issued pursuant to 10 V.S.A. chapter 151 shall
3 be recorded in the municipal land records.

4 (h) Within a designated planned growth area, the appropriate municipal
5 panel shall enforce any existing permits issued under 10 V.S.A. chapter 151.

6 * * * Future Land Use Maps * * *

7 Sec. 30. 24 V.S.A. § 4302 is amended to read:

8 §4302. PURPOSE; GOALS

9 * * *

10 (c) In addition, this chapter shall be used to further the following specific
11 goals:

12 (1) To plan development so as to maintain the historic settlement pattern
13 of compact village and urban centers separated by rural countryside.

14 (A) Intensive residential development should be encouraged
15 primarily in ~~areas related to community centers~~ Downtowns, Village Centers,
16 Planned Growth Areas and Village Areas as described in section 4348a of this
17 title, and strip development along highways ~~should be discouraged~~ should be
18 avoided. These areas should be planned so as to accommodate the majority of
19 housing needed to reach the housing targets in developed for each region
20 pursuant to section 4348a(a)(9) of this title.

1 (B) Economic growth should be encouraged in locally and regionally
2 designated growth areas, employed to revitalize existing village and urban
3 centers, or both, ~~and should be encouraged in growth centers designated under~~
4 ~~chapter 76A of this title.~~

5 (C) Public investments, including the construction or expansion of
6 infrastructure, should reinforce the ~~general character and~~ planned growth
7 patterns of the area.

8 (D) Development should be undertaken in accordance with smart
9 growth principles as defined in subdivision **2791(13)** of this title.

10 * * *

11 (5) To identify, protect, and preserve important natural and historic
12 features of the Vermont landscape, including:

13 (A) significant natural and fragile areas **as described in 10 V.S.A.**
14 **chapter 89;**

15 (B) outstanding water resources, including lakes, rivers, aquifers,
16 shorelands, and wetlands;

17 (C) significant scenic roads, waterways, and views;

18 (D) important historic structures, sites, or districts, archaeological
19 sites, and archaeologically sensitive areas.

20 (6) To maintain and improve the quality of air, water, wildlife, forests,
21 and other land resources.

1 (A) Vermont’s air, water, wildlife, mineral, and land resources
2 should be planned for use and development according to the principles set
3 forth in 10 V.S.A. § 6086(a).

4 (B) Vermont’s water quality should be maintained and improved
5 according to the policies and actions developed in the basin plans established
6 by the Secretary of Natural Resources under 10 V.S.A. § 1253.

7 (C) Vermont’s forestlands should be managed so as to maintain and
8 improve forest blocks and habitat connectors.

9 * * *

10 (11) To ensure the availability of safe and affordable housing for all
11 Vermonters.

12 (A) Housing should be encouraged to meet the needs of a diversity of
13 social and income groups in each Vermont community, particularly for those
14 citizens of low and moderate income, and consistent with housing targets
15 provided for in section 4348a(a)(9) of this title.

16 (B) New and rehabilitated housing should be safe, sanitary, located
17 conveniently to employment and commercial centers, and coordinated with the
18 provision of necessary public facilities and utilities.

19 (C) Sites for multi-family and manufactured housing should be
20 readily available in locations similar to those generally used for single-family
21 ~~conventional~~ dwellings.

1 approved municipal and adjoining regional plans. When preparing a regional
2 plan, the regional planning commission shall:

3 (A) develop and carry out a process that will encourage and enable
4 widespread citizen involvement and meaningful participation, as defined in 3
5 V.S.A. § 6002;

6 (B) develop a regional data base that is compatible with, useful to,
7 and shared with the geographic information system established under 3 V.S.A.
8 § 20;

9 (C) conduct capacity studies;

10 (D) identify areas of regional significance. Such areas may be, but
11 are not limited to, historic sites, earth resources, rare and irreplaceable natural
12 areas, recreation areas and scenic areas;

13 (E) ~~use a land evaluation and site assessment system, that shall at a~~
14 ~~minimum use the criteria established by the Secretary of Agriculture, Food and~~
15 ~~Markets under 6 V.S.A. § 8, to identify viable agricultural lands~~ consider the
16 potential environmental benefits and environmental burdens, as defined in 3
17 V.S.A. §6002, of the proposed plan;

18 (F) consider the probable social and economic benefits and
19 consequences of the proposed plan; and

20 (G) prepare a report explaining how the regional plan is consistent
21 with the goals established in section 4302 of this title.

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* * *

(11) Review proposed State capital expenditures prepared pursuant to 32 V.S.A. chapter 5 and the Transportation Program prepared pursuant to 19 V.S.A. chapter 1 for compatibility and consistency with regional plans and submit comments to the Secretaries of Transportation and Administration and the legislative committees of jurisdiction.

* * *

(17) As part of its regional plan, define a substantial regional impact, as the term may be used with respect to its region. This definition shall be given ~~due consideration~~ substantial deference, where relevant, in State and municipal regulatory proceedings.

* * *

(21) Review and participate as an interested party in the municipal development review process for projects defined to have a substantial regional impact and are located in areas exempted under 10 V.S.A. § 6033.

Sec. 32. 24 V.S.A. § 4347 is amended to read:

§ 4347. PURPOSES OF REGIONAL PLAN

A regional plan shall be made with the general purpose of guiding and accomplishing a coordinated, efficient, equitable and economic development of the region which will, in accordance with the present and future needs and resources, best promote the health, safety, order, convenience, prosperity, and

1 welfare of ~~the~~ current and future inhabitants as well as efficiency and economy
2 in the process of development. This general purpose includes recommending a
3 distribution of population and of the uses of the land for urbanization, trade,
4 industry, habitation, recreation, agriculture, forestry, and other uses as will tend
5 to:

6 (1) create conditions favorable to transportation, health, safety, civic
7 activities, and educational and cultural opportunities;

8 (2) reduce the wastes of financial, energy, and human resources which
9 result from either excessive congestion or excessive scattering of population;

10 (3) promote an efficient and economic utilization of drainage, energy,
11 sanitary, and other facilities and resources;

12 (4) promote the conservation of the supply of food, water, energy, and
13 minerals;

14 (5) promote the production of food and fiber resources and the
15 reasonable use of mineral, water, and renewable energy resources; ~~and~~

16 (6) promote the development of housing suitable to the needs of the
17 region and its communities; ~~and~~

18 (7) ensure that communities equitably build resilience to address the
19 effects of climate change through mitigation and adaptation consistent with the
20 Vermont Climate Action Plan adopted pursuant to 10 V.S.A. § 592.

21 Sec. 33. 24 V.S.A. § 4348 is amended to read:

1 § 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

2 (a) A regional planning commission shall adopt a regional plan. Any plan
3 for a region, and any amendment ~~thereof~~, shall be prepared by the regional
4 planning commission. At the outset of the planning process and throughout
5 the process, regional planning commissions shall solicit the participation of
6 local citizens and organizations by holding informal working sessions that suit
7 the needs of local people.

8 (b) A regional planning commission shall submit a draft regional plan to
9 the Environmental Review Board and Agency of Commerce and Community
10 Development for preliminary review and comments related to conformance of
11 the draft with sections 4302 and 4348a of this title. The Agency shall
12 coordinate with other State agencies and respond within 60 days unless more
13 time is granted by the regional planning commission.

14 (c) The regional planning commission shall hold two or more public
15 hearings within the region after public notice on any proposed plan or
16 amendment. The minimum number of required public hearings may be
17 specified within the bylaws of the regional planning commission.

18 ~~(e)~~(d) At least 30 days prior to the first hearing, a copy of the proposed plan
19 or amendment, a report documenting conformance with the goals established
20 in section 4302 of this chapter and the plan elements established in section
21 4348a of this chapter, a description of any changes to the Regional Future

1 Land Use Map, and the definition of substantial regional impact with a request
2 for general comments and for specific comments with respect to the extent to
3 which the plan or amendment is consistent with the goals established in section
4 4302 of this title, shall be delivered physically or electronically with proof of
5 receipt or sent by certified mail, return receipt requested, to each of the
6 following:

7 (1) the chair of the legislative body of each municipality within the
8 region;

9 (2) the executive director of each abutting regional planning
10 commission;

11 (3) the Department of Housing and Community Development within the
12 Agency of Commerce and Community Development and the State Downtown
13 Board for a formal review and recommendation;

14 (4) business, conservation, low-income advocacy, and other community
15 or interest groups or organizations that have requested notice in writing prior to
16 the date the hearing is warned; and

17 (5) the Agency of Natural Resources ~~and~~, the Agency of Agriculture,
18 Food and Markets, the Agency of Transportation, the Department of Public
19 Service, the Department of Public Safety’s Division of Emergency
20 Management; and the Environmental Review Board.

1 ~~(e)~~(c) Any of the foregoing bodies, or their representatives, may submit
2 comments on the proposed regional plan or amendment to the regional
3 planning commission and may appear and be heard in any proceeding with
4 respect to the adoption of the proposed plan or amendment.

5 ~~(e)~~(f) The regional planning commission may make revisions to the
6 proposed plan or amendment at any time not less than 30 days prior to the final
7 public hearing held under this section. If the proposal is changed, a copy of the
8 proposed change shall be delivered physically ~~or~~; electronically with proof of
9 receipt; or by certified mail, return receipt requested, to the chair of the
10 legislative body of each municipality within the region; and to any individual
11 or organization requesting a copy; at least 30 days prior to the final hearing.

12 ~~(f)~~(g) A regional plan or amendment shall be adopted by not less than a 60
13 percent vote of the commissioners representing municipalities, in accordance
14 with the bylaws of the regional planning commission, ~~and immediately~~
15 ~~submitted to the legislative bodies of the municipalities that comprise the~~
16 ~~region. The plan or amendment shall be considered duly adopted and shall~~
17 ~~take effect 35 days after the date of adoption, unless, within 35 days of the date~~
18 ~~of adoption, the regional planning commission receives certification from the~~
19 ~~legislative bodies of a majority of the municipalities in the region vetoing the~~
20 ~~proposed plan or amendment. In case of such a veto, the plan or amendment~~
21 ~~shall be deemed rejected.~~

1 (h)(1) A regional planning commission shall submit its regionally adopted
2 regional plan to the Environmental Review Board for a determination of
3 regional plan compliance with the following: a report documenting
4 conformance with the goals established in section 4302 of this chapter and the
5 plan elements established in section 4348a of this chapter, a description of any
6 changes to the Regional Future Land Use Map, the definition of substantial
7 regional impact, and a recommendation from the State Downtown Board.

8 (2) Within 30 days after submittal of the plan, Environmental Review
9 Board staff shall provide a recommendation and the Environmental Review
10 Board shall warn a public hearing noticed at least 15 days in advance by direct
11 mail or electronically with proof of receipt to the requesting regional planning
12 commission, posting on the website of the Environmental Review Board, and
13 publication in a newspaper of general circulation in the region affected. The
14 regional planning commission shall notify their municipalities and post on
15 their website the public hearing notice.

16 (3) The recommendation from the Downtown Board shall receive
17 substantial deference from the Environmental Review Board with respect to
18 the mapping of proposed Downtowns, Village Centers, Planned Growth Areas,
19 and Village Areas. The Environmental Review Board shall issue the
20 determination in writing within 45 days after the receipt of a request for a
21 determination. If the determination is affirmative, a copy of the determination

1 shall be provided to the regional planning commission and the Environmental
2 Review Board. If the determination is negative, the Environmental Review
3 Board shall state the reasons for denial in writing and, if appropriate, suggest
4 acceptable modifications. Submissions for a new determination that follow a
5 negative determination shall receive a new determination within 45 days.

6 (4) The Environmental Review Board’s affirmative determination shall be
7 based upon finding the regional plan meets the following requirements:

8 (A) Consistency with the State planning goals as described in section
9 4302 of this chapter with consistency determined in the manner described
10 under subdivision 4302(f)(1) of this chapter.

11 (B) Consistency with the regional plan elements as described in
12 section 4348a of this chapter, except that the requirements of section 4352 of
13 this chapter related to enhanced energy planning shall be the under the sole
14 authority of the Public Service Department and shall not be reviewed by the
15 Downtown Development Board.

16 (C) Compatibility with adjacent regional planning areas in the
17 manner described under subdivision 4302(f)(2) of this chapter.

18 (i) Minor Amendments to Regional Future Land Use Plan. A regional
19 planning commission and a municipality may submit a joint request for a
20 minor amendment to boundaries of a Designated Area pursuant to this chapter
21 for consideration by the Environmental Review Board. The joint request may

1 only be submitted after an affirmative vote of the municipal legislative body
2 and the regional planning commission board. The Environmental Review
3 Board, after consultation with the Downtown Development Board and the
4 regional planning commissions, shall provide guidance about what constitutes
5 a minor amendment. Minor amendments may include any change to a future
6 land use district consisting of less than 10 acres. A minor amendment to a
7 Designated Area plan shall not require an amendment to a regional plan as
8 outlined in section 4348 of this chapter.

9 (j) An affirmative determination of regional plan compliance issued
10 pursuant to this section shall remain in effect until the end of the period for
11 expiration or readoption of the plan to which it applies.

12 (k) Regional planning commissions shall be provided up to 18 months from
13 a negative determination by the Environmental Review Board to obtain an
14 affirmative determination of regional plan compliance. If a regional planning
15 commission is unable to obtain affirmative determination of regional plan
16 compliance, member municipalities shall lose benefits related to Designations,
17 Act 250, or State infrastructure investments.

18 (l) Upon approval by the Environmental Review Board, the plan shall be
19 considered duly adopted, shall take effect, and is not appealable. The plan
20 shall be immediately submitted to the entities listed in subsection (d) of this
21 section.

1 ~~(g)~~(m) Regional plans may be reviewed from time to time and may be
2 amended in the light of new developments and changed conditions affecting
3 the region. As specifically enabled in section 4353 of this title, minor
4 amendments to the Designated Areas do not require the amendment of a
5 regional plan. All minor amendments to Designated Areas shall be compiled
6 and included in the next iteration of the regional plan.

7 ~~(h)~~(n) In proceedings under 10 V.S.A. chapter 151, 10 V.S.A. chapter 159,
8 and 30 V.S.A. § 248, in which the provisions of a regional plan or a municipal
9 plan are relevant to the determination of any issue in those proceedings:

10 (1) the provisions of the regional plan shall be given effect to the extent
11 that they are not in conflict with the provisions of a duly adopted municipal
12 plan;

13 (2) to the extent that such a conflict exists, the regional plan shall be
14 given effect if it is demonstrated that the project under consideration in the
15 proceedings would have a substantial regional impact.

16 (o) Regional planning commissions shall adopt a regional plan in
17 conformance this title by December 31, 2026.

18 Sec. 34. 24 V.S.A. § 4348a is amended to read:

19 §4348a. ELEMENTS OF A REGIONAL PLAN

20 (a) A regional plan shall be consistent with the goals established in section
21 4302 of this title and shall include the following:

1 (1) A statement of basic policies of the region to guide the future growth
2 and development of land and of public services and facilities, and to protect the
3 environment.

4 (2) A ~~land-use~~ natural resources and working lands element, which shall
5 consist of a map or maps and ~~statement of present and prospective land uses~~
6 policies, **based on ecosystem function, consistent with Vermont**
7 **Conservation Design**, supports compact centers surrounded by rural and
8 working lands, and that:

9 (A) Indicates those areas of significant natural resources, including
10 proposed for forests, wetlands, vernal pools, rare and irreplaceable natural
11 areas, floodplains, river corridors, recreation, agriculture,~~(using the~~
12 agricultural lands identification process established in 6 V.S.A. § 8), residence,
13 commerce, industry, public, and semi-public uses, open spaces, areas reserved
14 for flood plain, forest blocks, habitat connectors, recreation areas and
15 recreational trails, and areas identified by the State, regional planning
16 commissions, or municipalities that require special consideration for aquifer
17 protection; for wetland protection; for the maintenance of forest blocks,
18 wildlife habitat, and habitat connectors; or for other conservation purposes.

19 (B) ~~Indicates those areas within the region that are likely candidates~~
20 ~~for designation under sections 2793 (downtown development districts), 2793a~~

1 ~~(village centers), 2793b (new town centers), and 2793c (growth centers) of this~~
2 ~~title.~~

3 ~~(C) Indicates locations proposed for developments with a potential~~
4 ~~for regional impact, as determined by the regional planning commission,~~
5 ~~including flood control projects, surface water supply projects, industrial parks,~~
6 ~~office parks, shopping centers and shopping malls, airports, tourist attractions,~~
7 ~~recreational facilities, private schools, public or private colleges, and~~
8 ~~residential developments or subdivisions.~~

9 ~~(D) Sets forth the present and prospective location, amount, intensity,~~
10 ~~and character of such land uses and the appropriate timing or sequence of land~~
11 ~~development activities in relation to the provision of necessary community~~
12 ~~facilities and services.~~

13 ~~(E)~~ Indicates those areas that have the potential to sustain agriculture
14 and recommendations for maintaining them ~~which~~ that may include transfer of
15 development rights, acquisition of development rights, or farmer assistance
16 programs.

17 ~~(F)~~(C) Indicates those areas that are important as forest blocks and
18 habitat connectors and plans for land development in those areas to minimize
19 forest fragmentation and promote the health, viability, and ecological function
20 of forests. A plan may include specific policies to encourage the active
21 management of those areas for wildlife habitat, water quality, timber

1 production, recreation, or other values or functions identified by the regional
2 planning commission.

3 (3) An energy element, ~~may include~~ including an analysis of resources,
4 needs, scarcities, costs, and problems within the region across all energy
5 sectors, including electric, thermal, and transportation; a statement of policy on
6 the conservation and efficient use of energy and the development and siting of
7 renewable energy resources; a statement of policy on patterns and densities of
8 land use likely to result in conservation of energy; and an identification of
9 potential areas for the development and siting of renewable energy resources
10 and areas that are unsuitable for siting those resources or particular categories
11 or sizes of those resources.

12 (4) A transportation element, ~~which may consist~~ consisting of a
13 statement of present and prospective transportation and circulation facilities,
14 and a map showing existing and proposed highways, including limited access
15 highways, and streets by type and character of improvement, and where
16 pertinent, anticipated points of congestion, parking facilities, transit routes,
17 terminals, bicycle paths and trails, scenic roads, airports, railroads and port
18 facilities, and other similar facilities or uses, and recommendations to meet
19 future needs for such facilities, with indications of priorities of need, costs, and
20 method of financing.

1 (5) A utility and facility element, consisting of a map and statement of
2 present and prospective local and regional community facilities and public
3 utilities, whether publicly or privately owned, showing existing and proposed
4 educational, recreational and other public sites, buildings and facilities,
5 including public schools, State office buildings, hospitals, libraries, power
6 generating plants and transmission lines, wireless telecommunications facilities
7 and ancillary improvements, water supply, sewage disposal, refuse disposal,
8 storm drainage, and other similar facilities and activities, and recommendations
9 to meet future needs for those facilities, with indications of priority of need.

10 (6) ~~A statement of policies~~ Policies on the:

11 (A) preservation of rare and irreplaceable natural areas, scenic and
12 historic features, and resources; and

13 (B) protection and improvement of the quality of waters of the State
14 to be used in the development and furtherance of the applicable basin plans
15 established by the Secretary of Natural Resources under 10 V.S.A. § 1253.

16 * * *

17 (12) A future land use element, based upon the elements in this section,
18 that sets forth the present and prospective location, amount, intensity, and
19 character of such land uses in relation to the provision of necessary community
20 facilities and services and that consists of a map delineating future land use
21 area boundaries for the land uses in subdivisions (A)–(J) of this subdivision

1 (12) as appropriate and any other special land use category the regional
2 planning commission deems necessary; descriptions of intended future land
3 uses; and policies intended to support the implementation of the future land use
4 element using the following land use categories:

5 (A) Downtown or Village Centers. These areas are the vibrant,
6 mixed-use centers bringing together community economic activity and civic
7 assets. Includes hamlets, villages, new town centers, and larger downtowns
8 seeking benefits under the State Designation Program. The Downtown or
9 Village Centers are the central business and civic centers within Planned
10 Growth Areas, Village Areas, or may stand alone.

11 (B) Planned Growth Areas. These areas include the densest existing
12 settlement and future growth areas with the highest concentrations of
13 population, housing, and employment in each region and town, as appropriate.
14 They include a mix of commercial, residential, and civic or cultural sites with
15 active streetscapes, supported by land development regulations, public water,
16 wastewater, or both, and multi-modal transportation systems. These areas
17 include historic or new town centers, downtowns, and village centers. These
18 areas should substantially meet the following criteria:

19 (i) The municipality has a duly adopted and approved plan and a
20 planning process that is confirmed in accordance with section 4350 of this title

1 and has adopted bylaws and regulations in accordance with sections 4414,
2 4418, and 4442 of this title.

3 (ii) The area is generally within walking distance from the
4 municipality’s or an adjacent municipality’s downtown, village center, new
5 town center or growth center.

6 (iii) The area excludes identified flood hazard and fluvial erosion
7 areas, except those areas containing preexisting development in areas suitable
8 for infill development as defined in section 29-201 of the Vermont Flood
9 Hazard Area and River Corridor Rule.

10 (iv) The municipal plan indicates that this area is intended for
11 higher density residential and mixed-use development.

12 (v) The area provides for housing that meets the needs of a
13 diversity of social and income groups in the community.

14 (vi) The area is served by planned or existing transportation
15 infrastructure that conforms with “complete streets” principles as described
16 under 19 V.S.A. § 309d and establishes pedestrian access directly to the
17 downtown, village center, or new town center.

18 (vii) Reflects a planned settlement pattern that, at full build-out, is
19 not characterized by:

20 (I) scattered development located outside compact urban and
21 village centers that is excessively land consumptive;

1 (II) development that limits transportation options, especially
2 for pedestrians;

3 (III) the fragmentation of farmland and forestland;

4 (VI) development that is not serviced by municipal
5 infrastructure or that requires the extension of municipal infrastructure across
6 undeveloped lands in a manner that would extend service to lands located
7 outside compact village and urban centers;

8 (V) linear development along well-traveled roads and highways
9 that lack depth, as measured from the highway.

10 (C) Village Areas. These areas include the traditional settlement area
11 or a proposed new settlement area, typically comprised of a cohesive mix of
12 residential, civic, religious, commercial, and mixed-use buildings, arranged
13 along a main street and intersecting streets that are within walking distance for
14 residents who live within and surrounding the core. Village Areas may or may
15 not have one of the following: water, sewer, or land development regulations.
16 They provide some opportunity for infill development or new development
17 areas where the village can grow and be flood resilient. These areas include
18 existing village center designations and similar areas statewide, but this area is
19 larger than the Village Center designation.

20 (D) Transition/Infill Area. These areas include areas of existing or
21 planned commercial, office, mixed-use development, or residential uses either

1 adjacent to a Planned Growth or Village Area or a new stand-alone Transition
2 Area and served by, or planned for, water or wastewater, or both. The intent of
3 this land use category is to transform these areas into higher-density, mixed-
4 use settlements, or residential neighborhoods through infill and redevelopment
5 or new development. New commercial strip auto-oriented development is not
6 allowed as to prevent negatively impacting the economic vitality of
7 commercial areas in the adjacent or nearby Planned Growth or Village Area.
8 This area could also include adjacent greenfields safer from flooding and
9 planned for future growth.

10 (E) Resource-Based Recreation Areas. These areas include large-
11 scale resource-based, recreational facilities, often concentrated around ski
12 resorts, lakeshores, or concentrated trail networks, that provide infrastructure,
13 jobs, and housing to support recreational activities.

14 (F) Enterprise Areas. These areas include locations of high economic
15 activity and employment that are not adjacent to Planned Growth Areas. These
16 include industrial parks, areas of natural resource extraction, or other
17 commercial uses that involve larger land areas. Enterprise areas typically have
18 ready access to water supply, sewage disposal, electricity, and freight
19 transportation networks.

20 (G) Hamlet. Small historic clusters of homes and perhaps a school,
21 church, store, or other public buildings not planned for significant growth; no

1 public water supply or wastewater systems; and mostly focused along one or
2 two roads. These may be depicted as points on the future land use map.

3 (H) Rural; General. These areas include areas that promote the
4 preservation of Vermont’s traditional working landscape and natural area
5 features. They allow for low-density residential and sometimes limited
6 commercial development that is compatible with productive lands and natural
7 areas. This could also include an area that a municipality is planning to make
8 more rural than it is currently.

9 (I) Rural; Agricultural and Forestry. These areas include blocks of
10 forest or farmland that sustain resource industries, provide critical wildlife
11 habitat and movement, outdoor recreation, flood storage, aquifer recharge, and
12 scenic beauty, and contribute to economic well-being and quality of life.
13 Development in these areas should be carefully managed to promote the
14 working landscape and rural economy, and address regional goals, while
15 protecting the agricultural and forest resource value.

16 (J) Rural; Conservation. These areas include areas intended to be
17 conserved often with regulations or State or nonprofit purchase of property
18 rights limiting development, fragmentation, and conversion in order to
19 maintain ecological health and scenic beauty. These lands have significant
20 ecological value, and require special protection due to their uniqueness,
21 fragility, or ecological importance. They may include protected lands, areas

1 with specific features like steep slopes or endangered species, wetlands, flood
2 hazard areas, and shoreline protection areas and are intended to remain largely
3 undeveloped for the benefit of future generations. Some portion of managed
4 forestland will likely fall into this category.

5 (b) The various elements and statements shall be correlated with the land
6 use element and with each other. The maps called for by this section may be
7 incorporated on one or more maps; and may be referred to in each separate
8 statement called for by this section.

9 * * * Municipal Bylaws * * *

10 Sec. 35. 24 V.S.A. § 4462 is amended to read:

11 § 4462. COMBINED REVIEW

12 (a) If more than one type of review is required for a project, the reviews, to
13 the extent feasible, shall be conducted concurrently. A process defining the
14 sequence of review and issuance of decisions shall be defined in the bylaw.

15 (b) Local and, if applicable, State development review and permitting shall
16 be coordinated for land development that constitutes a substantial regional
17 impact or for land development that generates 75 or more peak hour trip ends,
18 according to the latest version of the ITE Trip Generation Manual, which is
19 located in a geographic area exempt from Act 250 jurisdiction per 10 V.S.A.
20 § 6081.

1 (1) Applicants for land development subject to this section are required
2 to obtain and submit a State Project Review Sheet to the municipality for all
3 applications requiring approval by the appropriate municipal panel.

4 (2) The municipality shall provide notification to all interested persons
5 listed in section 4464 of this title for land development subject to this section.

6 (3) The appropriate municipal panel shall give due consideration to
7 comments from State agencies identified as interested persons in section 4465
8 of this title in their decision making.

9 (4) The appropriate municipal panel may issue a decision conditioning a
10 municipal decision upon the issuance of a State permit. If a transportation
11 impact fee is required by the Secretary of Transportation, as enabled in 10
12 V.S.A. § 6104, the appropriate municipal panel shall condition any quasi-
13 judicial decision upon payment of this fee. This authority shall not be deemed
14 a conflict with subsection 4449(e) of this title.

15 (5) Administration. The administrative officer is enabled with the
16 authority to enforce a decision of the appropriate municipal panel that
17 conditions municipal approval upon the issuance of a State permit. This
18 authority shall not be deemed a conflict with subsection 4449(e) of this title.

19 Sec. 36. 24 V.S.A. § 4464 is amended to read:

20 § 4464. HEARING AND NOTICE REQUIREMENTS; DECISIONS AND

21 CONDITIONS; ADMINISTRATIVE REVIEW; ROLE OF

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(C) Written notification to the regional planning commission of the subject municipality and the Secretary of Transportation for all applications requiring the approval of an appropriate municipal panel within areas exempt pursuant to 10 V.S.A. § 6081 that meet the definition of substantial regional impact or that generate 75 or more peak hour trip ends.

(D) For an application for a project located within 500 feet of a municipal boundary, the notice shall be sent to the clerk and the chair of the appropriate municipal panel of an adjacent municipality at least seven days prior to the public hearing.

* * *

(e) Role of regional planning commissions and the Agency of Transportation. The regional planning commissions and the Agency of Transportation, identified as interested persons in section 4465 of this title, may participate only in proceedings regarding applications within areas exempt pursuant to 10 V.S.A. § 6081 that meet the definition of substantial regional impact or that generate 75 or more peak hour trip ends. The regional planning commissions and the Agency of Transportation shall perform the following functions: review the application; inform the applicant about any State permitting and any other statutory requirements, including transportation impact fees as required by 10 V.S.A. § 6104, related to the proposed

1 development; and prepare recommendations on each of the review standards
2 within the commission’s or agency’s purview for consideration by the
3 applicant. Recommendations may be shared with the appropriate municipal
4 panel in order to coordinate municipal and State permit review. The regional
5 planning commission or the Agency of Transportation may meet with the
6 applicant or interested parties, or both; conduct site visits; and perform other
7 fact-finding that will enable the preparation of recommendations.

8 Sec. 37. 24 V.S.A. § 4465 is amended to read:

9 § 4465. APPEALS OF DECISIONS OF THE ADMINISTRATIVE OFFICER

10 (a) An interested person may appeal any decision or act taken by the
11 administrative officer in any municipality by filing a notice of appeal with the
12 secretary of the board of adjustment or development review board of that
13 municipality or with the clerk of that municipality if no such secretary has been
14 elected. This notice of appeal must be filed within 15 days following the date
15 of that decision or act, and a copy of the notice of appeal shall be filed with the
16 administrative officer.

17 (b) As used in this chapter, an “interested person” means any one of the
18 following:

19 * * *

1 (b)(1) Allocations for performance contract funding to regional planning
2 commissions shall be determined according to a formula to be adopted by rule
3 under 3 V.S.A. chapter 25 by the Department for the assistance of the regional
4 planning commissions. Disbursement of funding to regional planning
5 commissions shall be predicated upon meeting performance goals and targets
6 pursuant to the terms of the performance contract.

7 (2) Disbursement to municipalities shall be awarded annually on or
8 before December 31 through a competitive program administered by the
9 Department providing the opportunity for any eligible municipality or
10 municipalities to compete regardless of size, provided that to receive funds, a
11 municipality:

12 (A) shall be confirmed under section 4350 of this title; or

13 (B)(i) shall use the funds for the purpose of developing a municipal
14 plan to be submitted for approval by the regional planning commission, as
15 required for municipal confirmation under section 4350 of this title; and

16 (ii) shall have voted at an annual or special meeting to provide
17 local funds for municipal planning and resilience purposes and regional
18 planning purposes.

19 (3) Of the annual disbursement to municipalities, an amount not to
20 exceed 20 percent of the total may be disbursed to the Department to
21 administer a program providing direct technical consulting assistance under

1 retainer on a rolling basis to any eligible municipality to meet the requirements
2 for designated neighborhood development area under chapter 76A of this title,
3 provided that the municipality is eligible for funding under subdivision (2) of
4 this subsection and meets funding guidelines established by the Department to
5 ensure accessibility for lower capacity communities, municipal readiness, and
6 statewide coverage.

7 (4) Of the annual disbursement to municipalities, the Department may
8 allocate funding as bylaw modernization grants under section 4307 of this title.

9 (c) Funds allocated to municipalities shall be used for the purposes of:

10 (1) funding the regional planning commission in undertaking capacity
11 studies;

12 (2) carrying out the provisions of subchapters 5 through 10 of this
13 chapter;

14 (3) acquiring development rights, conservation easements, or title to
15 those lands, areas, and strictures identified in either regional or municipal plans
16 as requiring special consideration for provision of needed housing, aquifer
17 protection, flood protection, climate resilience, open space, farmland
18 preservation, or other conservation purposes; and

19 (4) reasonable and necessary costs of administering the Fund by the
20 Department of Housing and Community Development, not to exceed six
21 percent of the municipality allocation.

1 Sec. 41. MUNICIPAL PLANNING AND RESILIENCE GRANT

2 PROGRAM

3 (a) The Agency of Commerce and Community Development shall rename
4 the Municipal Planning Grant Program that the Agency administers under
5 24 V.S.A. § 4306(b)(2) as the Municipal Planning and Resilience Grant
6 Program.

7 (b) In addition to other funds appropriated to the Agency of Commerce and
8 Community Development for grants under 24 V.S.A. § 4306, \$1,500,000.00 is
9 appropriated from the General Fund to the Municipal and Regional Planning
10 and Resilience Fund for the grants from the Fund for the following purposes:

11 (1) assistance to municipalities to support resiliency planning and
12 identify and plan for resiliency projects to reduce damages from flooding and
13 other climate change-related hazards; and

14 (2) funding for regional planning commissions to increase staff in order
15 to support municipalities in conducting climate resiliency planning; project
16 development and implementation; and hazard mitigation locally, regionally,
17 and on a watershed scale.

18 Sec. 42. CLIMATE RESILIENCY PLANNING POSITIONS

19 (a) In addition to other funds appropriated to the Agency of Commerce and
20 Community Development in fiscal year 2025, \$125,000.00 is appropriated
21 from the General Fund to the Agency for the purpose of creating a new

1 permanent full-time position to staff the climate resiliency grants from the
2 Municipal Planning and Resilience Grant Program.

3 (b) In addition to other funds appropriated to the Agency of Natural
4 Resources in fiscal year 2025, \$125,000.00 is appropriated from the General
5 Fund to the Agency for the purposes of funding a new permanent full-time
6 position in the Water Investment Division of the Department of Environmental
7 Conservation for the purposes of assisting in the financing of climate resilience
8 projects from the Special Environmental Revolving Funds under 24 V.S.A.
9 chapter 120.

10 * * * Designated Areas Update * * *

11 Sec. 43 REPEAL

12 24 V.S.A. chapter 76A is repealed.

13 Sec. 44. 24 V.S.A. chapter 139 is added to read:

14 CHAPTER 139. STATE COMMUNITY REVITALIZATION PROGRAM

15 § 5801. DEFINITIONS

16 As used in this chapter:

17 (1) “Community Revitalization Program” means the program
18 established in this chapter, as adapted from the former Designated Areas
19 Program formerly in chapter 76A of this title. Statutory references outside this
20 chapter referring to the former State Designated Village Centers, Downtown,
21 and New Town Centers shall mean Designated Center, once established.

1 Statutory references outside this chapter referring to the former State
2 Designated Growth Centers and Neighborhood Development areas shall mean
3 Designated Neighborhood, once established.

4 (2) “Complete streets” or “Complete street principles” has the same
5 meaning as in 19 V.S.A. chapter 24.

6 (3) “Department” means the Department of Housing and Community
7 Development.

8 (4) “Downtown” or “Village” means the traditional and historic central
9 business district of a community that has served as the focus of socio-
10 economic interaction in the community, characterized by a cohesive core of
11 commercial and mixed use buildings, some of which may contain mixed use
12 spaces, often interspersed with civic, religious, residential, and industrial
13 buildings and public spaces, typically arranged along a main street and
14 intersecting side streets that are within walking distance for residents who live
15 within and surrounding the center and that are served by public infrastructure
16 such as sidewalks and public transit. Downtowns are typically larger in scale
17 than village centers and are characterized by a development pattern that is
18 consistent with smart growth principles and that are served by complete streets.
19 Industrial uses may be found within or immediately adjacent to these centers.

20 (5) “Downtown Center” or “Village Center” means areas on the regional
21 plan future land use maps which may be designated as a Center.

1 (6) “Infill” means the use of vacant land or property or the
2 redevelopment of existing buildings within a built-up area for further
3 construction or land development.

4 (7) “Local downtown organization” means either a nonprofit
5 corporation, or a board, council, or commission created by the legislative body
6 of the municipality, whose primary purpose is to administer and implement the
7 community reinvestment agreement and other matters regarding the
8 revitalization of the downtown.

9 (8) “Planned Growth Area” means an area on the regional plan future
10 land use maps, which may encompass a Downtown Center or Village Center
11 on the regional future land use map and may be designated as a Center or
12 Neighborhood or both.

13 (9) “Regional plan future land use map” means the map prepared
14 pursuant to 24 V.S.A. § 4348a(a)(2).

15 (10) “Smart growth principles” means growth that:

16 (A) Maintains the historic development pattern of compact village
17 and urban centers separated by rural countryside.

18 (B) Develops compact mixed-use centers at a scale appropriate for
19 the community and the regional planning commission.

20 (C) Enables choice in modes of transportation.

1 (D) Protects the State’s important environmental, natural, and historic
2 features, including natural areas, water quality, scenic resources, and historic
3 sites and districts.

4 (E) Serves to strengthen agricultural and forest industries and
5 minimizes conflicts of development with these industries.

6 (F) Balances growth with the availability of economic and efficient
7 public utilities and services.

8 (G) Supports a diversity of viable businesses in downtowns and
9 villages.

10 (H) Provides for housing that meets the needs of a diversity of social
11 and income groups in each community.

12 (I) Reflects a settlement pattern that, at full build-out, is not
13 characterized by:

14 (i) scattered development located outside compact urban and
15 village centers that is excessively land consumptive and inefficient;

16 (ii) development that limits transportation options, especially for
17 pedestrians, bicyclists, transit users, and people with disabilities;

18 (iii) the fragmentation of farmland and forestland;

19 (iv) development that makes inefficient use of land, energy, roads,
20 utilities, and other supporting infrastructure or that requires the extension of

1 infrastructure across undeveloped lands outside compact, villages, downtowns,
2 or urban centers; and

3 (v) development that contributes to a pattern of strip linear
4 development along well-traveled roads and highways that lacks depth, as
5 measured from the highway.

6 (11) “Sprawl repair” means the redevelopment of lands developed with
7 buildings, traffic and circulation, parking, or other land coverage in pattern that
8 is consistent with smart growth principles and is served by a complete street
9 connecting to a proximate Center and served by water and sewer infrastructure.

10 (12) “State Board” means the Vermont Community Revitalization
11 Board established in section 5802 of this title.

12 (13) “State Designated Downtown and Village Center” or “Center”
13 means a contiguous Downtown or Village area designated by Environmental
14 Review Board under this chapter, which may include an approved pre-existing
15 designated village center, designated downtown, or designated new town
16 center established prior to the approval of the regional plan future land use
17 maps. It shall encompass an area that extends access to benefits that sustain
18 and revitalize existing buildings and maintain the basis of the program’s
19 original focus on revitalizing historic downtowns and villages by promoting
20 development patterns and historic preservation practices vital to Vermont’s
21 economy, cultural landscape, equity of opportunity, and climate resilience.

1 (14) “State Designated Neighborhood” or “Neighborhood” means a
2 contiguous geographic area designated by the Environmental Review Board
3 under this chapter that is adjacent and contiguous to a Designated Center,
4 which may include an approved and pre-existing designated neighborhood
5 development area or growth center established prior to approval of the regional
6 plan future land use maps. It means an area that is compact, principally
7 walkable to a Designated Center, principally served by complete streets,
8 primarily including historic areas, and may include areas transitioning to
9 complete streets and smart growth through municipal capital planning,
10 programming, and budgeting in complete streets accordance with Section 4430
11 (Capital Budget and Program) of this title.

12 (15) “Tier 1 Planned Growth Area” means a geographic area designated
13 by the Environmental Review Board **under this chapter that overlays a**
14 **Designated Downtown and Village Center or Designated Neighborhood. It**
15 creates an area that can be applied to Centers and Neighborhoods in whole or
16 part, within a Regional Planned Growth Area on the regional plan future land
17 use map. The purpose of the Designated Planned Growth Area is to
18 principally extend State regulatory and non-regulatory benefits, including Act
19 250 exemption, delegation, jurisdictional ease, presumptions of compliance, or
20 fee reductions to recognize local conditions and capacity in areas planned for
21 smart-growth development and redevelopment.

1 (16) “Vermont Downtown Program” means the Vermont branch of the
2 State Coordinating Program of “Main Street America” that provides technical
3 assistance, training, and funding incentives to downtown organizations.

4 (17) “Village Area” means an area on the regional plan future land use
5 maps, which may encompass a Village Center on the regional future land use
6 map and which may be designated as a Neighborhood and may not be
7 designated as a State Planned Growth Area due to more limited water or sewer
8 infrastructure or the absence of municipal plans and regulations.

9 § 5802. VERMONT COMMUNITY REVITALIZATION BOARD

10 (a) A Vermont Community Revitalization Board also referred to as the
11 “State Board,” is created to administer the provisions of this chapter. The State
12 Board shall be composed of the following members or their designees:

13 (1) the Secretary of Commerce and Community Development;

14 (2) the Secretary of Transportation;

15 (3) the Secretary of Natural Resources;

16 (4) the Commissioner of Public Safety;

17 (5) the State Historic Preservation Officer;

18 (6) the Director of Racial Equity;

19 (7) a person, appointed by the Governor from a list of three names
20 submitted by the Vermont Natural Resources Council and the Preservation
21 Trust of Vermont;

1 (8) a person, appointed by the Governor from a list of three names
2 submitted by the Association of Chamber Executives;

3 (9) three public members representative of local government, one of
4 whom shall be designated by the Vermont League of Cities and Towns and
5 two of whom shall be appointed by the Governor;

6 (10) the Executive Director of the Vermont Bond Bank;

7 (11) the State Treasurer;

8 (12) a member of the Vermont Planners Association designated by the
9 Association;

10 (13) the Chair of the Environmental Review Board; and

11 (14) a representative of a Regional planning commission designated by
12 the Vermont Association of Planning and Development Agencies Region or
13 their designee.

14 (b) The State Board shall elect a chair and vice chair from among its
15 membership.

16 (c) The Department shall provide legal, staff, and administrative support to
17 the State Board; shall produce guidelines to direct municipalities seeking to
18 obtain designation under this chapter and for other purposes established by this
19 chapter; and shall pay per diem compensation for board members pursuant to
20 32 V.S.A. § 1010(b).

21 (d) The State Board shall meet at least quarterly.

1 (e) The State Board shall have authority to adopt rules of procedure to use
2 for appeal of its decisions and rules on handling conflicts of interest.

3 (f) In addition to any other duties confirmed by law, the State Board shall
4 have the following duties:

5 (1) to serve as the funding and benefits coordination body for the State
6 Community Revitalization Program;

7 (2) to review and issue decisions on proposed regional plan future
8 land use maps prepared by the Regional planning commission and
9 presented to the Environmental Review Board for Designated Center and
10 Designated Neighborhood recognition under this chapter;

11 (3) to recommend conditioned designation approvals and
12 modifications to the regional plan future land use maps presented for the
13 designated areas;

14 (4) to recommend suspension or removal of a designation approved
15 by the Environmental Review Board;

16 (5) to award tax credit under the 32 V.S.A. § 5930aa et seq.;

17 (6) to manage the Downtown Transportation and Related Capital
18 Improvement Fund Program established by section 5808 of this title;

19 (7) to have standing in regional plan approvals before the
20 Environmental Review Board; and

1 (8) to review and comment on Environmental Review Board guidelines,
2 rules, or procedures as they relate to the designations under this chapter.

3 § 5803. MAPPING BY REGIONAL PLANNING COMMISSIONS

4 (a) The regional plan future land use map developed per section 4348a of
5 this title shall delineate areas within the regional planning commission's
6 member municipalities that are eligible to be designated as Centers and
7 Neighborhoods in consultation with the municipalities. The areas eligible for
8 designation shall be identified on the regional plan future land use map as
9 Regional Downtown Centers, Village Centers, Planned Growth Area, and
10 Village Areas in a manner consistent with this chapter. This methodology
11 shall include all approved designated downtowns, villages, new town centers,
12 neighborhood development areas, and growth centers existing on July 1, 2024,
13 unless the subject member municipality requests otherwise.

14 (b) Exclusions. With the exception for preexisting, nonconforming
15 designations approved prior to the establishment of the program under this
16 chapter, the areas eligible for designation on the regional plan future land use
17 map for designation as a Center shall not include leap-frog development that is
18 disconnected from a Center and that lacks a pedestrian connection to the
19 Center via a complete street or the following categories defined in regional
20 plan future land use maps:

21 (1) transition areas;

1 (2) unplanned expansions not served by infrastructure;

2 (3) resource-based recreation areas;

3 (4) enterprise areas not part of a regional planned growth area; and

4 (5) rural areas: hamlets, general, farms, forest, conservation areas.

5 (c) A proposed Planned Growth Areas for State designation may be

6 mapped by a municipality in consultation with the regional planning

7 commission pursuant to section 5806 of this title.

8 (d) The Vermont Association of Planning and Development Agencies

9 (VAPDA) shall develop a standard methodology for the regional plan future

10 land use maps that shall include the areas eligible for designation under this

11 chapter which shall integrate consistent elements in the municipal and regional

12 plan.

13 (e) On or before December 31, 2024, the VAPDA shall develop standard

14 methodology and process for the mapping of areas eligible for designation

15 under this chapter in consultation with the Department and Environmental

16 Review Board that shall integrate elements in the regional plan and plan for a

17 municipality. The methodology and process shall recommend a streamlined

18 procedure for minor amendments by the State Board to the boundaries of the

19 approved designated areas upon request by member municipalities to map

20 eligible areas for designation under this chapter.

1 (f) Any regional planning commission may issue independent comments to
2 the panel or State Board on a proposed regional plan future land use map. The
3 VAPDA shall develop a pre-adoption process by which the Department and
4 Environmental Review Board can review the proposed regional plan future
5 land use maps and issue findings on conformance with this chapter and chapter
6 117 of this title.

7 (g) The regional plan future land use map shall be submitted to the
8 Environmental Review Board for review and approval with the advice and
9 consent of the Department and State Board on those Downtown and Village
10 Centers and Neighborhoods areas to be designated under this chapter.

11 **§ 5804. DESIGNATION OF DOWNTOWN AND VILLAGE CENTERS**

12 **(a) Designation established. A regional planning commission may apply**
13 **to the Environmental Review Board for designation of all Centers within**
14 **the regional planning commission by submitting the regional plan future**
15 **land use map adopted by the region. The Environmental Review Board**
16 **shall seek the advice and consent of the Department and State Board on**
17 **areas eligible for Center Designation as provided under this chapter.**

18 (1) A preapplication meeting shall be held with Environmental Review
19 Board and Department staff to review the program requirements at least 60
20 days prior to submission and review of the regional planning commission
21 future land use map and adjoining regional planning commission review. The

1 meeting shall be held in the regional planning commission unless the regional
2 planning commission agrees to another location.

3 (2) An application by a regional planning commission shall contain the
4 regional plan future land use map that delineates all centers eligible for
5 designation within the municipalities throughout the regional planning
6 commission. The regional plan future land use map shall identify Downtown
7 Centers and Village Centers as the downtown and village areas eligible for
8 designation as Centers. The application shall also include evidence that the
9 municipalities have been notified of the regional planning commission's intent
10 to apply, evidence that notice of its application has been published on the
11 regional planning commission's website, and information showing that the
12 eligible regional land use areas that the standards for designation established in
13 this chapter.

14 (b) Inclusions. The areas designated by the regional planning commissions
15 as a center shall allow for the designation of preexisting, approved village
16 centers, downtown centers, and new town centers in existence on or before
17 December 25, 2025.

18 (c) Approval. The Environmental Review Board shall hold a hearing to
19 approve a regional plan future land use map within 90 days following the
20 receipt of a complete application and forward the application to the
21 Department within 15 days. The State Board shall hold a hearing on a

1 complete application to review the regional plan future land use map within
2 60 days following the receipt of a complete application. The State Board shall
3 issue a written decision that the regional plan future land use map has met the
4 requirements of at least one Step one the Benefits ladder described in
5 subsection (e) of this section and forward its decision to the Environmental
6 Review Board. The Environmental Review Board shall issue specific written
7 findings if its decision does not accept the State Board’s determination for
8 community revitalization boundaries.

9 (d) Transition. All designated village centers, new town centers, or
10 downtowns existing as of July 1, 2024 will retain current benefits until July 1,
11 2029 or until approval of the regional future land use maps by the State Board,
12 whichever comes first. All existing designations in effect July 1, 2024 will
13 expire July 1, 2029 if the regional planning commission does not receive State
14 Board approval of the regional plan future land use maps under this chapter.
15 All benefits for preexisting designated village centers, downtowns, and new
16 town centers that are removed under this chapter shall remain with the prior
17 designations existing as of July 1, 2024 until July 1, 2032. During the period
18 of transition, no renewal shall be required for the preexisting designations.
19 New applications may be approved by the State Board prior to the approval of
20 a regional future land use map under former chapter 76A of this title by the
21 State Board until July 1, 2025.

1 (e) Benefits Steps. A Center may receive the benefits associated with the
2 steps in this chapter by meeting the established requirements. The Department
3 shall review applications from municipalities to advance from Step One to
4 Two and from Step Two to Three and issue written decisions. If a municipal
5 application is rejected by the Department, the municipality may appeal the
6 administrative decision to the State Board. Applications to the Department
7 will be reviewed and approved by Staff within 30 days following receipt of a
8 complete application. Appeals will be heard by the State Board within 30 days
9 following an appeal. The Department may issue guidelines to administer these
10 steps.

11 (1) Step One.

12 (A) Requirements. Step One is established to create an accessible
13 and low-barrier entry point for all villages throughout the State to access site-
14 based improvement supports and conduct initial planning. Any municipality
15 with an approved Designated Village Center as of July 1, 2024 shall
16 automatically reach Step One upon approval of the regional plan future land
17 use map by the Environmental Review Board. Regional plan future land use
18 maps supersede preexisting designated areas that may already meet the Step
19 One requirement.

20 (B) Benefits. A Center that reaches Step One is eligible for the
21 following benefits:

1 (i) funding and technical assistance for site-based projects,
2 including the Better Places Grant Program, access to the Downtown and
3 Village Center Tax Credit Program described in 32 V.S.A. § 5930aa et seq.,
4 and other programs identified in the Department’s guidelines; and

5 (ii) funding for developing or amending the municipal plan,
6 visioning, and assessments.

7 (2) Step Two.

8 (A) Requirements. Step Two is established to create a mid-level
9 entry point for emerging villages throughout the State to build planning and
10 implementation capacity for community-scale projects. A Center reaches Step
11 Two if it:

12 (i) meets the requirements of Step One or if it has an approved
13 village center or new town center as of July 1, 2024;

14 (ii) has a confirmed municipal planning process; and

15 (iii) has a municipal plan with goals for investment in the Center.

16 (B) Benefits. In addition to the benefits of Step One, a Center that
17 reaches Step Two is eligible for the following benefits:

18 (i) general grant priority for bylaws and special-purpose plans,
19 area improvement or reinvestment plans, including the Better Connections
20 Program and other applicable programs identified by Department guidance,
21 and for capital plans.

1 (ii) funding for infrastructure project scoping, design, engineering,
2 including participation in the Downtown Transportation and Related Capital
3 Improvement Fund Program established by section 5808 of this title.

4 (iii) the authority to create a special taxing district pursuant to
5 chapter 87 of this title for the purpose of financing both capital and operating
6 costs of a project within the boundaries of a Center;

7 (iv) priority consideration for State and Federal affordable housing
8 funding;

9 (v) authority for the municipal legislative body to lower speed
10 limits less than 25 mph within the Center under 23 V.S.A. § 1007(g).

11 (vi) State wastewater permit fees capped at \$50.00 for residential
12 development under 3 V.S.A. § 2822; and

13 (vii) exemption from the land gains tax under 32 V.S.A.
14 § 10002(p).

15 (3) Step Three.

16 (A) Requirements. Step Three is established to create the higher-
17 level entry point for downtowns throughout the State to create vibrant mixed-
18 use centers. A Center reaches Step Three and achieves status as a Downtown
19 if the Department finds that it meets the following requirements:

20 (i) Meets the requirements of Step Two, or if it has an existing
21 designated downtown in effect as of July 1, 2024.

- 1 (ii) Is listed or eligible for listing in the National Register of
2 Historic Places.
- 3 (iii) Has a downtown improvement plan.
- 4 (iv) Has a downtown investment agreement.
- 5 (v) Has a capital plan that implements the downtown improvement
6 plan.
- 7 (vi) Has a Local Downtown Organization with an organizational
8 structure necessary to sustain a comprehensive long-term downtown
9 revitalization effort, including a local downtown organization that will
10 collaborate with municipal departments, local businesses, and local nonprofit
11 organizations. The Local Downtown Organization shall work to:
- 12 (I) enhance the physical appearance and livability of the
13 downtown district by implementing local policies that promote the use and
14 rehabilitation of historic and existing buildings, by developing pedestrian-
15 oriented design requirements, by encouraging new development and infill that
16 satisfy such design requirements, and by supporting long-term planning that is
17 consistent with the goals set forth in section 4302 of this title;
- 18 (II) build consensus and cooperation among the many groups
19 and individuals who have a role in the planning, development, and
20 revitalization process;

- 1 (III) market the assets of the downtown district to customers,
2 potential investors, new businesses, local citizens, and visitors;
- 3 (IV) strengthen, diversify, and increase the economic activity
4 within the downtown district; and
- 5 (V) measure annually progress and achievements of the
6 revitalization efforts as required by Department guidelines.
- 7 (vii) Has available water and wastewater service and capacity.
8 (viii) Has permanent zoning and subdivision bylaws.
9 (ix) Has adopted historic preservation regulations for the district
10 with a demonstrated a commitment to protect and enhance the historic
11 character of the downtown through the adoption of bylaws that adequately
12 meet the historic preservation requirements in subdivisions 4414(1)(E) and (F)
13 of this title, unless recognized by the program as a preexisting designated new
14 town center.
- 15 (x) Has adopted design or form-based regulations that adequately
16 regulate the physical form and scale of development.
- 17 (B) Benefits. In addition to the benefits of Steps One and Two, a
18 municipality that reaches Step Three is eligible for the following benefits:
- 19 (i) Funding for the local downtown organization and technical
20 assistance from the Vermont Downtown Program for the Center.

1 (ii) Tax Increment Financing location pursuant to 32 V.S.A.

2 § 5404a.

3 (iii) A reallocation of receipts related to the tax imposed on sales
4 of construction materials as provided in 32 V.S.A. § 9819.

5 (iv) A rebate of the cost of a qualified sprinkler system in an
6 amount not to exceed \$2,000.00 for building owners or lessees. Rebates shall
7 be paid by the Department of Public Safety. To be qualified, a sprinkler
8 system must be a complete automatic fire sprinkler system installed in accord
9 with Department of Public Safety rules in an older or historic building that is
10 certified for a State tax credit under 32 V.S.A. § 5930cc(a) or (b) and is located
11 in a Center. A total of not more than \$40,000.00 of rebates shall be granted in
12 any calendar year by the Department of Public Safety. If in any year
13 applications for rebates exceed this amount, the Department of Public Safety
14 shall grant rebates for qualified systems according to the date the building was
15 certified for a State tax credit under 32 V.S.A. § 5930cc(a) or (b) with the
16 earlier date receiving priority.

17 (v) Signage options 10 V.S.A. § 494 (13) and (17).

18 (vi) Certain appeal limitations pursuant to chapter 117 of this title.

19 (vii) Highest priority for locating proposed State functions by the
20 Commissioner of Buildings and General Services or other State officials, in
21 consultation with the municipality, Department, State Board, the General

1 Assembly committees of jurisdiction for the Capital Budget, the host regional
2 planning commission. When a downtown location is not suitable, the
3 Commissioner shall issue written findings to the consulted parties
4 demonstrating how the suitability of the State function to a downtown location
5 is not feasible.

6 (viii) Until 2032, regulatory benefits under 10 V.S.A. chapter 151.

7 (f) Appeal. A decision of the Environmental Review Board on regional
8 plan future land use map approval for designations under this section may be
9 appealed to the Environmental Division of the Superior Court within 15 days
10 following the issuance of the written decision.

11 § 5805. DESIGNATED NEIGHBORHOOD

12 (a) Designation established.

13 (1) A regional planning commission may apply to the Environmental
14 Review Board for designation of residential areas on the regional plan future
15 land use maps within that regional planning commission as a Designated
16 Neighborhood. Areas eligible for designation include Planned Growth Area
17 and Village Areas identified on the regional plan future land use map. This
18 designation recognizes that continued reinvestment is needed to maintain the
19 vitality of downtowns and villages and their adjacent neighborhoods, and that
20 the benefits structure must ensure that any subsidy for sprawl repair or infill
21 development locations within a Neighborhoods is secondary to a primary

1 commitment to maintain the livability and maximize the climate resilience and
2 flood-safe infill potential of these areas.

3 (2) An application for a Designated Neighborhood shall supplement the
4 original application for the associated designation and follow the same
5 application process.

6 (3) An application by a regional planning commission shall contain the
7 regional plan future land use map that accurately delineates the Planned
8 Growth Area and Village Areas as the areas eligible for designation as
9 Neighborhoods. The application shall also include evidence that the
10 municipalities have been notified of the regional planning commission's intent
11 to apply, evidence that notice of its application has been published on the
12 commission's website, and information showing that the district meets the
13 standards for designation established in subsection (d) of this section.

14 (b) Exclusions. The areas eligible for designation as a Neighborhood shall
15 not include the excluded regional areas identified on the regional plan future
16 land use map and flood hazard and fluvial erosion areas, except those areas
17 containing preexisting development in areas suitable for infill development as
18 defined in section 29-201 of the Vermont Flood Hazard Area and River
19 Corridor Rule, as determined by the Agency of Natural Resources.

20 (c) Approval. The Environmental Review Board shall hold a hearing to
21 approve a regional plan future land use map within 90 days following the

1 receipt of a complete application and forward the application to the
2 Department within 15 days. The State Board shall hold a hearing on a
3 complete application to review the regional plan future land use map within
4 60 days following the receipt of a complete application. The State Board shall
5 issue a written decision that the regional future land use map has met the
6 requirements described in subsection (d) of this section and forward its
7 decisions to the Environmental Review Board. The Environmental Review
8 Board shall issue specific written findings if its decision does not accept the
9 State Board's determination for community revitalization boundaries.

10 (d) Transition. Any municipality with an existing designated growth center
11 or neighborhood development area will retain current benefits until July 1,
12 2029 or upon approval of the regional plan future land use maps, whichever
13 comes first. All existing neighborhood development area and growth center
14 designations in effect July 1, 2024 will expire July 1, 2029 if the regional
15 planning commission does not gain approval. All benefits that are removed for
16 neighborhood development areas and growth centers under this chapter shall
17 remain active with prior designations existing as of July 1, 2024 until July 1,
18 2032. During the period of transition, no renewal shall be required for the
19 existing designations. Prior to the approval of a regional plan future land use
20 map by the State Board, only neighborhood development area designations
21 may be approved by the State Board.

1 (e) Requirements. A Designated Neighborhood shall meet the following
2 requirements:

3 (1) has an existing growth centers and neighborhood development areas
4 in effect July 1, 2024 or is an area located within a Regional Planned Growth
5 Area or Regional Village Area on a regional plan future land use map;

6 (2) is anchored by a contiguous Center designated under this chapter,
7 unless recognized by the program as a preexisting designated neighborhood
8 development area or a growth center or otherwise separated by a river corridor
9 or flood hazard area;

10 (3) has a confirmed municipal planning process;

11 (4) has implemented the Complete Streets principals or has a capital
12 plan under section 4430 of this title to implement Complete Streets principals;
13 and

14 (5) has adopted permanent zoning and subdivision bylaws that
15 adequately allow housing.

16 (f) Benefits. A Designated Neighborhood is eligible for the following
17 benefits:

18 (1) general grant priority for bylaws and special-purpose plans, area
19 improvement or reinvestment plans, including the Better Connections Program
20 and other programs identified in Department guidance, and for capital plans;

1 (2) funding for infrastructure project scoping, design, engineering,
2 including participation in the Downtown Transportation and Related Capital
3 Improvement Fund Program established by section 5808 of this title;

4 (3) access to the Downtown and Village Center Tax Credit Program
5 described in 32 V.S.A. § 5930aa et seq.;

6 (4) priority consideration for State and federal affordable housing
7 funding;

8 (5) priority for funding for neighborhood infrastructure;

9 (6) authority for the municipal legislative body to lower speed limits to
10 20 mph within the Neighborhood;

11 (7) application fee limit for State wastewater applications stated in
12 3 V.S.A. § 2822(j)(4)(D); and

13 (8) exclusion from the land gains tax provided by 32 V.S.A. § 10002(p)
14 limitations pursuant to chapter 117 of this title.

15 (g) Appeal. A decision of the Board on designation under this section may
16 be appealed to the Environmental Review Board within 15 days following the
17 issuance of the decision.

18 **§ 5806. DESIGNATION OF A PLANNED GROWTH AREA**

19 (a) Designation established.

20 (1) A municipality, by its legislative body, may apply to the
21 Environmental Review Board for designation of an area within that

1 municipality as a State Designated Tier 1 Planned Growth Area as an overlay
2 to a Designated Center or Neighborhood that can be applied, in whole or part
3 to a Center or Neighborhood. The purpose of a Designated planned growth
4 area is to principally extend State regulatory benefits, including Act 250
5 exemption, delegation, jurisdictional ease, presumptions of compliance, or fee
6 waivers from the requirements of 10 V.S.A. chapter 151 through the
7 recognition of local conditions and capacity in areas planned for smart-growth
8 development and redevelopment to recognize the municipal implementation of
9 best practices supported by the Center and Neighborhood benefits that support
10 the designation of planned growth areas capable of supporting major
11 development and redevelopment.

12 (2) The municipal plan shall include the intention to apply for
13 designation as a Planned Growth Area under this section, and the plan shall
14 explain how the designation would further the municipality's goals and the
15 goals of section 4302 of this title.

16 (3) A preapplication meeting shall be held with Environmental Review
17 Board staff to review the program requirements and to preliminarily identify
18 possible designation boundaries. The meeting shall be held in the municipality
19 unless another location is agreed to by the municipality.

20 (4) An application by a municipality shall contain a map that accurately
21 delineates the proposed Designated Planned Growth Area and is consistent

1 with the eligible areas on the regional planning map for the municipality. The
2 application shall also include evidence that the regional planning commission
3 has been notified of the municipality’s intent to apply, evidence that the
4 regional planning commission, through action of its board, supports the
5 boundaries of the Area, evidence that the municipality has published notice of
6 its application in a local newspaper of general circulation within the
7 municipality, and information showing that the district meets the standards for
8 designation established in subsection (b) of this section.

9 (b) Approval. The Environmental Review Board shall hold a hearing on a
10 complete application to review the regional plan future land use map within
11 60 days following the receipt of a complete application. The Environmental
12 Review Board shall designate a Planned Growth Area if the Environmental
13 Review Board finds in its written decision that the municipality has met the
14 requirements of subsection (c) of this section.

15 (c) Requirements. A municipality shall receive designation as a
16 Designated Planned Growth Area and its associated types of benefits if it
17 meets the following requirements:

18 (1) land development regulations, including addressing 10 V.S.A.
19 § 6086(a)(9)(L), smart growth principles and elements in the existing
20 Neighborhood Development Area Designation;

1 (2) advanced development review administration as allowed under the
2 Environmental Review Board rules;

3 (3) an enhanced energy plan and housing mitigation plan to advance the
4 State’s energy plan and climate action plan goals.

5 (4) advanced capital planning that supports the smart growth principles,
6 Complete Streets, and climate action;

7 (5) maps of water, sewer, and stormwater infrastructure and an
8 ordinance on connections to public systems; and

9 (6) area improvement plan and capital investments for settlement
10 expansion, infill development, or sprawl repair.

11 (d) Benefits. A municipality may receive the following benefits for
12 designation of a Planned Growth Area:

13 (1) exemption from the requirements of 10 V.S.A. chapter 151; and

14 (2) Tax Increment Financing location.

15 (e) Appeal. A decision on of the Environmental Review Board on
16 designation under this section may be appealed to the Environmental Division
17 of the Superior Court within 15 days following the issuance of the decision.

18 § 5807. TRANSITION

19 (a) On or before July 1, 2029, the regional planning commissions shall
20 update the regional plan future land use maps to delineate Downtown Centers.

1 Village Centers, Planned Growth Areas, which may encompass a Downtown
2 Center and Village Center, and Village Areas.

3 (b) Until July 1, 2029, any municipality with an existing designated
4 downtown, village center, or new town center may be granted a Center
5 designation by the State Downtown and Village Board through approval of the
6 regional plan future land use map.

7 (c) Until July 1, 2029, any municipality with an existing designated
8 neighborhood development area or growth center may be granted a Designated
9 Neighborhood by the State Downtown and Village Board, through approval of
10 a regional plan future land use map

11 § 5808. DESIGNATION DATA CENTER

12 The Department shall maintain an online Municipal Planning Data Center
13 publishing approved regional plan future land use maps and indicating the
14 status of each approved designation and within the regional planning
15 commission, and associated steps for Centers.

16 § 5809. MUNICIPAL TECHNICAL ASSISTANCE

17 (a) The Commissioner of Housing and Community Development shall
18 develop a procedure for providing interagency technical assistance to
19 municipalities participating in the programs under this chapter.

20 (b) The procedure shall include interagency assistance and address the
21 following:

- 1 (1) general project advising and scoping services;
- 2 (2) physical improvement design services;
- 3 (3) regulatory and policy-making project services;
- 4 (4) programmatic and project management services; and
- 5 (5) legislative recommendations to the General Assembly to better align
6 designation benefits with strategic priorities on or before December 15, 2026.

7 (c) Procedures and recommendations shall address statutory State agency
8 plans with a focus on the following strategic priorities for municipal and
9 community development assistance:

- 10 (1) housing development growth and equity;
- 11 (2) climate resilience;
- 12 (3) coordinated infrastructure investment;
- 13 (4) local administrative capacity;
- 14 (5) equity, diversity, and access;
- 15 (6) livability and social service; and
- 16 (7) historic preservation.

17 § 5810. DOWNTOWN TRANSPORTATION AND RELATED CAPITAL

18 IMPROVEMENT FUND

19 (a) There is created a Downtown Transportation and Related Capital
20 Improvement Fund, which shall be a special fund created under 32 V.S.A.
21 chapter 7, subchapter 5, to be administered by the State Board in accordance

1 with this chapter to aid municipalities with designated Centers in financing
2 capital transportation and related improvement projects to support economic
3 development. This shall be the same Fund that was created under the prior
4 section 2796 of this title.

5 (b) The Fund shall be composed of the following:

6 (1) State or federal funds as may be appropriated by the General
7 Assembly;

8 (2) any gifts, grants, or other contributions to the Fund; and

9 (3) proceeds from the issuance of general obligation bonds.

10 (c) Any municipality with a designated Center may apply to the Board for
11 financial assistance from the Fund for capital transportation and related
12 improvement projects within or serving the district. The Board may award to
13 any municipality grants in amounts not to exceed \$250,000.00 annually, loans,
14 or loan guarantees for financing capital transportation projects, including
15 construction or alteration of roads and highways, parking facilities, and rail or
16 bus facilities or equipment, or for the underground relocation of electric utility,
17 cable, and telecommunications lines, but shall not include assistance for
18 operating costs. Grants awarded by the Board shall not exceed 80 percent of
19 the overall cost of the project. The approval of the Board may be conditioned
20 upon the repayment to the Fund of some or all of the amount of a loan or other
21 financial benefits and such repayment may be from local taxes, fees, or other

1 local revenues sources. The Board shall consider geographical distribution in
2 awarding the resources of the Fund.

3 (d) The Fund shall be available to the Department of Housing and
4 Community Development for the reasonable and necessary costs of
5 administering the Fund. The amount projected to be spent on administration
6 shall be included in the Department’s fiscal year budget presentations to the
7 General Assembly.

8 § 5811. PROPERTY ASSESSMENT FUND; BROWNFIELDS AND
9 REDEVELOPMENT; COMPETITIVE PROGRAM

10 (a) There is created a Property Assessment Fund pursuant to 32 V.S.A.
11 chapter 7, subchapter 5 to be administered by the Department of Housing and
12 Community Development for the purpose of providing financing, on a
13 competitive basis, to municipalities that demonstrate a financial need in order
14 to determine and evaluate a full assessment of the extent and the cost of
15 remediation of property, or in the case of an existing building, an assessment
16 that supports a clear plan, including the associated costs of renovation to bring
17 the building into compliance with State and local building codes. This shall be
18 the same Fund that was created under the prior section 2797 of this title.

19 (b) The Fund shall be composed of the following:

20 (1) State or federal funds that may be appropriated by the General
21 Assembly;

1 (2) any gifts, grants, or other contributions to the funds; and

2 (3) proceeds from the issuance of general obligation bonds.

3 (c) A municipality deemed financially eligible may apply to the Fund for
4 the assessment of property and existing buildings proposed for redevelopment,
5 provided the Department finds that the property or building:

6 (1) is not likely to be renovated or improved without the preliminary
7 assessment; and

8 (2) when renovated or redeveloped, will integrate and be compatible
9 with any applicable and approved regional development, capital, and municipal
10 plans; is expected to create new property tax if developed by a taxable entity;
11 and is expected to reduce pressure for development on open or undeveloped
12 land in the local community or in the regional planning commission.

13 (d) The Department shall distribute funds under this section in a manner
14 that provides funding for assessment projects of various sizes in as many
15 geographical areas of the State as possible and may require matching funds
16 from the municipality in which an assessment project is conducted.

17 § 5812. BETTER PLACES PROGRAM; CROWD GRANTING

18 (a)(1) There is created the Better Places Program within the Department of
19 Housing and Community Development, and the Better Places Fund, which the
20 Department shall manage pursuant to 32 V.S.A. chapter 7, subchapter 5. This
21 shall be the same Fund created under the prior section 2799 of this title.

1 (2) The purpose of the Program is to utilize crowdfunding to spark
2 community revitalization through collaborative grantmaking for projects that
3 create, activate, or revitalize public spaces.

4 (3) The Department may administer the Program in coordination with
5 and support from other State agencies and nonprofit and philanthropic partners.

6 (b) The Fund is composed of the following:

7 (1) State or federal funds appropriated by the General Assembly;

8 (2) gifts, grants, or other contributions to the Fund; and

9 (3) any interest earned by the Fund.

10 (c) As used in this section, “public space” means an area or place that is
11 open and accessible to all people with no charge for admission and includes
12 village greens, squares, parks, community centers, town halls, libraries, and
13 other publicly accessible buildings and connecting spaces such as sidewalks,
14 streets, alleys, and trails.

15 (d)(1) The Department of Housing and Community Development shall
16 establish an application process, eligibility criteria, and criteria for prioritizing
17 assistance for awarding grants through the Program.

18 (2) The Department may award a grant to a municipality, a nonprofit
19 organization, or a community group with a fiscal sponsor for a project that is
20 located in or serves an area designated under this chapter that will create a new
21 public space or revitalize or activate an existing public space.

1 (3) The Department may award a grant to not more than three projects
2 per calendar year within a municipality.

3 (4) The minimum amount of a grant award is \$5,000.00, and the
4 maximum amount of a grant award is \$40,000.00.

5 (5) The Department shall develop matching grant eligibility
6 requirements to ensure a broad base of community and financial support for
7 the project, subject to the following:

8 (A) A project shall include in-kind support and matching funds raised
9 through a crowdfunding approach that includes multiple donors.

10 (B) An applicant may not donate to its own crowdfunding campaign.

11 (C) A donor may not contribute more than \$10,000.00 or 35 percent
12 of the campaign goal, whichever is less.

13 (D) An applicant shall provide matching funds raised through
14 crowdfunding of not less than 33 percent of the grant award. The Department
15 may require a higher percent of matching funds for certain project areas to
16 ensure equitable distribution of resources across Vermont.

17 (e) The Department of Housing and Community Development, with the
18 assistance of a fiscal agent, shall distribute funds under this section in a manner
19 that provides funding for projects of various sizes in as many geographical
20 areas of the State as possible.

1 life safety, and electrical, plumbing, and accessibility codes as determined by
2 the Department of Public Safety;

3 (B) to abate lead paint conditions or other substances hazardous to
4 human health or safety in a qualified building; or

5 (C) to redevelop a contaminated property in a designated ~~downtown,~~
6 ~~village center, or neighborhood development area~~ Center or Neighborhood
7 under a plan approved by the Secretary of Natural Resources pursuant to
8 10 V.S.A. § 6615a.

9 * * *

10 (5) “Qualified façade improvement project” means the rehabilitation of
11 the façade of a qualified building that contributes to the integrity of the
12 ~~designated downtown, designated village center, or neighborhood development~~
13 ~~area~~ Center or Neighborhood. Façade improvements to qualified buildings
14 listed, or eligible for listing, in the State or National Register of Historic Places
15 must be consistent with the Secretary of the Interior Standards, as determined
16 by the Vermont Division for Historic Preservation.

17 (6) “Qualified Flood Mitigation Project” means any combination of
18 structural and nonstructural changes to a building located within ~~the flood~~
19 ~~hazard area as mapped by the Federal Emergency Management Agency a~~
20 designated downtown, designated village center, or neighborhood development
21 area that reduces or eliminates flood damage to the building or its contents.

1 This may include, but is not limited to, relocation of HVAC, electrical,
2 plumbing, and other building systems, and equipment above the flood level;
3 repairs or reinforcement of foundation walls, including flood gates; or
4 elevation of an entire eligible building above the flood level. Further eligible
5 projects may be defined via program guidance. The project shall comply with
6 the municipality’s adopted flood hazard bylaw, if applicable, and a certificate
7 of completion shall be submitted by a registered engineer, architect, qualified
8 contractor, or qualified local official to the State Board program staff.
9 Improvements to qualified buildings listed, or eligible for listing, in the State
10 or National Register of Historic Places shall be consistent with Secretary of the
11 Interior’s Standards for Rehabilitation, as determined by the Vermont Division
12 for Historic Preservation.

13 * * *

14 (9) “State Board” means the Vermont ~~Downtown Development~~
15 Community Revitalization Board established pursuant to 24 V.S.A. chapter
16 76A 139.

17 Sec. 46. 32 V.S.A. § 5930bb is amended to read:

18 § 5930bb. ELIGIBILITY AND ADMINISTRATION

19 (a) Qualified applicants may apply to the State Board to obtain the tax
20 credits provided by this subchapter for a qualified project at any time before
21 the completion of the qualified project.

1 (b) To qualify for any of the tax credits under this subchapter, expenditures
2 for the qualified project must exceed \$5,000.00.

3 (c) Application shall be made in accordance with the guidelines set by the
4 State Board.

5 ~~(d) Notwithstanding any other provision of this subchapter, qualified~~
6 ~~applicants may apply to the State Board at any time prior to June 30, 2013, to~~
7 ~~obtain a tax credit not otherwise available under subsections 5930ee(a)-(c) of~~
8 ~~this title of 10 percent of qualified expenditures resulting from damage caused~~
9 ~~by a federally declared disaster in Vermont in 2011. The credit shall only be~~
10 ~~claimed against the taxpayer's State individual income tax under section 5822~~
11 ~~of this title. To the extent that any allocated tax credit exceeds the taxpayer's~~
12 ~~tax liability for the first tax year in which the qualified project is completed,~~
13 ~~the taxpayer shall receive a refund equal to the unused portion of the tax credit.~~
14 ~~If within two years after the date of the credit allocation no claim for a tax~~
15 ~~credit or refund has been filed, the tax credit allocation shall be rescinded and~~
16 ~~recaptured pursuant to subdivision 5930ee(6) of this title. The total amount of~~
17 ~~tax credits available under this subsection shall not be more than \$500,000.00~~
18 ~~and shall not be subject to the limitations contained in subdivision 5930ee(2)~~
19 ~~of this subchapter.~~

20 (e) Beginning on July 1, 2025, under this subchapter no new tax credit may
21 be allocated by the State Board to a qualified building located in a

1 ~~neighborhood development area~~ Designated Neighborhood unless specific
2 funds have been appropriated for that purpose.

3 Sec. 47. 32 V.S.A. § 5930cc is amended to read:

4 § 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX

5 CREDITS

6 * * *

7 (c) Code improvement tax credit. The qualified applicant of a qualified
8 code improvement project shall be entitled, upon the approval of the State
9 Board, to claim against the taxpayer's State individual income tax, State
10 corporate income tax, or bank franchise or insurance premiums tax liability a
11 credit of 50 percent of qualified expenditures up to a maximum tax credit of
12 \$12,000.00 for installation or improvement of a platform lift, a maximum
13 credit of \$60,000.00 for the installation or improvement of a limited use or
14 limited application elevator, a maximum tax credit of \$75,000.00 for
15 installation or improvement of an elevator, a maximum tax credit of
16 \$50,000.00 for installation or improvement of a sprinkler system, and a
17 maximum tax credit of ~~\$50,000.00~~ \$100,000.00 for the combined costs of all
18 other qualified code improvements.

19 (d) Flood Mitigation Tax Credit. The qualified applicant of a qualified
20 flood mitigation project shall be entitled, upon the approval of the State Board,
21 to claim against the taxpayer's State individual income tax, State corporate

1 income tax, or bank franchise or insurance premiums tax liability a credit of
2 50 percent of qualified expenditures up to a maximum tax credit of ~~\$75,000.00~~
3 \$100,000.00.

4 Sec. 48. 32 V.S.A. § 5930ee is amended to read:

5 § 5930ee. LIMITATIONS

6 Beginning in fiscal year 2010 and thereafter, the State Board may award tax
7 credits to all qualified applicants under this subchapter, provided that:

8 (1) the total amount of tax credits awarded annually, together with sales
9 tax reallocated under section 9819 of this title, does not exceed ~~\$3,000,000.00~~
10 \$5,000,000.00;

11 * * *

12 Sec. 49. REVISION AUTHORITY

13 In preparing the Vermont Statutes Annotated for publication in 2024, the
14 Office of Legislative Counsel shall replace all references to the “24 V.S.A.
15 chapter 76A” with the “24 V.S.A. chapter 139.”

16 * * * Effective Dates * * *

17 Sec. 50. EFFECTIVE DATES

18 This act shall take effect on passage, except that Secs. 13, (10 V.S.A.
19 chapter 220), 14 (4 V.S.A. § 34), and 19 (10 V.S.A. § 6001) shall take effect
20 on July 1, 2026.

21

1

2 (Committee vote: _____)

3

4

Representative _____

5

FOR THE COMMITTEE