

1 H.687

2 Introduced by Representatives Sheldon of Middlebury and Bongartz of
3 Manchester

4 Referred to Committee on

5 Date:

6 Subject: Conservation and development; land use; Act 250

7 Statement of purpose of bill as introduced: This bill proposes to make multiple
8 changes to the State land use and development law, known as Act 250. It
9 would also make changes to the regional plans and municipal plans.

10 An act relating to community resilience and biodiversity protection through
11 land use

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 * * * Act 250 * * *

14 Sec. 1. PURPOSE

15 The purpose of this act is to further assist the State in achieving the
16 conservation vision and goals for the State established in 10 V.S.A. § 2802. It
17 provides a regulatory framework that supports the vision for Vermont of
18 human and natural community resilience and biodiversity protection in the face
19 of climate change, as described in 2023 Acts and Resolves No. 59. It would
20 strengthen the administration of the Act 250 program by changing the

1 structure, function, and name of the Natural Resources Board. It requires that
2 appeals of Act 250 permit decisions be heard by a five-member board called
3 the Environmental Review Board. The Environmental Division of the
4 Superior Court would continue to hear the other types of cases within its
5 jurisdiction. The Environmental Review Board would retain the current duties
6 of the Natural Resources Board in addition to hearing appeals, reviewing
7 applications for the planned growth area designation, review the future land
8 use maps of regional plans, and review the maps that establish the rural and
9 working lands areas. The Board would provide oversight, management, and
10 training to the Act 250 program staff and District Commissions and develop
11 Act 250 program policy through permit decisions and rulemaking. This
12 change would allow the Act 250 program to be a more citizen-friendly process.
13 The structure established under this act would be used to guide State financial
14 investment in infrastructure.

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

16 § 6000. PURPOSE; CONSTRUCTION

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

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

2 § 6021. BOARD; VACANCY; REMOVAL

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

5 (1) The Board shall consist of five members appointed by the Governor,
6 after review and approval by the Environmental Review Board Nominating
7 Committee in accordance with subdivision (2) of this subsection and
8 confirmed with the advice and consent of the Senate, so that one appointment
9 expires in each year. The Chair shall be a full-time position, and the other four
10 members shall be half-time positions. In making these appointments, the
11 Governor and the Senate shall give consideration to candidates who have
12 experience, expertise, or skills relating to the environment or land use one or
13 more of the following areas: environmental science, natural resources law and
14 policy, land use planning, community planning, or environmental justice.

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

20 (B) Following initial appointments, the members, ~~except for the~~
21 ~~Chair,~~ shall be appointed for terms of ~~four~~ five years. All terms shall begin on

1 July 1 and expire on June 30. A member may continue serving until a
2 successor is appointed. The initial appointments shall be for staggered terms
3 of one year, two years, three years, four years, and five years.

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

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

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

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

1 (b) ~~Any vacancy occurring in the membership of the Board shall be filled~~
2 ~~by the Governor for the unexpired portion of the term~~ Terms; vacancy;
3 succession. The term of each appointment subsequent to the initial
4 appointments described in subsection (a) of this section shall be five years.
5 Any appointment to fill a vacancy shall be for the unexpired portion of the
6 term vacated. A member may seek reappointment by informing the Governor.
7 If the Governor decides not to reappoint the member, the Nominating
8 Committee shall advertise the vacancy.

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

15 (d) Disqualified members. The Chair of the Board, upon request of the
16 Chair of a District Commission, may appoint and assign former Commission
17 members to sit on specific Commission cases when some or all of the regular
18 members and alternates of the District Commission are disqualified or
19 otherwise unable to serve.

20 (e) Retirement from office. When a Board member who hears all or a
21 substantial part of a case retires from office before the case is completed, the

1 member may remain a member of the Board, at the member's discretion, for
2 the purpose of concluding and deciding that case and signing the findings and
3 judgments involved. A retiring chair shall also remain a member for the
4 purpose of certifying questions of law if a party appeals to the Supreme Court.
5 For the service, the member shall receive a reasonable compensation to be
6 fixed by the remaining members of the Board and necessary expenses while on
7 official business.

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

9 § 6032. ENVIRONMENTAL REVIEW BOARD NOMINATING

10 COMMITTEE

11 (a) Creation. The Environmental Review Board Nominating Committee is
12 created for the purpose of assessing the qualifications of applicants for
13 appointment to the Environmental Review Board in accordance with section
14 6021 of this title.

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

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

20 (2) The Speaker of the House of Representatives shall appoint two
21 members from the House of Representatives.

1 (3) The Senate Committee on Committees shall appoint two members
2 from the Senate.

3 (c) Terms. The members of the Committee shall serve for terms of two
4 years. Members shall serve until their successors are appointed. Members
5 shall serve not more than three consecutive terms. A legislative member who
6 is appointed as a member of the Committee shall retain the position for the
7 term appointed to the Committee even if the member is subsequently not
8 reelected to the General Assembly during the member's term on the
9 Committee.

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

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

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

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

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

1 (1) operating procedures of the Committee;

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

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

7 (4) at the time the Committee sends the names of the candidates to the
8 Governor, the total number of applicants for the vacancies and the total number
9 of candidates sent to the Governor.

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

14 (j) Duties.

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

20 (2) An applicant for the position of member of the Environmental
21 Review Board shall not be required to be an attorney. If the candidate is

1 admitted to practice law in Vermont or practices a profession requiring
2 licensure, certification, or other professional regulation by the State, the
3 Committee shall submit the candidate's name to the Court Administrator or the
4 applicable State professional regulatory entity, and that entity shall disclose to
5 the Committee any professional disciplinary action taken or pending
6 concerning the candidate.

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

11 (4) The Committee shall ensure a candidate possesses the following
12 attributes:

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

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

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

18 (D) Availability. A candidate shall have adequate time to dedicate to
19 the position.

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

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

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

8 (c) The ~~Natural Resources~~ Board may designate or establish ~~such~~ regional
9 offices as it deems necessary to implement the provisions of this chapter and
10 the rules adopted ~~hereunder~~. The ~~Natural Resources~~ Board may designate or
11 require a regional planning commission to receive applications, provide
12 administrative assistance, perform investigations, and make recommendations.

13 (d) At the request of a District Commission, if the Board Chair determines
14 that the workload in the requesting district is likely to result in unreasonable
15 delays or that the requesting District Commission is disqualified to hear a case,
16 the Chair may authorize the District Commission of another district to sit in the
17 requesting district to consider one or more applications.

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

20 (f) The Board shall publish its decisions online. The Board may publish
21 online or contract to publish annotations and indices of its decisions, the

1 decisions of the Environmental Division of the Superior Court and the
2 Supreme Court, and the text of those decisions. The published product shall be
3 available at a reasonable rate to the general public and at a reduced rate to
4 libraries and governmental bodies within the State.

5 (g) The ~~Natural Resources~~ Board shall manage the process by which land
6 use permits are issued under section 6086 of this title, may initiate enforcement
7 on related matters under the provisions of chapters 201 and 211 of this title,
8 and may ~~petition the Environmental Division~~ initiate and hear petitions for
9 revocation of land use permits issued under this chapter. Grounds for
10 revocation are:

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

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

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

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

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

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

2 § 6022. PERSONNEL

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

8 (b) Executive Director. The Board shall appoint an Executive Director.
9 The Director shall be a full-time State employee, shall be exempt from the
10 State classified system, and shall serve at the pleasure of the Board. The
11 Director shall be responsible for:

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

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

16 (3) employing such staff as may be required to carry out the functions of
17 the Board; and

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

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

2 § 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF
3 REVIEW

4 (a) ~~On or before the date of~~ Upon the filing of an application with the
5 District Commission, the ~~applicant~~ District Commission shall send, by
6 electronic means, notice ~~and a copy~~ of the ~~initial~~ application to the owner of
7 the land if the applicant is not the owner; the municipality in which the land is
8 located; the municipal and regional planning commissions for the municipality
9 in which the land is located; the Vermont Agency of Natural Resources; and
10 any adjacent Vermont municipality and municipal and regional planning
11 commission if the land is located on a municipal or regional boundary. The
12 ~~applicant shall furnish to the~~ District Commission ~~the names of those furnished~~
13 ~~notice by affidavit, and shall post~~ send by electronic means a copy of the notice
14 ~~in~~ to the town clerk's office of the town or towns in which the project lies. The
15 town clerk shall post the notice in the town office. The applicant shall also
16 provide a list of adjoining landowners to the District Commission. Upon
17 request and for good cause, the District Commission may authorize the
18 applicant to provide a partial list of adjoining landowners in accordance with
19 Board rules.

20 * * *

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

6 * * *

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

8 (f) Prior to any appeal of a permit issued by a District Commission, any
9 aggrieved party may file a request for a stay of construction with the District
10 Commission together with a declaration of intent to appeal the permit. The
11 stay request shall be automatically granted for seven days upon receipt and
12 notice to all parties and pending a ruling on the merits of the stay request
13 pursuant to Board rules. The automatic stay shall not extend beyond the 30-
14 day appeal period unless a valid appeal has been filed with the ~~Environmental~~
15 ~~Division~~ Board. The automatic stay may be granted only once under this
16 subsection during the 30-day appeal period. Following appeal of the District
17 Commission decision, any stay request must be filed with the ~~Environmental~~
18 ~~Division pursuant to the provisions of chapter 220 of this title~~ Board. A
19 District Commission shall not stay construction authorized by a permit
20 processed under the Board's minor application procedures.

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

2 § 6089. APPEALS

3 ~~Appeals of any act or decision of a District Commission under this chapter~~
4 ~~or a district coordinator under subsection 6007(c) of this title shall be made to~~
5 ~~the Environmental Division in accordance with chapter 220 of this title. For~~
6 ~~the purpose of this section, a decision of the Chair of a District Commission~~
7 ~~under section 6001e of this title on whether action has been taken to~~
8 ~~circumvent the requirements of this chapter shall be considered an act or~~
9 ~~decision of the District Commission.~~

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

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

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

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

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

19 (6) Prehearing discovery.

20 (A) A party may obtain discovery of expert witnesses who may
21 provide testimony relevant to the appeal. Expert witness prefiled testimony

1 shall be in accordance with the Vermont Rules of Evidence. The use of
2 discovery for experts shall comply with the requirements in the Vermont Rules
3 of Civil Procedure 26–37.

4 (B) Interrogatories served on nonexpert witnesses shall be limited to
5 discovery of the identity of witnesses and a summary of each witness’
6 testimony, except by order of the Board for cause shown. Interrogatories
7 served on expert witnesses shall be in accordance with the Vermont Rules of
8 Civil Procedure.

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

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

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

15 (b) Prior decisions. Prior decisions of the former Environmental Board, the
16 Water Resources Board, the Waste Facilities Panel, and the Environmental
17 Division of the Superior Court shall be given the same weight and
18 consideration as prior decisions of the Environmental Review Board.

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

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

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

9 (f) Precedent. Precedent from the former Environmental Board and of the
10 Environmental Review Board that interpret this chapter shall be provided the
11 same deference by the Supreme Court as precedents accorded to other
12 Executive Branch agencies charged with administering their enabling act. On
13 appeal to the Supreme Court from the Environmental Review Board, decisions
14 of the Environmental Review Board interpreting this act also shall be accorded
15 that deference.

16 (g) Clearly erroneous. Upon appeal to the Supreme Court, the Board's
17 findings of fact shall be accepted unless clearly erroneous.

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

1 question, the district coordinator, at the expense of the requestor and in
2 accordance with rules of the Board, shall publish notice of the issuance of the
3 opinion in a local newspaper generally circulating in the area where the land
4 that is the subject of the opinion is located and shall serve the opinion on all
5 persons listed in subdivisions 6085(c)(1)(A) through (D) of this title. In
6 addition, the requestor who is seeking a final determination shall consult with
7 the district coordinator and obtain approval of a subdivision 6085(c)(1)(E) list
8 of persons who shall be notified by the district coordinator because they are
9 adjoining property owners or other persons who would be likely to be able to
10 demonstrate a particularized interest protected by this chapter that may be
11 affected by an act or decision by a District Commission.

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

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

18 (2) Failure to appeal within 30 days following the issuance of the
19 jurisdictional opinion shall render the decision of the district coordinator under
20 subsection (c) of this section the final determination regarding jurisdiction
21 unless the underlying jurisdictional opinion was not properly served on persons

1 listed in subdivisions 6085(c)(1)(A) through (D) of this title and on persons on
2 a subdivision 6085(c)(1)(E) list approved under subsection (c) of this section.

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

4 § 6083a. ACT 250 FEES

5 * * *

6 (i) All persons filing an appeal, cross appeal, or petition from a District
7 Commission decision or jurisdictional determination shall pay a fee of
8 \$295.00, plus publication costs.

9 (j) Any municipality filing an application for a planned growth area
10 designation shall pay a fee of \$250.00.

11 (k) Any regional planning commission filing a regional plan or future land
12 use map to be reviewed by the Board shall pay a fee of \$250.00.

13 * * * Appeals * * *

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

15 CHAPTER 220. CONSOLIDATED ENVIRONMENTAL APPEALS

16 § 8501. PURPOSE

17 It is the purpose of this chapter to:

18 (1) consolidate existing appeal routes for municipal zoning and
19 subdivision decisions and acts or decisions of the Secretary of Natural
20 Resources, ~~district environmental coordinators, and District Commissions,~~

1 excluding enforcement actions brought pursuant to chapters 201 and 211 of
2 this title and the adoption of rules under 3 V.S.A. chapter 25;

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

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

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

12 (5)~~(4)~~ consolidate appeals of decisions related to renewable energy
13 generation plants and telecommunications facilities with review under,
14 respectively, 30 V.S.A. §§ 248 and 248a, with appeals and consolidation of
15 proceedings pertaining to telecommunications facilities occurring only while
16 30 V.S.A. § 248a remains in effect.

17 § 8502. DEFINITIONS

18 As used in this chapter:

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

1 (2) ~~“District coordinator” means a district environmental coordinator~~
2 ~~attached to a District Commission established under chapter 151 of this title.~~

3 [Repealed.]

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

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

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

9 (A) the applicant;

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

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

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

16 (E) the solid waste management district in which the land is located,
17 if the development or subdivision constitutes a facility pursuant to subdivision
18 6602(10) of this title; and

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

20 (6) “Person” means any individual; partnership; company; corporation;
21 association; joint venture; trust; municipality; the State of Vermont or any

1 agency, department, or subdivision of the State; any federal agency; or any
2 other legal or commercial entity.

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

8 (8) “Secretary” means the Secretary of Natural Resources or the
9 Secretary’s duly authorized representative. As used in this chapter,
10 “Secretary” ~~shall also mean~~ means the Commissioner of Environmental
11 Conservation; the Commissioner of Forests, Parks and Recreation; and the
12 Commissioner of Fish and Wildlife; with respect to those statutes that refer to
13 the authority of that commissioner or department.

14 § 8503. APPLICABILITY

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

19 * * *

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

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

3 ~~(2) appeals from an act or decision of a district coordinator under~~
4 ~~subsection 6007(e) of this title;~~

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

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

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

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

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

20 (g) This chapter shall govern all appeals of an act or decision of the
21 Secretary of Natural Resources that a solid waste implementation plan for a

1 municipality proposed under 24 V.S.A. § 2202a conforms with the State Solid
2 Waste Implementation Plan adopted pursuant to section 6604 of this title.

3 § 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

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

10 * * *

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

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

19 [Repealed.]

20 * * *

1 (d) Requirement to participate before ~~the District Commission or the~~
2 Secretary.

3 (1) ~~Participation before District Commission. An aggrieved person shall~~
4 ~~not appeal an act or decision that was made by a District Commission unless~~
5 ~~the person was granted party status by the District Commission pursuant to~~
6 ~~subdivision 6085(c)(1)(E) of this title, participated in the proceedings before~~
7 ~~the District Commission, and retained party status at the end of the District~~
8 ~~Commission proceedings. In addition, the person may only appeal those issues~~
9 ~~under the criteria with respect to which the person was granted party status.~~
10 ~~However, notwithstanding these limitations, an aggrieved person may appeal~~
11 ~~an act or decision of the District Commission if the Environmental judge~~
12 ~~determines that:~~

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

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

16 ~~or~~

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

19 (2) Participation before the Secretary.

20 * * *

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

1 (k) Limitations on appeals. Notwithstanding any other provision of this
2 section;

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

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

10 ~~(3) if a District Commission issues a partial decision under subsection~~
11 ~~6086(b) of this title, any appeal of that decision must be taken within 30 days~~
12 ~~of the date of that decision.~~

13 (l) Representation. The Secretary may represent the Agency of Natural
14 Resources in all appeals under this section. ~~The Chair of the Natural~~
15 ~~Resources Board may represent the Board in any appeal under this section,~~
16 ~~unless the Board directs otherwise.~~ If more than one State agency, ~~other than~~
17 ~~the Board,~~ either appeals or seeks to intervene in an appeal under this section,
18 only the Attorney General may represent the interests of those agencies of the
19 State in the appeal.

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

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

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

8 (2) is a party by right;

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

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

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

12 § 4465, with respect to appeals under 24 V.S.A. chapter 117; or

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

15 (o) With respect to review of an act or decision of the Secretary pursuant to
16 3 V.S.A. § 2809, the Division may reverse the act or decision or amend an
17 allocation of costs to an applicant only if the Division determines that the act,
18 decision, or allocation was arbitrary, capricious, or an abuse of discretion. In
19 the absence of such a determination, the Division shall require the applicant to
20 pay the Secretary all costs assessed pursuant to 3 V.S.A. § 2809.

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

4 (1) there is an appeal of an act or decision of the Secretary that is based
5 on that record; or

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

10 § 8505. APPEALS TO THE SUPREME COURT

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

16 (1) the person was a party to the proceeding before the Environmental
17 Division; or

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

19 (3) the Supreme Court determines that:

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

1 (B) some other condition exists that would result in manifest injustice
2 if the person's right to appeal were disallowed.

3 * * *

4 * * * Environmental Division * * *

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

6 § 34. JURISDICTION; ENVIRONMENTAL DIVISION

7 The Environmental Division shall have:

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

9 and

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

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

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

13 * * * Transition; Revision Authority; Effective Dates * * *

14 Sec. 15. ENVIRONMENTAL REVIEW BOARD POSITIONS;

15 APPROPRIATION

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

18 (1) one Staff Attorney 1; and

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

20 (b) The sum of \$384,000.00 is appropriated to the Environmental Review
21 Board from the General Fund in fiscal year 2025 for the positions established

1 in subsection (a) of this section and for additional operating costs required to
2 implement the appeals process established in this act.

3 Sec. 16. NATURAL RESOURCES BOARD TRANSITION

4 (a) The Governor shall appoint the members of Environmental Review
5 Board on or before July 1, 2025, and the terms of any Natural Resources Board
6 member not appointed consistent with the requirements of 10 V.S.A.
7 § 6021(a)(1)(A) or (B) shall expire on that day.

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

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

12 Sec. 17. ENVIRONMENTAL DIVISION; CONTINUED JURISDICTION

13 Notwithstanding the repeal of its jurisdictional authority to hear appeals
14 relative to land use permits under Sec. 12 of this act, the Environmental
15 Division of the Superior Court shall continue to have jurisdiction to complete
16 its consideration of any appeal that is pending before it as of July 1, 2026 if the
17 act or appeal has been filed. The Environmental Review Board shall have
18 authority to be a party in any appeals pending under this section until July 1,
19 2026.

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

6 However, fragmentation does not include the division or conversion of a forest
7 block or connecting habitat by a recreational trail or by improvements
8 constructed for farming, logging, or forestry purposes below the elevation of
9 2,500 feet.

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

12 (49) As used in subdivisions (45), (46), and (47) of this section,
13 “recreational trail” means a corridor that is not paved and that is used for
14 recreational purposes, including hiking, walking, bicycling, cross-country
15 skiing, snowmobiling, all-terrain vehicle riding, and horseback riding.

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

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

20 (A) Necessary wildlife habitat and endangered species. A permit will
21 not be granted if it is demonstrated by any party opposing the applicant that a

1 development or subdivision will destroy or significantly imperil necessary
2 wildlife habitat or any endangered species; and

3 (i) the economic, social, cultural, recreational, or other benefit to
4 the public from the development or subdivision will not outweigh the
5 economic, environmental, or recreational loss to the public from the
6 destruction or imperilment of the habitat or species; ~~or~~

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

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

13 (B) Forest blocks.

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

16 (I) the development or subdivision will avoid fragmentation of
17 the forest block through the design of the project or the location of project
18 improvements, or both;

19 (II) it is not feasible to avoid fragmentation of the forest block
20 and the design of the development or subdivision minimizes fragmentation of
21 the forest block; or

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

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

6 (I) Locating buildings and other improvements and operating
7 the project in a manner that avoids or minimizes incursion into and disturbance
8 of the forest block, including clustering of buildings and associated
9 improvements.

10 (II) Designing roads, driveways, and utilities that serve the
11 development or subdivision to avoid or minimize fragmentation of the forest
12 block. Such design may be accomplished by following or sharing existing
13 features on the land such as roads, tree lines, stone walls, and fence lines.

14 (C) Connecting habitat.

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

17 (I) the development or subdivision will avoid fragmentation of
18 a habitat connector through the design of the project or the location of project
19 improvements, or both;

1 (II) it is not feasible to avoid fragmentation of the habitat
2 connector and the design of the development or subdivision minimizes
3 fragmentation of the connector; or

4 (III) it is not feasible to avoid or minimize fragmentation of the
5 habitat connector and the applicant will mitigate the fragmentation in
6 accordance with section 6094 of this title.

7 (ii) Methods for avoiding or minimizing the fragmentation of a
8 habitat connector may include:

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

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

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

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

19 On or before June 15, 2025, the Natural Resources Board shall file a final
20 proposed rule with the Secretary of State and Legislative Committee on

1 Administrative Rules to implement the requirements for the administration of
2 10 V.S.A. § 6086(a)(8)(B) and (C).

3 Sec. 22. 10 V.S.A. § 127 is amended to read:

4 § 127. RESOURCE MAPPING

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

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

19 (c) The Secretary shall establish and maintain written procedures that
20 include a process and science-based criteria for updating resource maps
21 developed under subsection (a) of this section. Before establishing or revising

1 these procedures, the Secretary shall provide opportunities for affected parties
2 and the public to submit relevant information and recommendations.

3 * * * Location-Based Jurisdiction * * *

4 Sec. 23. 10 V.S.A. § 6001 is amended to read:

5 § 6001. DEFINITIONS

6 As used in this chapter:

7 * * *

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

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

14 (ii) The construction of improvements on a tract or tracts of land,
15 owned or controlled by a person, involving more than one acre of land within a
16 radius of five miles of any point on any involved land, for commercial or
17 industrial purposes in a municipality that;

18 (I) has not adopted permanent zoning and subdivision bylaws;
19 or

1 (II) has adopted permanent zoning and subdivision bylaws, if
2 the municipality in which the proposed project is located has elected by
3 ordinance, adopted under 24 V.S.A. chapter 59, to have this jurisdiction apply.

4 (iii) The construction of improvements ~~for commercial or~~
5 ~~industrial purposes~~ on a tract or tracts of land within a radius of five miles of
6 any point on any involved land within five years, owned or controlled by a
7 person, involving ~~more than one acre of land within a municipality that has~~
8 ~~adopted permanent zoning and subdivision bylaws, if the municipality in~~
9 ~~which the proposed project is located has elected by ordinance, adopted under~~
10 ~~24 V.S.A. chapter 59, to have this jurisdiction apply~~ four or more units of
11 housing located in a rural and working lands area.

12 * * *

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

16 * * *

17 (xii) The construction of improvements for commercial, industrial,
18 or residential use on a tract or tracts of land more than 500 feet from the center
19 line of a State or town highway located in a rural and working lands area. This
20 shall not include existing residential buildings or the construction of a garage
21 or other buildings incidental to residential use.

1 * * *

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

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

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

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

19 (I) ~~In~~ As used in this subdivision (iii), “public auction” means
20 any auction advertised or publicized in any manner or to which more than ~~ten~~
21 10 persons have been invited.

1 affirmative determination on finding that the municipality meets the
2 requirements of subsection (b) of this section within 45 days after the
3 application is received.

4 (b) Planned growth area designation requirements.

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

7 (A) A municipal plan that is approved in accordance with 24 V.S.A.
8 § 4350.

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

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

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

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

4 (F) Urban form bylaws for the planned growth area that further the
5 smart growth principles of this 24 V.S.A. chapter 117, adequately regulate the
6 physical form and scale of development, make reasonable provision for
7 buildings in areas with sewer and water to have at least six stories, and
8 conform to the guidelines established by the Board.

9 (G) Historic preservation bylaws for established design review
10 districts, historic districts, or historic landmarks pursuant to 24 V.S.A.
11 § 4414(1)(E) and (F) for the planned growth area that meet State historic
12 preservation guidelines issued by the Department pursuant to subsection
13 2792(d) of this title.

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

17 (I) Permitted water and wastewater systems with the capacity to
18 support additional development within the planned growth area. The
19 municipality shall have adopted consistent policies, by municipal plan and
20 ordinance, on the allocation, connection, and extension of water and

1 wastewater lines that include a defined service area to support the planned
2 growth area.

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

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

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

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

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

17 (2) An application by the municipality must include the information and
18 analysis required by the Board's guidelines on how to meet the requirements of
19 subsection (b) of this section.

20 (3) The relevant regional planning commission shall establish a
21 procedure for submission of a draft application that involves review and

1 comment by all the parties to be noticed in subdivision (4)(A) of this
2 subsection and shall issue a preapplication memo incorporating the comments
3 to the applicant after receipt of a draft preliminary application.

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

8 (A) Notice.

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

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

20 (iii) The notice shall also be posted by the municipality in or near
21 the municipal clerk's office and in at least two other designated public places

1 in the municipality, and on the websites of the municipality and the regional
2 planning commission.

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

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

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

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

20 (d) Review of enhanced designation status.

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

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

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

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

10 (B) terminate the designation.

11 (4) If the underlying designation is terminated, the planned growth area
12 designation also shall terminate.

13 (e) Appeal.

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

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

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

1 (B) The municipality making the application or a municipality that
2 adjoins the municipality making the application.

3 (C) The regional planning commission for the region that includes
4 the designated center or a regional planning commission whose region adjoins
5 the municipality in which the designated center is located.

6 (D) Any 20 persons who, by signed petition, allege that the decision
7 is not in accord with the requirements of this chapter, and who own or occupy
8 real property located within the municipality in which the designated center is
9 located or an adjoining municipality. The petition must designate one person
10 to serve as the representative of the petitioners regarding all matters related to
11 the appeal. The designated representative must have participated in the public
12 hearing described in subdivision (c)(4) of this section.

13 Sec. 25. PLANNED GROWTH AREA GUIDELINES

14 On or before January 1, 2027, the Environmental Review Board shall
15 publish guidelines to direct municipalities seeking to obtain the planned
16 growth area designation.

17 Sec. 26. 24 V.S.A. § 4382 is amended to read:

18 § 4382. THE PLAN FOR A MUNICIPALITY

19 (a) A plan for a municipality shall be consistent with the goals established
20 in section 4302 of this title and compatible with approved plans of other

1 municipalities in the region and with the regional plan and shall include the
2 following:

3 * * *

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

6 * * *

7 (C) Identifies those areas, if any, proposed for designation under
8 chapter 76A of this title or 10 V.S.A. § 6032, together with, for each area
9 proposed for designation, an explanation of how the designation would further
10 the plan's goals and the goals of section 4302 of this title, and how the area
11 meets the requirements for the type of designation to be sought.

12 * * *

13 Sec. 27. 10 V.S.A. § 6081 is amended to read:

14 § 6081. PERMITS REQUIRED; EXEMPTIONS

15 * * *

16 (z) Notwithstanding any other provision of this chapter to the contrary, no
17 permit or permit amendment is required for any subdivision, development, or
18 change to an existing project that is located entirely within a planned growth
19 area designated under section 6032 of this title. Upon receiving notice and a
20 copy of the permit issued by an appropriate municipal panel pursuant to 24
21 V.S.A. § 4460(f), a previously issued permit for a development or subdivision

1 located in a planned growth area shall remain attached to the property.

2 However, neither the Board nor the Agency of Natural Resources shall enforce
3 the permit or assert amendment jurisdiction on the tract or tracts of land unless
4 the designation is revoked or the municipality has not taken any action to
5 enforce the conditions of the permit.

6 Sec. 28. 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. § 6032; 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 determines that the plan or amendment is consistent with the goals of section
2 4302 of this title. The plan or amendment shall take effect on the issuance of
3 the approval. The Board shall issue its decision within 30 days after receiving
4 the plan or amendment.

5 Sec. 30. 24 V.S.A. § 4348a is amended to read:

6 § 4348a. ELEMENTS OF A REGIONAL PLAN

7 (a) A regional plan shall be consistent with the goals established in section
8 4302 of this title and shall include the following:

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

12 (2) A land use element, which shall consist of a map and statement of
13 present and prospective land uses, based on ecosystem function, consistent
14 with Vermont Conservation Design that:

15 (A) Indicates those areas proposed for forests, recreation, agriculture
16 (using the agricultural lands identification process established in 6 V.S.A. § 8),
17 residence, commerce, industry, public, and semi-public uses, open spaces,
18 areas reserved for flood plain, and areas identified by the State, regional
19 planning commissions, or municipalities that require special consideration for
20 aquifer protection; for wetland protection; for the maintenance of forest blocks,
21 wildlife habitat, and habitat connectors; or for other conservation purposes.

1 (B) Indicates those areas within the region that are likely candidates
2 for designation under sections 2793 (downtown development districts), 2793a
3 (village centers), 2793b (new town centers), and 2793c (growth centers) of this
4 title or under 10 V.S.A. § 6032 (planned growth areas).

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

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

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

19 (F) Indicates those areas that are important as forest blocks and
20 habitat connectors and plans for land development in those areas to minimize
21 forest fragmentation and promote the health, viability, and ecological function

1 of forests. A plan may include specific policies to encourage the active
2 management of those areas for wildlife habitat, water quality, timber
3 production, recreation, or other values or functions identified by the regional
4 planning commission.

5 (G) Indicates those areas that fall into or may prospectively fall into
6 the following categories: downtown/village centers, planned growth areas,
7 village areas, transition areas, resource-based recreation areas, enterprise areas,
8 hamlets, rural and working lands areas, and critical resource areas.

9 * * *

10 (b) The various elements and statements shall be correlated with the land
11 use element and with each other. The maps called for by this section may be
12 incorporated on one or more maps, and may be referred to in each separate
13 statement called for by this section.

14 (c) The maps called for by this section shall be submitted to the
15 Environmental Review Board for review with compliance with this section and
16 consistency with legislative intent. The regional planning commission shall
17 make any updates to the map as required by the Environmental Review Board.

18 * * * Effective Dates * * *

19 Sec. 31. EFFECTIVE DATES

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