

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
11 and 24 V.S.A. § 4302. It provides a regulatory framework that supports the
12 vision for Vermont of human and natural community resilience and
13 biodiversity protection in the face of climate change, as described in 2023 Acts
14 and Resolves No. 59. It would strengthen the administration of the Act 250
15 program by changing the structure, function, and name of the Natural
16 Resources Board. It requires that appeals of Act 250 permit decisions be heard
17 by a five-member board called the Environmental Review Board. The
18 Environmental Division of the Superior Court would continue to hear the other
19 types of cases within its jurisdiction. The Environmental Review Board would
20 retain the current duties of the Natural Resources Board in addition to hearing
21 appeals, reviewing applications for the planned growth area designation,

1 review the future land use maps of regional plans, and review the maps that
2 establish the rural and working lands areas. The Board would provide
3 oversight, management, and training to the Act 250 program staff and District
4 Commissions and develop Act 250 program policy through permit decisions
5 and rulemaking. This change would allow the Act 250 program to be a more
6 citizen-friendly process. The structure established under this act would be
7 used to guide State financial 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. If necessary to achieve a quorum, the Chair of the
12 Board may appoint a member of a District Commission to sit on a specific case
13 before the Board.

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

1 fixed by the remaining members of the Board and necessary expenses while on
2 official business.

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

4 § 6032. ENVIRONMENTAL REVIEW BOARD NOMINATING

5 COMMITTEE

6 (a) Creation. The Environmental Review Board Nominating Committee is
7 created for the purpose of assessing the qualifications of applicants for
8 appointment to the Environmental Review Board in accordance with section
9 6021 of this title.

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

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

15 (2) The Speaker of the House of Representatives shall appoint two
16 members from the House of Representatives.

17 (3) The Senate Committee on Committees shall appoint two members
18 from the Senate.

19 (c) Terms. The members of the Committee shall serve for terms of two
20 years. Members shall serve until their successors are appointed. Members
21 shall serve not more than three consecutive terms. A legislative member who

1 is appointed as a member of the Committee shall retain the position for the
2 term appointed to the Committee even if the member is subsequently not
3 reelected to the General Assembly during the member’s term on the
4 Committee.

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

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

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

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

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

17 (1) operating procedures of the Committee;

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

1 (3) all proceedings of the Committee prior to the receipt of the first
2 candidate’s completed application; and

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

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

10 (j) Duties.

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

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

1 the Committee any professional disciplinary action taken or pending
2 concerning the candidate.

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

7 (4) The Committee shall ensure a candidate possesses the following
8 attributes:

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

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

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

14 (D) Availability. A candidate shall have adequate time to dedicate to
15 the position.

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

17 § 6025. RULES

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

1 may be adopted as rules or issued as guidance, shall ensure that the maps are
2 consistent with legislative intent.

3 * * *

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

5 § 6027. POWERS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 personnel as it finds necessary in carrying out its duties, ~~unless the Governor~~
2 ~~shall otherwise provide~~ in providing personnel to assist the District
3 Commissions and in investigating matters within its jurisdiction.

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

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

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

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

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

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

16 § 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF
17 REVIEW

18 (a) ~~On or before the date of~~ Upon the filing of an application with the
19 District Commission, the ~~applicant~~ District Commission shall send, by
20 electronic means, notice ~~and a copy~~ of the ~~initial~~ application to the owner of
21 the land if the applicant is not the owner; the municipality in which the land is

1 located; the municipal and regional planning commissions for the municipality
 2 in which the land is located; the Vermont Agency of Natural Resources; and
 3 any adjacent Vermont municipality and municipal and regional planning
 4 commission if the land is located on a municipal or regional boundary. The
 5 ~~applicant shall furnish to the District Commission the names of those furnished~~
 6 ~~notice by affidavit, and shall post~~ send by electronic means a copy of the notice
 7 ~~in~~ to the town clerk’s office of the town or towns in which the project lies. The
 8 town clerk shall post the notice in the town office. The applicant shall also
 9 provide a list of adjoining landowners to the District Commission. Upon
 10 request and for good cause, the District Commission may authorize the
 11 applicant to provide a partial list of adjoining landowners in accordance with
 12 Board rules.

* * *

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

* * *

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

21 (f) Prior to any appeal of a permit issued by a District Commission, any

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

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

14 § 6089. APPEALS

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

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

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

19 (3) Filing the appeal. An appellant to the Board, under this section,
20 shall file with the notice of appeal a statement of the issues to be addressed in

1 the appeal, a summary of the evidence that will be presented, and a preliminary
2 list of witnesses who will testify on behalf of the appellant.

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

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

11 (6) Prehearing discovery.

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

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

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

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

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

7 (b) Prior decisions. Prior decisions of the former Environmental Board, the
8 Water Resources Board, the Waste Facilities Panel, and the Environmental
9 Division of the Superior Court shall be given the same weight and
10 consideration as prior decisions of the Environmental Review Board.

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

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

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

1 (f) Precedent. Precedent from the former Environmental Board and of the
2 Environmental Review Board that interpret this chapter shall be provided the
3 same deference by the Supreme Court as precedents accorded to other
4 Executive Branch agencies charged with administering their enabling act. On
5 appeal to the Supreme Court from the Environmental Review Board, decisions
6 of the Environmental Review Board interpreting this act also shall be accorded
7 that deference.

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

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

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

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

1 demonstrate a particularized interest protected by this chapter that may be
2 affected by an act or decision by a District Commission.

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

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

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

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

16 § 6083a. ACT 250 FEES

17 * * *

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

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

3 (5)(4) consolidate appeals of decisions related to renewable energy
4 generation plants and telecommunications facilities with review under,
5 respectively, 30 V.S.A. §§ 248 and 248a, with appeals and consolidation of
6 proceedings pertaining to telecommunications facilities occurring only while
7 30 V.S.A. § 248a remains in effect.

8 § 8502. DEFINITIONS

9 As used in this chapter:

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

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

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

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

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

20 (A) the applicant;

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

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

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

6 (E) the solid waste management district in which the land is located,
7 if the development or subdivision constitutes a facility pursuant to subdivision
8 6602(10) of this title; and

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

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

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

19 (8) “Secretary” means the Secretary of Natural Resources or the
20 Secretary’s duly authorized representative. As used in this chapter,
21 “Secretary” ~~shall also mean~~ means the Commissioner of Environmental

1 Conservation; the Commissioner of Forests, Parks and Recreation; and the
2 Commissioner of Fish and Wildlife, with respect to those statutes that refer to
3 the authority of that commissioner or department.

4 § 8503. APPLICABILITY

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

9 * * *

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

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

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

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

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

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

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

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

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

14 § 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

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

21 * * *

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

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

9 [Repealed.]

10 * * *

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

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

1 ~~an act or decision of the District Commission if the Environmental judge~~
2 ~~determines that:~~

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

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

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

9 (2) Participation before the Secretary.

10 * * *

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

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

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

1 ~~(D) of this title and on persons on a subdivision 6085(c)(1)(E) list approved~~
2 ~~under subsection 6007(c) of this title. [Repealed.]~~

3 * * *

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

6 * * *

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

12 * * *

13 (k) Limitations on appeals. Notwithstanding any other provision of this
14 section;

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

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

1 ~~(3) if a District Commission issues a partial decision under subsection~~
2 ~~6086(b) of this title, any appeal of that decision must be taken within 30 days~~
3 ~~of the date of that decision.~~

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

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

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

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

18 (2) is a party by right;

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

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

1 (5) qualifies as an “interested person,” as established in 24 V.S.A.
2 § 4465, with respect to appeals under 24 V.S.A. chapter 117; or

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

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

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

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

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

1 § 8505. APPEALS TO THE SUPREME COURT

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

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

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

10 (3) the Supreme Court determines that:

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

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

15 * * *

16 * * * Environmental Division * * *

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

18 § 34. JURISDICTION; ENVIRONMENTAL DIVISION

19 The Environmental Division shall have:

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

1 (45) “Connecting habitat” means land or water, or both, that links
2 patches of habitat within a landscape, allowing the movement, migration, and
3 dispersal of wildlife and plants and the functioning of ecological processes. A
4 connecting habitat may include features including recreational trails and
5 improvements constructed for farming, logging, or forestry purposes.

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

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

16 However, fragmentation does not include the division or conversion of a forest
17 block or connecting habitat by a recreational trail or by improvements
18 constructed for farming, logging, or forestry purposes below the elevation of
19 2,500 feet.

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

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

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

(8) Ecosystem **functionality**; scenic beauty; historic sites.

(A) Will not have an undue adverse effect on the scenic or natural beauty
of the area, aesthetics, or historic sites, ~~or rare and irreplaceable natural areas.~~

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

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

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

1 (iii) a reasonably acceptable alternative site is owned or controlled
2 by the applicant ~~which~~ that would allow the development or subdivision to fulfill
3 its intended purpose.

4 ~~(B)~~ (C) Forest blocks, connecting habitat, and rare and irreplaceable natural
5 areas.

6 (i) A permit will not be granted for a development or subdivision
7 within or partially within a forest block, connecting habitat or rare and irreplaceable
8 natural areas unless the applicant demonstrates that a project will not result in an
9 undue adverse impact on forest blocks, connecting habitat or rare and irreplaceable
10 natural areas. If a project as proposed would result in an undue adverse impact, a
11 permit may only be granted if effects are avoided, minimized, or mitigated as allowed
12 in accordance with rules adopted by the Board. In general, an applicant must
13 demonstrate that:

14 (I) the development or subdivision will avoid fragmentation of
15 the forest block or connecting habitat through the design of the project or the location
16 of project improvements, or both;

17 (II) it is not feasible to avoid fragmentation of the forest block or
18 connecting habitat and the design of the development or subdivision
19 minimizes fragmentation of

9 the forest block or connecting habitat; or

10 (III) it is not feasible to avoid or minimize fragmentation of the

11 forest block or connecting habitat and the applicant will mitigate the fragmentation in
accordance

12 with section 6094 of this title rules adopted by the Board.

13 (ii) Methods for avoiding or minimizing the fragmentation of a

14 forest block or connecting habitat may include:

15 (I) Locating buildings and other improvements and operating

16 the project in a manner that avoids or minimizes incursion into and disturbance

17 of the forest block or connecting habitat including clustering of buildings and

associated improvements. In the case of connecting habitat, designing the location of

buildings and other improvements to leave the greatest contiguous portion of the area

undisturbed in order to facilitate wildlife travel through the connector. When there is

no feasible site for construction of buildings and other improvements outside a

habitat connector, designing the buildings and improvements to facilitate the

continued viability of the connector for use by wildlife

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

4 (C) Habitat connector:

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

7 (I) the development or subdivision will avoid fragmentation of
8 habitat connector through the design of the project or the location of project
9 improvements, or both; or

10 (II) it is not feasible to avoid fragmentation of the habitat
11 connector and the design of the development or subdivision minimizes
12 fragmentation of the connector;

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

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

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

1 ~~(III) when there is no feasible site for construction of buildings~~
2 ~~and other improvements outside the connector, designing the buildings and~~
3 ~~improvements to facilitate the continued viability of the connector for use by~~
4 ~~wildlife.~~

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

(a) The Natural Resources Board (Board), in collaboration with the Agency of Natural Resources, shall adopt rules to implement the requirements for the administration of 10 V.S.A. § 6086(a)(8)(C). Rules adopted by the Board shall include:

(1) How forest blocks and connecting habitat are further defined, including their size, location, and function, which may include:

(A) information that will be available to the public to determine where forest blocks and connecting habitat are located; or

(B) advisory mapping resources, how they will be made available, how they will be used, and how they will be updated.

(2) Standards establishing how impacts can be avoided or minimized, including how fragmentation of forest blocks or connecting habitat is avoided or minimized, which may include steps to promote proactive site design of buildings, roadways and driveways, utility location, and location relative to existing features such as roads, tree lines, and fence lines.

(3)(A) As used in this section “fragmentation” generally means dividing

land that has naturally occurring vegetation and ecological processes into

smaller and smaller areas as a result of land uses that remove vegetation and

create physical barriers that limit species' movement and interrupt ecological processes between previously connected natural vegetation. However, the rules shall further define "fragmentation" for purposes of avoiding, minimizing, and mitigating undue adverse impacts on forest blocks and connecting habitat. "Fragmentation" does not include the division or conversion of a forest block or connecting habitat by an unpaved recreational trail or by improvements constructed for farming, logging, or forestry purposes below the elevation of 2,500 feet.

(A) As used in this subsection, "recreational trail" has the same meaning as "trails" in 10 V.S.A. § 442.

(4) Criteria to identify the circumstances when a forest block or connecting habitat is eligible for mitigation. As part of this, the criteria shall identify the circumstances when the function, value, unique sensitivity, or location of the forest block or habitat connector would not allow mitigation.

(5) Standards for how impacts to a forest block or connecting habitat may be mitigated. Standards may include:

(A) appropriate ratios for compensation;

(B) appropriate forms of compensation such as conservation easements, fee interests in land, and other forms of compensation; and

(C) appropriate uses of on-site and off-site mitigation.

(b) The Board shall convene a working group of stakeholders to provide

input to the rule prior to prefilng with the Interagency Committee on

Administrative Rules. The Board shall convene the working group on or before June 1, 2025.

(c) The Board shall file a final proposed rule with the Secretary of State and Legislative Committee on Administrative Rules on or before June 15, 2026.

6 ~~On or before June 15, 2025, the Natural Resources Board shall file a final~~
7 ~~proposed rule with the Secretary of State and Legislative Committee on~~
8 ~~Administrative Rules to implement the requirements for the administration of~~
9 ~~10 V.S.A. § 6086(a)(8)(B) and (C), which shall at a minimum address the~~
10 ~~minimum size required for a forest block or habitat connector.~~

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

12 § 6094. MITIGATION OF FOREST BLOCKS

13 ~~(a) A District Commission may consider a proposal to mitigate, through~~
14 ~~compensation, the fragmentation of a forest block if the applicant demonstrates~~
15 ~~that it is not feasible to avoid or minimize fragmentation of the block in~~
16 ~~accordance with the requirements of subdivision 6086(a)(8)(B) of this chapter.~~
17 ~~A District Commission may approve the proposal only if it finds that the~~
18 ~~proposal will meet the requirements of the rules adopted under this section and~~
19 ~~will preserve a forest block of similar quality and character to the block~~
20 ~~affected by the development or subdivision.~~

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

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

5 ~~(2) Compensation measures to be allowed under the rules shall be based~~
6 ~~on the ratio of land developed pursuant to subdivision (1) of this subsection~~
7 ~~and shall include:~~

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

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

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

13 ~~(I) Determine the number of acres of forest block affected by~~
14 ~~the proposed development or subdivision.~~

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

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

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

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

5 ~~(e) The mitigation of impact on a forest block shall be structured also to~~
6 ~~mitigate the impacts, under the criteria of subsection 6086(a) of this title other~~
7 ~~than subdivisions (8)(B) to land or resources within the block.~~

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

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

14 § 127. RESOURCE MAPPING

15 (a) ~~On or before January 15, 2013, the~~ The Secretary of Natural Resources
16 shall complete and maintain resource mapping based on the Geographic
17 Information System (GIS) or other technology. The mapping shall identify
18 natural resources throughout the State, including forest blocks and connecting
19 habitat, that may be relevant to the consideration of energy projects and
20 projects subject to chapter 151 of this title. The Center for Geographic

1 Information shall be available to provide assistance to the Secretary in carrying
2 out the ~~GIS-based~~ resource mapping.

3 (b) The Secretary ~~of Natural Resources~~ shall consider the ~~GIS-based~~
4 resource maps developed under subsection (a) of this section when providing
5 evidence and recommendations to the Public Utility Commission under
6 30 V.S.A. § 248(b)(5) and when commenting on or providing
7 recommendations under chapter 151 of this title to District Commissions on
8 other projects.

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

14 * * * Location-Based Jurisdiction * * *

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

16 § 6001. DEFINITIONS

17 As used in this chapter:

18 * * *

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

20 (i) The construction of improvements on a tract or tracts of land,
21 owned or controlled by a person, involving more than 10 acres of land within a

1 radius of five miles of any point on any involved land, for commercial or
2 industrial purposes in a municipality that has adopted permanent zoning and
3 subdivision bylaws.

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

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

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

21 * * *

1 municipality after its construction or upgrade. For the purposes of this
2 subdivision (II), routine maintenance of a Class 4 highway or stormwater
3 improvement required pursuant to section 1264 of this title shall not constitute
4 an “upgrade.”

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

7 (bb) Routine maintenance shall not include changing the
8 size of the road, changing the location or layout of the road, or adding
9 pavement.

10 (III) For the purpose of determining the length under this
11 subdivision, the length of all roads and driveways within the tract or tracts of
12 land ~~constructed after October 1, 2024~~ shall be included.

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

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

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

20 * * *

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

1 (i) 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 ~~10~~ four or
3 more lots within a radius of five miles of any point on any lot, or within the
4 jurisdictional area of the same District Commission, within any continuous
5 period of five years located within a rural and working lands area. In
6 determining the number of lots, a lot shall be counted if any portion is within
7 an area and within five miles or within the jurisdictional area of the same
8 District Commission.

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

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

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

20 (II) If sales described under this subdivision (iii) are of interests
21 that, when sold by means other than public auction, are exempt from the

1 provisions of this chapter under the provisions of subsection 6081(b) of this
2 title, the fact that these interests are sold by means of a public auction shall not,
3 in itself, create a requirement for a permit under this chapter.

4 * * *

5 (50) “Critical resource area” means a river corridor, a significant
6 wetland as defined under section 902 of this title, land characterized by slopes
7 greater than 15 percent and shallow depth to bedrock, an area with any amount
8 of prime agricultural soil, and a parcel containing all or part of a connecting
9 habitat.

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

12 * * * Planned Growth Area Designation * * *

13 **Sec. XX. 10 V.S.A. § 6034 is added to read:**

14 **§ 6034. REGIONAL PLAN FUTURE LAND USE MAP REVIEW;**

15 **DESIGNATION OF TIERS 1B AND 3**

16 **(a) The Board shall review requests from regional planning commissions to**
17 **approve, **approve with conditions**, or disapprove portions of future land use**
18 **maps for the purposes of changing jurisdictional thresholds under this chapter**
19 **and to approve designations pursuant to 24 V.S.A. chapter 139. The Board**
20 **may produce guidelines for regional planning commissions seeking to obtain**

1 these designations. If requested by the regional planning commission, the
2 Board shall complete this review concurrently with regional plan approval.

3 (b) The Board shall review the portions of future land use maps that
4 include downtowns or village centers, planned growth areas, and village areas
5 to ensure they meet the requirements under 24 V.S.A. § 5804 and § 5805 for
6 designation as downtown and village centers and neighborhood areas. **These**
7 **portions of the future land use maps shall be referred to as Tier 1B for the**
8 **purpose of jurisdiction under this chapter.**

9 (c) To obtain a Tier 1B base growth area designation under this section, a
10 regional planning commission shall demonstrate to the Board that the
11 municipalities with Tier 1B areas meet the following requirements as included
12 in subsection 24 V.S.A. § 4348a(a)(12)(C):

13 (A) The municipality has a duly adopted and approved plan and a
14 planning process that is confirmed in accordance with 24 V.S.A. § 4350.

15 (B) The municipality has adopted permanent zoning and subdivision
16 bylaws in accordance with 24 V.S.A. §§ 4414, 4418, and 4442.

17 (C) Unless the municipality has adopted flood hazard and river
18 corridor bylaws applicable to the entire municipality that are consistent with
19 the standards established pursuant to subsection 755(b) of this title (flood
20 hazard) and subsection 1428(b) of this title (river corridor), the area excludes
21 identified flood hazard and fluvial erosion areas, except those areas containing

1 preexisting development in areas suitable for infill development as defined in §
2 29-201 of the Vermont Flood Hazard Area and River Corridor Rule.

3 (d) The Board shall review the portions of future land use maps that
4 include rural-conservation areas to ensure they meet the definition of critical
5 resource areas in section 6001 of this title. These portions of the future land
6 use maps shall be referred to as Tier 3 for the purpose of jurisdiction under this
7 chapter.

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

9 § 6033. PLANNED GROWTH AREA DESIGNATION

10 (a) Application and approval.

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

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

18 (3) The Board shall issue an affirmative determination on finding that
19 the municipality meets the requirements of subsection (b) of this section within
20 45 days after the application is received.

21 (b) Planned growth area designation requirements.

1 (1) To obtain a Tier 1A planned growth area designation under this
2 section, a municipality shall 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) or the proposed planned growth area excludes the flood
13 hazard areas and river corridor.

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

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

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

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

11 (H) Wildlife habitat planning bylaws for the planned growth area that
12 protect Significant Natural Communities, Rare, Threatened, and Endangered
13 Species, and river corridors or exclude these areas from the proposed planned
14 growth area.

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

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

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

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

9 (3) If any party entitled to notice under subdivision (c)(4)(A) of this
10 section or any resident of the municipality raises concerns about the
11 municipality’s compliance with the requirements **for the underlying**
12 **designation**, those concerns shall be addressed as part of the municipality’s
13 application.

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

15 (1) A preapplication meeting shall be held with **the Board staff,**
16 **municipal staff, and** staff of the relevant regional planning commission (RPC)
17 to review the requirements of subsection (b) of this section. The meeting shall
18 be held in the municipality unless another location is agreed to by the
19 municipality.

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

4 ~~(3) The relevant regional planning commission shall establish a~~
5 ~~procedure for submission of a draft application that involves review and~~
6 ~~comment by all the parties to be noticed in subdivision (4)(A) of this~~
7 ~~subsection.~~The RPC shall issue a preapplication memorandum incorporating
8 the comments to the applicant after receipt of a draft preliminary application
9 and a preliminary approval or denial of the application. A municipality shall
10 not submit an application to the Environmental Review Board unless it has
11 been approved the RPC.

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

16 (A) Notice.

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

20 (ii) The municipality shall publish notice of the meeting at least 30
21 days in advance of the Board’s meeting in a newspaper of general circulation

1 in the municipality, and deliver physically or electronically, with proof of
2 receipt or by certified mail, return receipt requested to the Agency of Natural
3 Resources, the Division for Historic Preservation, the Agency of Agriculture,
4 Food and Markets, the Agency of Transportation, the regional planning
5 commission, the regional development corporations, and the entities providing
6 educational, police, and fire services to the municipality.

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

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

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

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

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

7 (d) Review of designation status.

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

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

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

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

17 (B) terminate the designation.

18 (e) Appeal.

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

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

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

5 (B) The municipality making the application or a municipality that
6 adjoins the municipality making the application.

7 (C) The regional planning commission for the region that includes
8 the designated area or a regional planning commission whose region adjoins
9 the municipality in which the designated area is located.

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

17 Sec. 26. PLANNED GROWTH AREA GUIDELINES

18 On or before January 1, 2026, the Environmental Review Board shall
19 publish guidelines to direct municipalities seeking to obtain the planned
20 growth area designation.

21 Sec. 27. 24 V.S.A. § 4382 is amended to read:

1 § 4382. THE PLAN FOR A MUNICIPALITY

2 (a) A plan for a municipality shall be consistent with the goals established
3 in section 4302 of this title and compatible with approved plans of other
4 municipalities in the region and with the regional plan and shall include the
5 following:

6 * * *

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

9 * * *

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

15 * * *

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

17 § 6081. PERMITS REQUIRED; EXEMPTIONS

18 * * *

19 (z) Notwithstanding any other provision of this chapter to the contrary, no
20 permit or permit amendment is required for any subdivision, development, or
21 change to an existing project that is located entirely within a Tier 1A planned

1 growth area designated under section 6033 of this chapter. Notwithstanding
2 any other provision of this chapter to the contrary, no permit or permit
3 amendment is required for 50 units or fewer of housing on 10 acres or less
4 located entirely within a Tier 1B area approved by the Board under section
5 6033 of this chapter and 24 V.S.A. § 4348. Upon receiving notice and a copy
6 of the permit issued by an appropriate municipal panel pursuant to 24 V.S.A.
7 § 4460(f), a previously issued permit for a development or subdivision located
8 in a planned growth area shall remain attached to the property. However,
9 neither the Board nor the Agency of Natural Resources shall enforce the permit
10 or assert amendment jurisdiction on the tract or tracts of land unless the
11 designation is revoked or the municipality has not taken any action to enforce
12 the conditions of the permit.

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

14 § 4460. APPROPRIATE MUNICIPAL PANELS

15 * * *

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

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

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

19 V.S.A. § 6033; and

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

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

6 (A) the construction phase of the project that has already been
7 constructed;

8 (B) compliance with another State permit that has independent
9 jurisdiction;

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

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

13 (E) a physical or use condition that is no longer in effect or
14 applicable or that will no longer be in effect or applicable once the new project
15 is approved.

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

19 (4) The appropriate municipal panel shall comply with the notice and
20 hearing requirements provided in subdivision 4464(a)(1) of this title. In

1 addition, notice shall be provided to those persons requiring notice under
2 10 V.S.A. § 6084(b) and shall explicitly reference the existing Act 250 permit.

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

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

10 (h) Within a designated Tier 1A planned growth area or Tier 1B base
11 growth area, the appropriate municipal panel shall enforce any existing permits
12 issued under 10 V.S.A. chapter 151.

13 * * * Future Land Use Maps * * *

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

15 §4302. PURPOSE; GOALS

16 * * *

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

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

1 (A) Intensive residential development should be encouraged
2 primarily in ~~areas related to community centers~~ Downtowns, Village Centers,
3 Planned Growth Areas and Village Areas as described in section 4348a of this
4 title, and strip development along highways ~~should be discouraged~~ should be
5 avoided. These areas should be planned so as to accommodate the majority of
6 housing needed to reach the housing targets in developed for each region
7 pursuant to section 4348a(a)(9) of this title.

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

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

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

17 * * *

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

20 (A) significant natural and fragile areas;

1 citizens of low and moderate income, and consistent with housing targets
2 provided for in section 4348a(a)(9) of this title.

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

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

9 (D) Accessory ~~apartments~~ dwelling units within or attached to single-
10 family residences which provide affordable housing in close proximity to cost-
11 effective care and supervision for relatives, elders, or persons who have a
12 disability should be allowed.

13 * * *

14 (14) To encourage flood resilient communities.

15 (A) New development in identified flood hazard, ~~fluvial erosion~~, and
16 river corridor protection areas should be avoided. If new development is to be
17 built in such areas, it should not exacerbate flooding and fluvial erosion.

18 (B) The protection and restoration of floodplains and upland forested
19 areas that attenuate and moderate flooding and fluvial erosion should be
20 encouraged.

1 (C) Flood emergency preparedness and response planning should be
2 encouraged.

3 * * *

4 Sec. 31. 24 V.S.A. § 4345a is amended to read:

5 § 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

6 A regional planning commission created under this chapter shall:

7 * * *

8 (5) Prepare a regional plan and amendments that are consistent with
9 the goals established in section 4302 of this title, and compatible with
10 approved municipal and adjoining regional plans. When preparing a regional
11 plan, the regional planning commission shall:

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

15 (B) develop a regional data base that is compatible with, useful to,
16 and shared with the geographic information system established under 3 V.S.A.
17 § 20;

18 (C) conduct capacity studies;

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

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

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

5 § 4347. PURPOSES OF REGIONAL PLAN

6 A regional plan shall be made with the general purpose of guiding and
7 accomplishing a coordinated, efficient, equitable and economic development
8 of the region which will, in accordance with the present and future needs and
9 resources, best promote the health, safety, order, convenience, prosperity, and
10 welfare of ~~the~~ current and future inhabitants as well as efficiency and economy
11 in the process of development. This general purpose includes recommending a
12 distribution of population and of the uses of the land for urbanization, trade,
13 industry, habitation, recreation, agriculture, forestry, and other uses as will tend
14 to:

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

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

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

1 (4) promote the conservation of the supply of food, water, energy, and
2 minerals;

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

5 (6) promote the development of housing suitable to the needs of the
6 region and its communities.; and

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

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

11 § 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

12 (a) A regional planning commission shall adopt a regional plan. Any plan
13 for a region, and any amendment ~~thereof~~, shall be prepared by the regional
14 planning commission. At the outset of the planning process and throughout
15 the process, regional planning commissions shall solicit the participation of
16 local citizens and organizations by holding informal working sessions that suit
17 the needs of local people.

18 (b) 60 days prior to holding the first public hearing on a regional plan, a
19 regional planning commission shall submit a draft regional plan to the
20 Environmental Review Board and Agency of Commerce and Community
21 Development for preliminary review and comments related to conformance of

1 the draft with sections 4302 and 4348a of this title, chapter 139 of this title, and
2 10 V.S.A. § 6001 with regards to critical resource areas. The Agency shall
3 coordinate with other State agencies and respond within 60 days unless more
4 time is granted by the regional planning commission.

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

9 (e)(d) At least 30 days prior to the first hearing, a copy of the proposed plan
10 or amendment, a report documenting conformance with the goals established
11 in section 4302 of this chapter and the plan elements established in section
12 4348a of this chapter, a description of any changes to the Regional Future
13 Land Use Map, and the definition of substantial regional impact with a request
14 for general comments and for specific comments with respect to the extent to
15 which the plan or amendment is consistent with the goals established in section
16 4302 of this title, shall be delivered physically or electronically with proof of
17 receipt or sent by certified mail, return receipt requested, to each of the
18 following:

19 (1) the chair of the legislative body of each municipality within the
20 region;

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

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

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

9 (5) the Agency of Natural Resources ~~and~~, the Agency of Agriculture,
10 Food and Markets, the Agency of Transportation, the Department of Public
11 Service, the Department of Public Safety’s Division of Emergency
12 Management; and the Environmental Review Board.

13 ~~(d)~~(e) Any of the foregoing bodies, or their representatives, may submit
14 comments on the proposed regional plan or amendment to the regional
15 planning commission and may appear and be heard in any proceeding with
16 respect to the adoption of the proposed plan or amendment.

17 ~~(e)~~(f) The regional planning commission may make revisions to the
18 proposed plan or amendment at any time not less than 30 days prior to the final
19 public hearing held under this section. If the proposal is changed, a copy of the
20 proposed change shall be delivered physically ~~or~~; electronically with proof of
21 receipt; or by certified mail, return receipt requested, to the chair of the

1 legislative body of each municipality within the region, and to any individual
2 or organization requesting a copy, at least 30 days prior to the final hearing.

3 ~~(f)(g)~~ A regional plan or amendment shall be adopted by not less than a 60
4 percent vote of the commissioners representing municipalities, in accordance
5 with the bylaws of the regional planning commission, ~~and immediately~~
6 ~~submitted to the legislative bodies of the municipalities that comprise the~~
7 ~~region. The plan or amendment shall be considered duly adopted and shall~~
8 ~~take effect 35 days after the date of adoption, unless, within 35 days of the date~~
9 ~~of adoption, the regional planning commission receives certification from the~~
10 ~~legislative bodies of a majority of the municipalities in the region vetoing the~~
11 ~~proposed plan or amendment. In case of such a veto, the plan or amendment~~
12 ~~shall be deemed rejected.~~

13 (h)(1) A regional planning commission shall submit its regionally adopted
14 regional plan to the Environmental Review Board for a determination of
15 regional plan compliance with the following: a report documenting
16 conformance with the goals established in section 4302 of this chapter and the
17 plan elements established in section 4348a of this chapter, how the rural:
18 conservation area meets the definition of critical resource area established in
19 10 V.S.A. § 6001, a description of any changes to the regional plan future land
20 use map, the definition of substantial regional impact, and a recommendation
21 from the State Community Revitalization Board.

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

9 (3) The recommendation from the Community Revitalization Board shall
10 receive substantial deference from the Environmental Review Board with
11 respect to the mapping of proposed Downtowns, Village Centers, Planned
12 Growth Areas, and Village Areas. The Environmental Review Board shall
13 issue the determination in writing within 45 days after the receipt of a request
14 for a determination. If the determination is affirmative, a copy of the
15 determination shall be provided to the regional planning commission and the
16 Environmental Review Board. If the determination is negative, the
17 Environmental Review Board shall state the reasons for denial in writing and,
18 if appropriate, suggest acceptable modifications. Submissions for a new
19 determination that follow a negative determination shall receive a new
20 determination within 45 days.

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

3 (A) Consistency with the State planning goals as described in section
4 4302 of this chapter with consistency determined in the manner described
5 under subdivision 4302(f)(1) of this chapter.

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

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

13 (i) Objections of interested parties.

14 (1) An interested party who has participated in the regional plan
15 adoption process may object to the approval of the plan or approval of the
16 future land use maps by the Environmental Review Board within 15 days of
17 plan adoption by the regional planning commission. Participation is defined as
18 providing written or verbal comments for consideration at a public hearing
19 held by the regional planning commission. Objections shall be submitted
20 using a form provided by the Environmental Review Board.

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

3 (A) A person owning title to or occupying property within the region.

4 (B) Any 20 persons by signed petition who own property or reside
5 within the region. The petition must designate one person to serve as the
6 representative of the petitioners regarding all matters related to the appeal. The
7 designated representative must have participated in the regional plan adoption
8 process as described in subdivision (e)(1) of this section.

9 (C) A party entitled to notice under subsection (d) of this section.

10 (3) Any objection under this section shall be limited to the question of
11 whether the regional plan is consistent with the regional plan elements and
12 future land use areas as described in section 4348a of this title. The
13 requirements of subdivision 4352 of this title related to enhanced energy
14 planning shall be under the sole authority of the Department of Public Service
15 and shall not be reviewed by the Environmental Review Board.

16 (4) the Environmental Review Board shall hear any objections of
17 regional plan adoption concurrently with regional plan review under 4348(h)
18 of this section and 10 V.S.A. § 6027. The Environmental Review Board
19 decision of approval of a regional plan shall expressly evaluate any objections
20 and state the reasons for their decisions in writing. If applicable, the decision
21 to uphold an objection shall suggest modifications to the regional plan.

1 (j) Minor Amendments to Regional Future Land Use Plan. A regional
2 planning commission and a municipality may submit a joint request for a
3 minor amendment to boundaries of a future land use area pursuant to this
4 chapter for consideration by the Environmental Review Board. The joint
5 request may only be submitted after an affirmative vote of the municipal
6 legislative body and the regional planning commission board. The
7 Environmental Review Board, after consultation with the Community
8 Revitalization Board and the regional planning commissions, shall provide
9 guidance about what constitutes a minor amendment. Minor amendments may
10 include any change to a future land use district consisting of less than 10 acres.
11 A minor amendment to a Designated Area plan shall not require an amendment
12 to a regional plan as outlined in section 4348 of this chapter. The Board may
13 adopt rules to implement this section.

14 (k) An affirmative determination of regional plan compliance issued
15 pursuant to this section shall remain in effect until the end of the period for
16 expiration or readoption of the plan to which it applies.

17 (l) Regional planning commissions shall be provided up to 18 months from
18 a negative determination by the Environmental Review Board to obtain an
19 affirmative determination of regional plan compliance. If a regional planning
20 commission is unable to obtain affirmative determination of regional plan

1 compliance, member municipalities shall lose benefits related to Designations,
2 Act 250, or State infrastructure investments.

3 (m) Upon approval by the Environmental Review Board, the plan shall be
4 considered duly adopted, shall take effect, and is not appealable. The plan
5 shall be immediately submitted to the entities listed in subsection (d) of this
6 section.

7 (g)(n) Regional plans may be reviewed from time to time and may be
8 amended in the light of new developments and changed conditions affecting
9 the region. As specifically enabled in section 4348 of this title, minor
10 amendments to the Designated Areas do not require the amendment of a
11 regional plan. All minor amendments to future land use areas shall be
12 compiled and included in the next iteration of the regional plan.

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

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

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

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

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

4 §4348a. ELEMENTS OF A REGIONAL PLAN

5 (a) A regional plan shall be consistent with the goals established in section
6 4302 of this title and shall include the following:

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

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

15 (A) Indicates those areas of significant natural resources, including
16 proposed for forests, wetlands, vernal pools, rare and irreplaceable natural
17 areas, floodplains, river corridors, recreation, agriculture, ~~(using the~~
18 agricultural lands identification process established in 6 V.S.A. § 8), residence,
19 commerce, industry, public, and semi-public uses, open spaces, areas reserved
20 for flood plain, forest blocks, habitat connectors, recreation areas and
21 recreational trails, and areas identified by the State, regional planning

1 commissions, or municipalities that require special consideration for aquifer
2 protection; for wetland protection; for the maintenance of forest blocks,
3 wildlife habitat, and habitat connectors; or for other conservation purposes.

4 ~~(B) Indicates those areas within the region that are likely candidates~~
5 ~~for designation under sections 2793 (downtown development districts), 2793a~~
6 ~~(village centers), 2793b (new town centers), and 2793c (growth centers) of this~~
7 ~~title.~~

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

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

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

1 ~~(F)~~(C) Indicates those areas that are important as forest blocks and
2 habitat connectors and plans for land development in those areas to minimize
3 forest fragmentation and promote the health, viability, and ecological function
4 of forests. A plan may include specific policies to encourage the active
5 management of those areas for wildlife habitat, water quality, timber
6 production, recreation, or other values or functions identified by the regional
7 planning commission.

8 (D) preservation of rare and irreplaceable natural areas, scenic and
9 historic features, and resources; and

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

13 (3) An energy element, ~~may include~~ including an analysis of resources,
14 needs, scarcities, costs, and problems within the region across all energy
15 sectors, including electric, thermal, and transportation; a statement of policy on
16 the conservation and efficient use of energy and the development and siting of
17 renewable energy resources; a statement of policy on patterns and densities of
18 land use likely to result in conservation of energy; and an identification of
19 potential areas for the development and siting of renewable energy resources
20 and areas that are unsuitable for siting those resources or particular categories
21 or sizes of those resources.

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

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

19 (6) A statement of policies on the:
20 (A) preservation of rare and irreplaceable natural areas, scenic and
21 historic features, and resources; and

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

4 [Repealed.]

5 * * *

6 (12) A future land use element, based upon the elements in this section,
7 that sets forth the present and prospective location, amount, intensity, and
8 character of such land uses in relation to the provision of necessary community
9 facilities and services and that consists of a map delineating future land use
10 area boundaries for the land uses in subdivisions (A)–(J) of this subdivision
11 (12) as appropriate and any other special land use category the regional
12 planning commission deems necessary; descriptions of intended future land
13 uses; and policies intended to support the implementation of the future land use
14 element using the following land use categories:

15 (A) Downtown or Village Centers. These areas are the vibrant,
16 mixed-use centers bringing together community economic activity and civic
17 assets. They include ~~downtowns~~, villages, and new town centers, previously
18 designated under chapter 76A and ~~downtowns and village centers~~ seeking
19 benefits under the State Designation Program ~~under section 5804~~. The
20 Downtown or Village Centers are the central business and civic centers within
21 Planned Growth Areas, Village Areas, or may stand alone. ~~Village centers are~~

1 not required to have municipal water, wastewater, zoning, or subdivision
2 bylaws.

3 (B) Planned Growth Areas. These areas include the densest existing
4 settlement and future growth areas with the highest concentrations of
5 population, housing, and employment in each region and town, as appropriate.
6 They include a mix of commercial, residential, and civic or cultural sites with
7 active streetscapes, supported by land development regulations, public water,
8 wastewater, or both, and multi-modal transportation systems. These areas
9 include ~~historic or~~ new town centers, downtowns, village centers, growth
10 centers, and neighborhood development areas previously designated under
11 chapter 76A of this title. These areas should generally meet the smart growth
12 principles definition in chapter 139 and the following criteria:

13 (i) The municipality has a duly adopted and approved plan and a
14 planning process that is confirmed in accordance with section 4350 of this title
15 and has adopted bylaws and regulations in accordance with sections 4414,
16 4418, and 4442 of this title.

17 (ii) This area is served by municipal water and wastewater
18 infrastructure as defined in section 4303 of this title.

19 (iii) The area is generally within walking distance from the
20 municipality's or an adjacent municipality's downtown, village center, new
21 town center or growth center.

1 (iv) The area excludes identified flood hazard and fluvial erosion
2 areas, except those areas containing preexisting development in areas suitable
3 for infill development as defined in section 29-201 of the Vermont Flood
4 Hazard Area and River Corridor Rule.

5 (v) The municipal plan indicates that this area is intended for
6 higher density residential and mixed-use development.

7 (vi) The area provides for housing that meets the needs of a
8 diversity of social and income groups in the community.

9 (vii) The area is served by planned or existing transportation
10 infrastructure that conforms with “complete streets” principles as described
11 under 19 V.S.A. § 309d and establishes pedestrian access directly to the
12 downtown, village center, or new town center. **Planned transportation**
13 **infrastructure includes those investments included in the municipality’s capital**
14 **improvement program.**

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

17 ~~(I) scattered development located outside compact urban and~~
18 ~~village centers that is excessively land consumptive;~~

19 ~~(II) development that limits transportation options, especially~~
20 ~~for pedestrians;~~

21 ~~(III) the fragmentation of farmland and forestland;~~

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

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

7 (C) Village Areas. These areas include the traditional settlement area
8 or a proposed new settlement area, typically comprised of a cohesive mix of
9 residential, civic, religious, commercial, and mixed-use buildings, arranged
10 along a main street and intersecting streets that are within walking distance for
11 residents who live within and surrounding the core. Village Areas shall have
12 one of the following: municipal water, wastewater, or land development
13 regulations. If no municipal wastewater is available, the area must have soils
14 that are adequate for wastewater disposal. They provide some opportunity for
15 infill development or new development areas where the village can grow and
16 be flood resilient. These areas include existing village center designations and
17 similar areas statewide, but this area is larger than the Village Center
18 designation. Village areas must 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 (ii) The municipality has adopted bylaws and regulations in
2 accordance with sections 4414, 4418, and 4442 of this title.

3 (iii) Unless the municipality has adopted flood hazard and river
4 corridor bylaws, applicable to the entire municipality, that are consistent with
5 the standards established pursuant to subsection 755(b) of title 10 (flood
6 hazard) and subsection 1428(b) of title 10 (river corridor), the area excludes
7 identified flood hazard and fluvial erosion areas, except those areas containing
8 preexisting development in areas suitable for infill development as defined in §
9 29-201 of the Vermont Flood Hazard Area and River Corridor Rule.

10 (D) Transition/Infill Area. These areas include areas of existing or
11 planned commercial, office, mixed-use development, or residential uses either
12 adjacent to a Planned Growth or Village Area or a new stand-alone Transition
13 Area and served by, or planned for, municipal water or wastewater, or both.
14 The intent of this land use category is to transform these areas into higher-
15 density, mixed-use settlements, or residential neighborhoods through infill and
16 redevelopment or new development. New commercial strip auto-oriented
17 development is not allowed as to prevent negatively impacting the economic
18 vitality of commercial areas in the adjacent or nearby Planned Growth or
19 Village Area. This area could also include adjacent greenfields safer from
20 flooding and planned for future growth.

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

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

11 (G) Hamlet. Small historic clusters of homes and perhaps a school,
12 church, store, or other public buildings not planned for significant growth; no
13 public water supply or wastewater systems; and mostly focused along one or
14 two roads. These may be depicted as points on the future land use map.

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

1 impact or for land development that generates 75 or more peak hour trip ends,
2 according to the latest version of the ITE Trip Generation Manual, which is
3 located in a geographic area exempt from Act 250 jurisdiction per 10 V.S.A.
4 § 6081.

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

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

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

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

19 (5) Administration. The administrative officer is enabled with the
20 authority to enforce a decision of the appropriate municipal panel that

1 conditions municipal approval upon the issuance of a State permit. This
2 authority shall not be deemed a conflict with subsection 4449(e) of this title.

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

4 § 4464. HEARING AND NOTICE REQUIREMENTS; DECISIONS AND
5 CONDITIONS; ADMINISTRATIVE REVIEW; ROLE OF
6 ADVISORY COMMISSIONS IN DEVELOPMENT REVIEW

7 (a) Notice procedures. All development review applications before an
8 appropriate municipal panel under procedures set forth in this chapter shall
9 require notice as follows:–

10 (1) A warned public hearing shall be required for conditional use
11 review, variances, administrative officer appeals, and final plat review for
12 subdivisions. Any public notice for a warned public hearing shall be given not
13 less than 15 days prior to the date of the public hearing by all the following:

14 * * *

15 (D) Written notification to the regional planning commission of the
16 subject municipality and the Secretary of Transportation for all development
17 applications within areas exempt pursuant to 10 V.S.A. § 6081 that meet the
18 definition of substantial regional impact or that generate 75 or more peak hour
19 trip ends.

20 (E) For an application for a project located within 500 feet of a
21 municipal boundary, the notice shall be sent to the clerk and the chair of the

1 appropriate municipal panel of an adjacent municipality at least 15 days prior
2 to the public hearing.

3 (2) Public notice for hearings on all other types of development review,
4 including site plan review, shall be given not less than seven days prior to the
5 date of the public hearing, and shall include at a minimum all the following:

6 * * *

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

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

16 * * *

17 (e) Role of regional planning commissions and the Agency of
18 Transportation. The regional planning commissions and the Agency of
19 Transportation, identified as interested persons in section 4465 of this title,
20 may participate only in proceedings regarding applications within areas exempt
21 pursuant to 10 V.S.A. § 6081 that meet the definition of substantial regional

1 impact or that generate 75 or more peak hour trip ends. The regional planning
2 commissions and the Agency of Transportation shall perform the following
3 functions: review the application; inform the applicant about any State
4 permitting and any other statutory requirements, including transportation
5 impact fees as required by 10 V.S.A. § 6104, related to the proposed
6 development; and prepare recommendations on each of the review standards
7 within the commission’s or agency’s purview for consideration by the
8 applicant. Recommendations may be shared with the appropriate municipal
9 panel in order to coordinate municipal and State permit review. The regional
10 planning commission or the Agency of Transportation may meet with the
11 applicant or interested parties, or both; conduct site visits; and perform other
12 fact-finding that will enable the preparation of recommendations.

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

14 § 4465. APPEALS OF DECISIONS OF THE ADMINISTRATIVE OFFICER

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

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

3 * * *

4 (6) The Agency of Transportation for all development applications
5 within areas exempt pursuant to 10 V.S.A. § 6081 that generate 75 or more
6 peak hour trip ends.

7 Sec. 38. 10 V.S.A. § 6104 is amended to read:

8 § 6104. TRANSPORTATION IMPACT FEE; DISTRICT COMMISSION

9 * * *

10 (e) Within areas exempted from Act 250 pursuant to section 6081 of this
11 title, the Secretary of Transportation may exercise all powers of the District
12 Commission according to this chapter, including the ability to require a
13 transportation impact fee in accordance with section 6106 of this title, provided
14 the subject land development generates 75 or more peak hour trip ends on a
15 State Highway or Class 1 Town Highway or is required to obtain a permit per
16 19 V.S.A. § 1111.

17 Sec. 39. 19 V.S.A. §10b is amended to read:

18 §10b. STATEMENT OF POLICY; GENERAL

19 * * *

20 (c) In developing the State’s annual Transportation Program, the Agency
21 shall, consistent with the planning goals listed in 24 V.S.A. § 4302 and with

1 ~~appropriate consideration~~ substantial deference to local, regional, and State
2 agency plans:

3 * * *

4 * * * Resilience Planning * * *

5 Sec. 40. 24 V.S.A. § 4306 is amended to read:

6 § 4306. MUNICIPAL AND REGIONAL PLANNING AND RESILIENCE
7 FUND

8 (a)(1) The Municipal and Regional Planning and Resilience Fund for the
9 purpose of assisting municipal and regional planning commissions to carry out
10 the intent of this chapter is hereby created in the State Treasury.

11 (2) The Fund shall be composed of 17 percent of the revenue from the
12 property transfer tax under 32 V.S.A. chapter 231 and any monies from time to
13 time appropriated to the Fund by the General Assembly or received from any
14 other source, private or public. All balances at the end of any fiscal year shall
15 be carried forward and remain in the Fund. Interest earned by the Fund shall
16 be deposited in the Fund.

17 (3) Of the revenues in the Fund, each year:

18 (A) 10 percent shall be disbursed to the Vermont Center for
19 Geographic Information;

20 (B) 70 percent shall be disbursed to the Secretary of Commerce and
21 Community Development for performance contracts with regional planning

1 commissions to provide regional planning services pursuant to section 4341a
2 of this title; and

3 (C) 20 percent shall be disbursed to municipalities.

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

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

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

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

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

1 (3) Of the annual disbursement to municipalities, an amount not to
2 exceed 20 percent of the total may be disbursed to the Department to
3 administer a program providing direct technical consulting assistance under
4 retainer on a rolling basis to any eligible municipality to meet the requirements
5 for designated neighborhood development area under chapter 76A of this title,
6 provided that the municipality is eligible for funding under subdivision (2) of
7 this subsection and meets funding guidelines established by the Department to
8 ensure accessibility for lower capacity communities, municipal readiness, and
9 statewide coverage.

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

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

13 (1) funding the regional planning commission in undertaking capacity
14 studies;

15 (2) carrying out the provisions of subchapters 5 through 10 of this
16 chapter;

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

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

4 Sec. 41. MUNICIPAL PLANNING AND RESILIENCE GRANT

5 PROGRAM

6 (a) The Agency of Commerce and Community Development shall rename
7 the Municipal Planning Grant Program that the Agency administers under
8 24 V.S.A. § 4306(b)(2) as the Municipal Planning and Resilience Grant
9 Program.

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

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

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

21 Sec. 42. CLIMATE RESILIENCY PLANNING POSITIONS

1 Program formerly in chapter 76A of this title. Statutory references outside this
2 chapter referring to the former State Designated Village Centers, Downtown,
3 and New Town Centers shall mean Designated Center, once established.

4 Statutory references outside this chapter referring to the former State
5 Designated Growth Centers and Neighborhood Development areas shall mean
6 Designated Neighborhood, once established.

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

9 (3) “Department” means the Department of Housing and Community
10 Development.

11 (4) “Downtown” or “Village” means the

12 (5) “Downtown Center” or “Village Center” means areas on the regional
13 plan future land use maps which may be designated as a Center consistent with
14 section 4348a of this title.

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

18 (7) “Local downtown organization” means either a nonprofit
19 corporation, or a board, council, or commission created by the legislative body
20 of the municipality, whose primary purpose is to administer and implement the

1 community reinvestment agreement and other matters regarding the
2 revitalization of the downtown.

3 (8) “Planned Growth Area” means an area on the regional plan future
4 land use maps pursuant to section 4348a of this title, which may encompass a
5 Downtown Center or Village Center on the regional future land use map and
6 may be designated as a Center or Neighborhood or both.

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

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

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

12 (B) Develops compact mixed-use centers at a scale appropriate for
13 the community and the region.

14 (C) Enables choice in modes of transportation.

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

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

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

1 (G) Supports a diversity of viable businesses in downtowns and
2 villages.

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

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

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

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

11 (iii) the fragmentation of farmland and forestland;

12 (iv) development that makes inefficient use of land, energy, roads,
13 utilities, and other supporting infrastructure or that requires the extension of
14 infrastructure across undeveloped lands outside compact, villages, downtowns,
15 or urban centers; and

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

19 (11) “Sprawl repair” means the redevelopment of lands developed with
20 buildings, traffic and circulation, parking, or other land coverage in pattern that

1 is consistent with smart growth principles and is served by a complete street
2 connecting to a proximate Center and served by water and sewer infrastructure.

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

5 (13) “State Designated Downtown and Village Center” or “Center”
6 means a contiguous Downtown or Village area designated by Environmental
7 Review Board under 10 V.S.A. § 6033, which may include an approved pre-
8 existing designated village center, designated downtown, or designated new
9 town center established prior to the approval of the regional plan future land
10 use maps. It shall encompass an area that extends access to benefits that
11 sustain and revitalize existing buildings and maintain the basis of the
12 program’s original focus on revitalizing historic downtowns and villages by
13 promoting development patterns and historic preservation practices vital to
14 Vermont’s economy, cultural landscape, equity of opportunity, and climate
15 resilience.

16 (14) “State Designated Neighborhood” or “Neighborhood” means a
17 contiguous geographic area designated by the Environmental Review Board
18 under 10 V.S.A. § 6033 that is adjacent and contiguous to a Designated Center,
19 which may include an approved and pre-existing designated neighborhood
20 development area or growth center established prior to approval of the regional
21 plan future land use maps. It means an area that is compact, principally

1 walkable to a Designated Center, principally served by complete streets,
2 primarily including historic areas, and may include areas transitioning to
3 complete streets and smart growth through municipal capital planning,
4 programming, and budgeting in complete streets accordance with Section 4430
5 (Capital Budget and Program) of this title.

6 (15) “Tier 1A Planned Growth Area” means a geographic area
7 designated by the Environmental Review Board under 10 V.S.A. § 6033 that
8 overlays a Designated Downtown and Village Center or Designated
9 Neighborhood.

10 (16) “Vermont Downtown Program” means a Main Street America
11 Coordinating Program that helps support community revitalization and
12 economic vitality while preserving the historic character of Vermont’s
13 Downtown Cores. The Vermont Downtown Program provides downtowns
14 with financial incentives, training and technical assistance supporting local
15 efforts to restore historic buildings, improve housing, design walkable
16 communities, and encourage economic development by incentivizing public
17 and private investments.

18 (17) “Village Area” means an area on the regional plan future land use
19 maps pursuant to section 4348a of this title, which may encompass a Village
20 Center on the regional future land use map.

21 § 5802. VERMONT COMMUNITY REVITALIZATION BOARD

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

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

5 (2) the Secretary of Transportation;

6 (3) the Secretary of Natural Resources;

7 (4) the Commissioner of Public Safety;

8 (5) the State Historic Preservation Officer;

9 (6) a member of the community designated the Director of Racial
10 Equity;

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

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

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

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

20 (11) the State Treasurer;

1 (12) a member of the Vermont Planners Association designated by the
2 Association;

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

4 (14) a representative of a Regional planning commission designated by
5 the Vermont Association of Planning and Development Agencies Region.

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

8 (c) The Department shall provide legal, staff, and administrative support to
9 the State Board **in cooperation with the ERB**; shall produce guidelines to direct
10 municipalities seeking to obtain designation under this chapter and for other
11 purposes established by this chapter; and shall pay per diem compensation for
12 board members pursuant to 32 V.S.A. § 1010(b).

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

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

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

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

20 (2) to review and issue **recommendations** on proposed regional plan
21 future land use maps prepared by the regional planning commission and

1 **presented to the Environmental Review Board for Designated Center and**
2 **Designated Neighborhood recognition under 10 V.S.A. § 6033:**

3 **(3) to recommend to the ERB conditioned designation approvals**
4 **and modifications to the regional plan future land use maps presented for**
5 **the designated areas:**

6 **(4) to recommend suspension or removal of a designation approved by**
7 **the Environmental Review Board:**

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

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

11 **(7) to have standing in regional plan approvals before the**
12 **Environmental Review Board; and**

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

15 **§ 5803. MAPPING BY REGIONAL PLANNING COMMISSIONS**

16 (a) The regional plan future land use map developed per section 4348a of
17 this title shall delineate areas within the regional planning commission's
18 member municipalities that are eligible to receive designation benefits as
19 Centers and Neighborhoods when the future land use map is approved by the
20 ERB per 10 V.S.A. § 6033. The areas eligible for designation shall be
21 identified on the regional plan future land use map as regional Downtown

1 Centers, Village Centers, Planned Growth Area, and Village Areas in a manner
2 consistent with this **chapter**. This methodology shall include all approved
3 designated downtowns, villages, new town centers, neighborhood development
4 areas, and growth centers existing on July 1, 2024, unless the subject member
5 municipality requests otherwise.

6 (b) Exclusions. With the exception for preexisting, nonconforming
7 designations approved prior to the establishment of the program under this
8 chapter, the areas eligible for designation benefits **upon the ERB approval of**
9 the regional plan future land use map for designation as a Center shall not
10 include leap-frog development that is disconnected from a Center and that
11 lacks a pedestrian connection to the Center via a complete **street**.

12 ~~(c) **A proposed Planned Growth Areas for State designation may be**~~
13 ~~**mapped by a municipality in consultation with the regional planning**~~
14 ~~**commission pursuant to section 5806 of this title.**~~

15 ~~(d) **The Vermont Association of Planning and Development Agencies**~~
16 ~~**(VAPDA) shall develop a standard methodology for the regional plan future**~~
17 ~~**land use maps that shall include the areas eligible for designation under this**~~
18 ~~**chapter which shall integrate consistent elements in the municipal and regional**~~
19 ~~**plan.**~~

20 (e) On or before December 31, 2024, the VAPDA shall develop standard
21 methodology and process for the mapping of areas eligible for designation

1 under 10 V.S.A. § 6033 in consultation with the Department and
2 Environmental Review Board that shall integrate elements in the regional plan
3 and plan for a municipality. The methodology and process shall recommend a
4 streamlined procedure for minor amendments by the ERB to the boundaries of
5 the approved designated areas upon request by member municipalities to map
6 eligible areas for designation under this chapter.

7 ~~(f) Any regional planning commission may issue independent comments to~~
8 ~~the panel or State Board on a proposed regional plan future land use map. The~~
9 ~~VAPDA shall develop a pre-adoption process by which the Department and~~
10 ~~Environmental Review Board can review the proposed regional plan future~~
11 ~~land use maps and issue findings on conformance with this chapter and chapter~~
12 ~~117 of this title.~~

13 (g) The regional plan future land use map shall be submitted to the
14 Environmental Review Board for review and approval with **the advice and**
15 **consent** of the Department and State Board on those Downtown and Village
16 Centers and Neighborhoods areas **per section 4348 of this title.**

17 § 5804. DESIGNATION OF DOWNTOWN AND VILLAGE CENTERS

18 (a) Designation established. A regional planning commission may apply to
19 the Environmental Review Board for **approval and** designation of all Centers
20 by submitting the regional plan future land use map adopted by the regional
21 planning commission. The Environmental Review Board shall seek the **advice**

1 and consent of the Department and State Board on areas eligible for Center
2 Designation as provided under this chapter.

3 (1) A preapplication meeting shall be held with Environmental Review
4 Board and Department staff to review the program requirements at least 60
5 days prior to submission and review of the regional planning commission
6 future land use map and adjoining regional planning commission review. The
7 meeting shall be held in the regional planning commission unless the regional
8 planning commission agrees to another location.

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

19 (b) Inclusions. The areas mapped by the regional planning commissions as
20 a center shall allow for the designation of preexisting, approved village centers,

1 downtown centers, and new town centers in existence on or before December
2 25, 2025.

3 (c) Approval. The Environmental Review Board shall conduct its review
4 pursuant to section 4348 of this title.

5 (d) Transition. All designated village centers, new town centers, or
6 downtowns existing as of December 31, 2025 will retain current benefits until
7 June 30, 2026 or until approval of the regional future land use maps by the
8 ERB, whichever comes first. All existing designations in effect December 31,
9 2025 will expire June 30, 2026 if the regional planning commission does not
10 receive State Board approval of the regional plan future land use maps under
11 this chapter. All benefits for preexisting designated village centers,
12 downtowns, and new town centers that are removed under this chapter shall
13 remain with the prior designations existing as of December 31, 2025 until July
14 1, 2032. Prior to June 30, 2026, no renewal shall be required for the
15 preexisting designations. New applications may be approved by the State
16 Board prior to the approval of a regional future land use map under former
17 chapter 76A of this title by the State Board until December 31, 2025. The last
18 day to submit an application for designation prior to December 31, 2025 will
19 be October 1, 2025.

20 (e) Benefits Steps. A Center may receive the benefits associated with the
21 steps in this chapter by meeting the established requirements. The Department

1 shall review applications from municipalities to advance from Step One to
2 Two and from Step Two to Three and issue written decisions. If a municipal
3 application is rejected by the Department, the municipality may appeal the
4 administrative decision to the State Board. To maintain an established Step 3
5 Center after the initial approval of regional plan future land use map by the
6 ERB, the municipality shall apply for renewal and meet the program
7 requirements upon application for approval of a regional plan future land use
8 map. Step 3 designations that are not approved for renewal revert to Step 2.
9 The municipality may appeal the administrative decision of the Department to
10 the State Board. The Department shall review applications and issue a written
11 administrative decision within 30 days of regional future land use map
12 approval. Appeals of administrative decisions shall be heard by the State
13 Board at the next meeting following a timely filing stating the reasons for the
14 appeal. The Department may issue guidelines to administer these steps. The
15 State Board's decision is final.

16 (1) Step One.

17 (A) Requirements. Step One is established to create an accessible
18 and low-barrier entry point for all villages throughout the State to access site-
19 based improvement supports and conduct initial planning. All downtown and
20 village centers shall automatically reach Step One upon approval of the
21 regional plan future land use map by the Environmental Review Board.

1 Regional plan future land use maps supersede preexisting designated areas that
2 may already meet the Step One requirement.

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

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

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

11 (2) Step Two.

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

16 (i) meets the requirements of Step One or if it has an approved
17 village center or new town center **under 76A upon initial approval of the**
18 **regional plan future land use map and prior to December 31, 2026;**

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

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

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

3 (i) general grant priority for bylaws and special-purpose plans,
4 area improvement or reinvestment plans, including **priority consideration for**
5 the Better Connections Program and other applicable programs identified by
6 Department guidance, and for capital plans.

7 (ii) funding **priority** for infrastructure project scoping, design,
8 engineering, **and construction by the State Program;**

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

12 (iv) priority consideration for State and Federal affordable housing
13 funding;

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

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

18 (vii) exemption from the land gains tax under 32 V.S.A.
19 § 10002(p); and

20 **(viii) assistance and guidance from the Department for establishing**
21 **local historic preservation regulations.**

1 (3) Step Three.

2 (A) Requirements. Step Three is established to create the higher-
3 level entry point for downtowns throughout the State to create vibrant mixed-
4 use centers. A Center reaches Step Three and achieves status **or maintains**
5 **Step 3** as a Downtown if the Department finds that it meets the following
6 requirements:

7 (i) Meets the requirements of Step Two, or if it has an existing
8 downtown designated under chapter 76A in effect **upon initial approval of the**
9 **regional future land use map and prior to December 31, 2026.**

10 (ii) Is listed or eligible for listing in the National Register of
11 Historic Places.

12 (iii) Has a downtown improvement plan.

13 (iv) Has a downtown investment agreement.

14 (v) Has a capital plan **adopted under 4430 of this title** that
15 implements the downtown improvement plan.

16 (vi) Has a Local Downtown Organization with an organizational
17 structure necessary to sustain a comprehensive long-term downtown
18 revitalization effort, including a local downtown organization that will
19 collaborate with municipal departments, local businesses, and local nonprofit
20 organizations. The Local Downtown Organization shall work to;

1 (I) enhance the physical appearance and livability of the
2 downtown district by implementing local policies that promote the use and
3 rehabilitation of historic and existing buildings, by developing pedestrian-
4 oriented design requirements, by encouraging new development and infill that
5 satisfy such design requirements, and by supporting long-term planning that is
6 consistent with the goals set forth in section 4302 of this title;

7 (II) build consensus and cooperation among the many groups
8 and individuals who have a role in the planning, development, and
9 revitalization process;

10 (III) market the assets of the downtown district to customers,
11 potential investors, new businesses, local citizens, and visitors;

12 (IV) strengthen, diversify, and increase the economic activity
13 within the downtown district; and

14 (V) measure annually progress and achievements of the
15 revitalization efforts as required by Department guidelines.

16 (vii) Has available public water and wastewater service and
17 capacity.

18 (viii) Has permanent zoning and subdivision bylaws.

19 (ix) Has adopted historic preservation regulations for the district
20 with a demonstrated a commitment to protect and enhance the historic
21 character of the downtown through the adoption of bylaws that adequately

1 meet the historic preservation requirements in subdivisions 4414(1)(E) and (F)
2 of this title, unless recognized by the program as a preexisting designated new
3 town center.

4 (x) Has adopted design or form-based regulations that adequately
5 regulate the physical form and scale of development.

6 (B) Benefits. In addition to the benefits of Steps One and Two, a
7 municipality that reaches Step Three is eligible for the following benefits:

8 (i) Funding for the local downtown organization and technical
9 assistance from the Vermont Downtown Program for the Center.

10 (ii) Tax Increment Financing location pursuant to 32 V.S.A.
11 § 5404a.

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

14 (iv) Eligibility to receive National Main Street Accreditation from
15 Main Street America through the Vermont Downtown Program.

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

17 (vi) Certain housing appeal limitations pursuant to chapter 117 of
18 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) Funding for infrastructure project scoping, design,
7 engineering, including participation in the Downtown Transportation and
8 Related Capital Improvement Fund Program established by section 5808 of
9 this title.

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

14 § 5805. DESIGNATED NEIGHBORHOOD

15 (a) Designation established.

16 (1) A regional planning commission may request approval from the
17 Environmental Review Board for designation of areas on the regional plan
18 future land use maps as a Designated Neighborhood per 10 V.S.A. § 6033.
19 Areas eligible for designation include Planned Growth Area and Village Areas
20 identified on the regional plan future land use map. This designation
21 recognizes that the vitality of downtowns and villages and their adjacent

1 neighborhoods, and that the benefits structure must ensure that any subsidy for
2 sprawl repair or infill development locations within a Neighborhoods is
3 secondary to a primary commitment to maintain the livability and maximize
4 the climate resilience and flood-safe infill potential of these areas.

5 (2) Approval of planned growth areas and village areas as designated
6 neighborhoods shall follow the same process as approval for designated
7 centers per 10 V.S.A. § 6033 and consistent with sections 4348 and 4348a of
8 this title.

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

17 (b) Exclusions. The areas eligible for designation as a Neighborhood shall
18 not include the excluded regional areas identified on the regional plan future
19 land use map and flood hazard and fluvial erosion areas, except those areas
20 containing preexisting development in areas suitable for infill development as

1 defined in section 29-201 of the Vermont Flood Hazard Area and River
2 Corridor Rule, as determined by the Agency of Natural Resources.

3 (c) Approval. The Environmental Review Board shall hold a hearing to
4 approve a regional plan future land use map within 90 days following the
5 receipt of a complete application and forward the application to the
6 Department within 15 days. The State Board shall hold a hearing on a
7 complete application to review the regional plan future land use map within
8 60 days following the receipt of a complete application. The State Board shall
9 issue a written decision that the regional future land use map has met the
10 requirements described in subsection (d) of this section and forward its
11 decisions to the Environmental Review Board. The Environmental Review
12 Board shall issue specific written findings if its decision does not accept the
13 State Board's determination for community revitalization boundaries.

14 (d) Transition. Any municipality with an existing designated growth center
15 or neighborhood development area will retain current benefits until July 1,
16 2029 or upon approval of the regional plan future land use maps, whichever
17 comes first. All existing neighborhood development area and growth center
18 designations in effect July 1, 2024 will expire July 1, 2029 if the regional
19 planning commission does not gain approval. All benefits that are removed for
20 neighborhood development areas and growth centers under this chapter shall
21 remain active with prior designations existing as of July 1, 2024 until July 1,

1 2032. During the period of transition, no renewal shall be required for the
2 existing designations. Prior to the approval of a regional plan future land use
3 map by the State Board, only neighborhood development area designations
4 may be approved by the State Board.

5 (e) Requirements. A Designated Neighborhood shall meet requirements
6 for planned growth area or village area as described in section 4348a of this
7 title.

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

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

15 (3) has a confirmed municipal planning process;

16 (4) has implemented the Complete Streets principals or has a capital
17 plan under section 4430 of this title to implement Complete Streets principals;

18 and

19 (5) has adopted permanent zoning and subdivision bylaws that
20 adequately allow housing.

1 (f) Benefits. A Designated Neighborhood is eligible for the following
2 benefits:

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

6 (2) funding priority for infrastructure project scoping, design,
7 engineering, and construction by State programs;

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

10 (4) priority consideration for State and federal affordable housing
11 funding;

12 (5) priority for funding for neighborhood infrastructure; housing appeal
13 limitations under chapter 117 of this title;

14 (6) authority for the municipal legislative body to lower speed limits to
15 25 mph within the Neighborhood;

16 (7) application fee limit for State wastewater applications stated in
17 3 V.S.A. § 2822(j)(4)(D); and

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

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

4 ~~§ 5806. DESIGNATION OF A PLANNED GROWTH AREA~~

5 § 5807. TRANSITION

6 (a) On or before June 30, 2026, the regional planning commissions shall
7 update the regional plan future land use maps to delineate Downtown or
8 Village Centers, Planned Growth Areas, which may encompass a Downtown
9 Center and Village Center, and Village Areas. Notwithstanding other
10 provisions in this chapter, new applications for designation under the prior 76A
11 framework shall end upon approval of a regional plan future land use map by
12 the ERB.

13 (b) Until June 30, 2026, any municipality with an existing designated
14 downtown, village center, or new town center may be granted a Center
15 designation by the State Downtown and Village Board through approval of the
16 regional plan future land use map.

17 (c) Until June 30, 2026, any municipality with an existing designated
18 neighborhood development area or growth center may be granted a Designated
19 Neighborhood by the State Downtown and Village Board, through approval of
20 a regional plan future land use map.

21 § 5808. DESIGNATION DATA CENTER

1 The Department shall maintain an online Municipal Planning Data Center
2 publishing approved regional plan future land use maps and indicating the
3 status of each approved designation within the region, and associated steps for
4 Centers.

5 § 5809. MUNICIPAL TECHNICAL ASSISTANCE

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

9 (b) The procedure shall include interagency assistance and address the
10 following:

11 (1) general project advising and scoping services;

12 (2) physical improvement design services;

13 (3) regulatory and policy-making project services;

14 (4) programmatic and project management services; and

15 (5) legislative recommendations to the General Assembly to better align
16 designation benefits with strategic priorities on or before December 15, 2026.

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

20 (1) housing development growth and equity;

21 (2) climate resilience;

1 (3) coordinated infrastructure investment;

2 (4) local administrative capacity;

3 (5) equity, diversity, and access;

4 (6) livability and social service; and

5 (7) historic preservation.

6 § 5810. DOWNTOWN TRANSPORTATION AND RELATED CAPITAL

7 IMPROVEMENT FUND

8 (a) There is created a Downtown Transportation and Related Capital
9 Improvement Fund, which shall be a special fund created under 32 V.S.A.
10 chapter 7, subchapter 5, to be administered by the State Board in accordance
11 with this chapter to aid municipalities with designated Centers in financing
12 capital transportation and related improvement projects to support economic
13 development. This shall be the same Fund that was created under the prior
14 section 2796 of this title.

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

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

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

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

20 (c) Any municipality with a designated Center may apply to the Board for
21 financial assistance from the Fund for capital transportation and related

1 improvement projects within or serving the district. The Board may award to
2 any municipality grants in amounts not to exceed \$250,000.00 annually, loans,
3 or loan guarantees for financing capital transportation projects, including
4 construction or alteration of roads and highways, parking facilities, and rail or
5 bus facilities or equipment, or for the underground relocation of electric utility,
6 cable, and telecommunications lines, but shall not include assistance for
7 operating costs. Grants awarded by the Board shall not exceed 80 percent of
8 the overall cost of the project. The approval of the Board may be conditioned
9 upon the repayment to the Fund of some or all of the amount of a loan or other
10 financial benefits and such repayment may be from local taxes, fees, or other
11 local revenues sources. The Board shall consider geographical distribution in
12 awarding the resources of the Fund.

13 (d) The Fund shall be available to the Department of Housing and
14 Community Development for the reasonable and necessary costs of
15 administering the Fund. The amount projected to be spent on administration
16 shall be included in the Department’s fiscal year budget presentations to the
17 General Assembly.

18 § 5811. PROPERTY ASSESSMENT FUND; BROWNFIELDS AND
19 REDEVELOPMENT; COMPETITIVE PROGRAM

20 (a) There is created a Property Assessment Fund pursuant to 32 V.S.A.
21 chapter 7, subchapter 5 to be administered by the Department of Housing and

1 Community Development for the purpose of providing financing, on a
2 competitive basis, to municipalities that demonstrate a financial need in order
3 to determine and evaluate a full assessment of the extent and the cost of
4 remediation of property, or in the case of an existing building, an assessment
5 that supports a clear plan, including the associated costs of renovation to bring
6 the building into compliance with State and local building codes. This shall be
7 the same Fund that was created under the prior section 2797 of this title.

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

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

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

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

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

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

18 (2) when renovated or redeveloped, will integrate and be compatible
19 with any applicable and approved regional development, capital, and municipal
20 plans; is expected to create new property tax if developed by a taxable entity;

1 and is expected to reduce pressure for development on open or undeveloped
2 land in the local community or in the regional planning commission.

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

7 § 5812. BETTER PLACES PROGRAM; CROWD GRANTING

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

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

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

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

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

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

20 (3) any interest earned by the Fund.

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

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

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

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

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

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

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

1 ~~or neighborhood development area~~ Center or Neighborhood, which, upon
2 completion of the project supported by the tax credit, will be an income-
3 producing building not used solely as a single-family residence. Churches and
4 other buildings owned by religious organization may be qualified buildings,
5 but in no event shall tax credits be used for religious worship.

6 (3) “Qualified code improvement project” means a project:

7 (A) to install or improve platform lifts suitable for transporting
8 personal mobility devices, limited use or limited application elevators,
9 elevators, sprinkler systems, and capital improvements in a qualified building,
10 and the installations or improvements are required to bring the building into
11 compliance with the statutory requirements and rules regarding fire prevention,
12 life safety, and electrical, plumbing, and accessibility codes as determined by
13 the Department of Public Safety;

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

16 (C) to redevelop a contaminated property in a designated ~~downtown,~~
17 ~~village center, or neighborhood development area~~ Center or Neighborhood
18 under a plan approved by the Secretary of Natural Resources pursuant to
19 10 V.S.A. § 6615a.

20 * * *

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

8 (6) “Qualified Flood Mitigation Project” means any combination of
9 structural and nonstructural changes to a building located within ~~the flood~~
10 ~~hazard area as mapped by the Federal Emergency Management Agency a~~
11 designated downtown, designated village center, or neighborhood development
12 area that reduces or eliminates flood damage to the building or its contents.
13 This may include, but is not limited to, relocation of HVAC, electrical,
14 plumbing, and other building systems, and equipment above the flood level;
15 repairs or reinforcement of foundation walls, including flood gates; or
16 elevation of an entire eligible building above the flood level. Further eligible
17 projects may be defined via program guidance. The project shall comply with
18 the municipality’s adopted flood hazard bylaw, if applicable, and a certificate
19 of completion shall be submitted by a registered engineer, architect, qualified
20 contractor, or qualified local official to ~~the State Board~~ program staff.
21 Improvements to qualified buildings listed, or eligible for listing, in the State

1 or National Register of Historic Places shall be consistent with Secretary of the
2 Interior’s Standards for Rehabilitation, as determined by the Vermont Division
3 for Historic Preservation.

4 * * *

5 (9) “State Board” means the Vermont ~~Downtown Development~~
6 Community Revitalization Board established pursuant to 24 V.S.A. chapter
7 ~~76A 139~~.

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

9 § 5930bb. ELIGIBILITY AND ADMINISTRATION

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

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

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

17 ~~(d) Notwithstanding any other provision of this subchapter, qualified~~
18 ~~applicants may apply to the State Board at any time prior to June 30, 2013, to~~
19 ~~obtain a tax credit not otherwise available under subsections 5930cc(a)-(c) of~~
20 ~~this title of 10 percent of qualified expenditures resulting from damage caused~~
21 ~~by a federally declared disaster in Vermont in 2011. The credit shall only be~~

1 ~~claimed against the taxpayer's State individual income tax under section 5822~~
2 ~~of this title. To the extent that any allocated tax credit exceeds the taxpayer's~~
3 ~~tax liability for the first tax year in which the qualified project is completed,~~
4 ~~the taxpayer shall receive a refund equal to the unused portion of the tax credit.~~
5 ~~If within two years after the date of the credit allocation no claim for a tax~~
6 ~~credit or refund has been filed, the tax credit allocation shall be rescinded and~~
7 ~~recaptured pursuant to subdivision 5930cc(6) of this title. The total amount of~~
8 ~~tax credits available under this subsection shall not be more than \$500,000.00~~
9 ~~and shall not be subject to the limitations contained in subdivision 5930cc(2)~~
10 ~~of this subchapter.~~

11 (e) Beginning on July 1, 2025, under this subchapter no new tax credit may
12 be allocated by the State Board to a qualified building located in a
13 ~~neighborhood development area~~ Designated Neighborhood unless specific
14 funds have been appropriated for that purpose.

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

16 § 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX

17 CREDITS

18 * * *

19 (c) Code improvement tax credit. The qualified applicant of a qualified
20 code improvement project shall be entitled, upon the approval of the State
21 Board, to claim against the taxpayer's State individual income tax, State

1 corporate income tax, or bank franchise or insurance premiums tax liability a
2 credit of 50 percent of qualified expenditures up to a maximum tax credit of
3 \$12,000.00 for installation or improvement of a platform lift, a maximum
4 credit of \$60,000.00 for the installation or improvement of a limited use or
5 limited application elevator, a maximum tax credit of \$75,000.00 for
6 installation or improvement of an elevator, a maximum tax credit of
7 \$50,000.00 for installation or improvement of a sprinkler system, and a
8 maximum tax credit of ~~\$50,000.00~~ \$100,000.00 for the combined costs of all
9 other qualified code improvements.

10 (d) Flood Mitigation Tax Credit. The qualified applicant of a qualified
11 flood mitigation project shall be entitled, upon the approval of the State Board,
12 to claim against the taxpayer's State individual income tax, State corporate
13 income tax, or bank franchise or insurance premiums tax liability a credit of
14 50 percent of qualified expenditures up to a maximum tax credit of ~~\$75,000.00~~
15 \$100,000.00.

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

17 § 5930ee. LIMITATIONS

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

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

4 * * *

5 Sec. 49. REGIONAL PLANNING COMMISSION STUDY

6 (a) The Vermont Association of Planning and Development Agencies shall
7 study the strategic opportunities of regional planning commissions. This study
8 will look to ensure that the regional planning commissions are statutorily
9 enabled and strategically positioned to meet ongoing and emerging State and
10 municipal needs and will review the following: governance, funding,
11 programs, service delivery, equity, accountability, and staffing.

12 (b) The study shall identify the gaps in statutory enabling language,
13 structure, and local engagement and make recommendations on how to
14 improve and ensure consistent and equitable Statewide programming and local
15 input and engagement.

16 (c) The Vermont Association of Planning and Development Agencies shall
17 share information with the study committee [placeholder for the
18 county/regional governance bill if it passes].

19 (d) On or before December 31, 2024, the study report shall be submitted to
20 the House Committees on Energy and Environment, Commerce and Economic
21 Development, Government Operations and the Senate Committees on

1 Economic Development, Housing and General Affairs, Natural Resources and
2 Energy, and Government Operations.

3 Sec. 50. REVISION AUTHORITY

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

7 * * * Effective Dates * * *

8 Sec. 51. EFFECTIVE DATES

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

14 (Committee vote: _____)

15 _____

16 Representative _____

17 FOR THE COMMITTEE