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H.687

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

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

* * * Act 250 * * *

Sec. 1. PURPOSE

The purpose of this act is to further assist the State in achieving the conservation vision and goals for the State established in 10 V.S.A. § 2802 and 24 V.S.A. § 4302. It provides a regulatory framework that supports the vision for Vermont of human and natural community resilience and biodiversity protection in the face of climate change, as described in 2023 Acts and Resolves No. 59. It would strengthen the administration of the Act 250 program by changing the structure, function, and name of the Natural Resources Board. It requires that appeals of Act 250 permit decisions be heard by a five-member board called the Environmental Review Board. The Environmental Division of the Superior Court would continue to hear the other types of cases within its jurisdiction. The Environmental Review Board would retain the current duties of the Natural Resources Board in addition to hearing appeals, reviewing the future land use maps of regional plans, and reviewing applications for the Tier 1A area status. The Board would provide oversight, management, and training to the Act 250 program staff and District

1 Commissions and develop Act 250 program policy through permit decisions
2 and rulemaking. This change would allow the Act 250 program to be a more
3 citizen-friendly process applied more consistently across districts. The
4 program updates established in this act would be used to guide State financial
5 investment in human and natural infrastructure.

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

7 § 6000. PURPOSE; CONSTRUCTION

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

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

14 § 6021. BOARD; VACANCY; REMOVAL

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

17 (1) The Board shall consist of five members appointed by the Governor,
18 after review and approval by the Environmental Review Board Nominating
19 Committee in accordance with subdivision (2) of this subsection and
20 confirmed with the advice and consent of the Senate, so that one appointment
21 expires in each year. The Chair shall be a full-time position, and the other four

1 members shall be half-time positions. In making these appointments, the
2 Governor and the Senate shall give consideration to candidates who have
3 experience, expertise, or skills relating to ~~the environment or land use~~ one or
4 more of the following areas: environmental science; land use law, policy,
5 planning, and development; and community planning. All candidates shall
6 have a commitment to 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 who has not worked
13 on the case to sit on a specific case 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 by July 31, 2024 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; land use
5 law, policy, planning, and development; and community planning. All
6 candidates shall have a commitment to 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 (5) The Committee shall require candidates to disclose to the Committee
17 their financial interests and potential conflicts of interest.

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

19 § 6025. RULES

20 (a) The Board may adopt rules of procedure for itself and the District
21 Commissions. The Board shall adopt rules of procedure that govern appeals

1 and other contested cases before it that are consistent with this chapter. The
2 Board's procedure for approving regional plans and regional plan maps, which
3 may be adopted as rules or issued as guidance, shall ensure that the maps are
4 consistent with legislative intent as expressed in 2802 of this title and 24
5 V.S.A. §§ 4302 and 4348a.

6 * * *

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

8 § 6027. POWERS

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

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

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

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

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

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

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

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

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

17 (f) The Board shall publish its decisions online. The Board may publish
18 online or contract to publish annotations and indices of its decisions, the
19 decisions of the Environmental Division of the Superior Court and the
20 Supreme Court, and the text of those decisions. The published product shall be

1 available at a reasonable rate to the general public and at a reduced rate to
2 libraries and governmental bodies within the State.

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

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

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

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

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

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

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

1 ~~shall otherwise provide~~ in providing personnel to assist the District
2 Commissions and in investigating matters within its jurisdiction.

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

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

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

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

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

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

15 § 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF

16 REVIEW

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

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

12 * * *

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

18 * * *

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

20 (f) Prior to any appeal of a permit issued by a District Commission, any
21 aggrieved party may file a request for a stay of construction with the District

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

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

13 § 6089. APPEALS

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

1 ~~(4)~~ 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(e) 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 former 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 (47) “Habitat connector” means land or water, or both, that links patches
2 of habitat within a landscape, allowing the movement, migration, and dispersal
3 of wildlife and plants and the functioning of ecological processes. A habitat
4 connector may include features including recreational trails and improvements
5 constructed for farming, logging, or forestry purposes.

6 (48) “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 (49) “Habitat” means the physical and biological environment in which
12 a particular species of plant or wildlife lives.

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

14 (8) Ecosystem protection; scenic beauty; historic sites.

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

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

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

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

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

11 (C) Forest blocks and habitat connectors. A permit will not be
12 granted for a development or subdivision within or partially within a forest
13 block or habitat connector unless the applicant demonstrates that a project will
14 not result in an undue adverse impact on the forest block or habitat connector.
15 If a project as proposed would result in an undue adverse impact, a permit may
16 only be granted if effects are avoided, minimized, or mitigated as allowed in
17 accordance with rules adopted by the Board.

18 Sec. 21. CRITERION 8(C) RULEMAKING

19 (a) The Environmental Review Board (Board), in collaboration with the
20 Agency of Natural Resources, shall adopt rules to implement the requirements
21 for the administration of 10 V.S.A. § 6086(a)(8)(C). It is the intent of the

1 General Assembly that these rules discourage fragmentation of the forest
2 blocks and habitat connectors by encouraging clustering of development.

3 Rules adopted by the Board shall include:

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

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

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

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

15 (3)(A) As used in this section “fragmentation” generally means dividing
16 land that has naturally occurring vegetation and ecological processes into
17 smaller areas as a result of land uses that remove vegetation and create
18 physical barriers that limit species’ movement and interrupt ecological
19 processes between previously connected natural vegetation. However, the
20 rules shall further define “fragmentation” for purposes of avoiding,
21 minimizing, and mitigating undue adverse impacts on forest blocks and habitat

1 connectors. “Fragmentation” does not include the division or conversion of a
2 forest block or habitat connector by an unpaved recreational trail or by
3 improvements constructed for farming, logging, or forestry purposes below the
4 elevation of 2,500 feet.

5 (B) As used in this subsection, “recreational trail” has the same
6 meaning as “trails” in 10 V.S.A. § 442.

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

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

13 (A) appropriate ratios for compensation;

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

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

17 (b) The Board shall convene a working group of stakeholders to provide
18 input to the rule prior to pre-filing with the Interagency Committee on
19 Administrative Rules. The Board shall convene the working group on or
20 before July 1, 2025.

1 (c) The Board shall file a final proposed rule with the Secretary of State
2 and Legislative Committee on Administrative Rules on or before June 15,
3 2026.

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

5 § 127. RESOURCE MAPPING

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

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

20 (c) The Secretary shall establish and maintain written procedures that
21 include a process and science-based criteria for updating resource maps

1 developed under subsection (a) of this section. Before establishing or revising
2 these procedures, the Secretary shall provide opportunities for affected parties
3 and the public to submit relevant information and recommendations.

4 * * * Wood products manufacturers * * *

5 Sec. 23. 10 V.S.A. § 6093 is amended to read:

6 § 6093. MITIGATION OF PRIMARY AGRICULTURAL SOILS

7 (a) Mitigation for loss of primary agricultural soils. Suitable mitigation for
8 the conversion of primary agricultural soils necessary to satisfy subdivision
9 6086(a)(9)(B)(iv) of this title shall depend on where the project tract is located.

10 * * *

11 (5) Wood products manufacturers. Notwithstanding any provision of
12 this chapter to the contrary, a conversion of primary agricultural soils by a
13 wood products manufacturer shall be allowed to pay a mitigation fee computed
14 according to the provisions of subdivision (1) of this subsection, except that it
15 shall be entitled to a ratio of 1:1 protected acres to acres of affected primary
16 agricultural soil.

17 * * *

18 Sec. 23a. 24 V.S.A. § 4412(11) is amended to read:

19 (11) Accessory on-farm businesses. No bylaw shall have the effect of
20 prohibiting an accessory on-farm business at the same location as a farm.

21 (A) Definitions. As used in this subdivision (11):

1 (i) “Accessory on-farm business” means activity ~~that is accessory~~
2 ~~to~~ on a farm, the revenues of which may exceed the revenues of the farming
3 operation, and comprises one or both of the following:

4 (I) The storage, preparation, processing, and sale of qualifying
5 products, provided that ~~more than 50 percent of the total annual sales are from~~
6 the qualifying products that are produced on the a farm at which the business is
7 located; the sale of products that name, describe, or promote the farm or
8 accessory on-farm business, including merchandise or apparel that features the
9 farm or accessory on-farm business; or the sale of bread or baked goods baked
10 in the State.

11 * * *

12 (iv) “Qualifying product” means a product that is ~~wholly~~
13 principally:

14 (I) an agricultural, horticultural, viticultural, or dairy
15 commodity, or maple syrup;

16 (II) livestock or cultured fish or a product thereof;

17 (III) a product of poultry, bees, an orchard, or fiber crops;

18 (IV) a commodity otherwise grown or raised on a farm; or

19 (V) a product manufactured on one or more farms from

20 commodities wholly grown or raised on one or more farms.

21 * * *

1 any new development or subdivision on a parcel of land that will be provided
2 access by the road and associated driveways is land involved in the
3 construction of the road. Jurisdiction under this subdivision shall not apply
4 unless the length of any single road is greater than 800 feet, and the length all
5 roads and any associated driveways in combination is greater than 2,000 feet.
6 As used in this subdivision (xii), “roads” shall include any new road or
7 improvement to a Class IV road by a private person, including roads that will
8 be transferred to or maintained by a municipality after their construction or
9 improvement. For the purpose of determining the length of any road and
10 associated driveways, the length of all other roads and driveways within the
11 tract of land constructed after July 1, 2026 shall be included. This subdivision
12 shall not apply to a State or municipal road, a utility corridor of an electric
13 transmission or distribution company, or a road used primarily for farming or
14 forestry purposes. The conversion of a road used for farming or forestry
15 purposes that also meets the requirements of this subdivision shall constitute
16 development. This subdivision shall not apply to development within a Tier
17 1A area established in accordance with 10 V.S.A. § 6034 or a Tier 1B area
18 established in accordance with 10 V.S.A. § 6033. The intent of this
19 subdivision (xii) is to encourage the design of clustered subdivisions and
20 development that does not fragment Tier 2 areas or Tier 3 areas.

1 Sec. 25. RULEMAKING; ROAD CONSTRUCTION

2 The Natural Resources Board may adopt rules providing additional
3 specificity to the necessary elements of 10 V.S.A. § 6001(3)(A)(xii). It is the
4 intent of the General Assembly that any rules encourage the design of clustered
5 subdivisions and development that does not fragment Tier 2 areas or Tier 3
6 areas.

7 * * * Location-Based Jurisdiction * * *

8 Sec. 26. 10 V.S.A. § 6001 is amended to read:

9 § 6001. DEFINITIONS

10 As used in this chapter:

11 * * *

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

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

18 (ii) The construction of improvements on a tract or tracts of land,
19 owned or controlled by a person, involving more than one acre of land within a
20 radius of five miles of any point on any involved land, for commercial or

1 industrial purposes in a municipality that has not adopted permanent zoning
2 and subdivision bylaws.

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

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

15 * * *

16 (vi) The construction of improvements for commercial, industrial,
17 or residential use at or above the elevation of 2,500 feet.

18 * * *

19 (xiii) The construction of improvements for commercial,
20 industrial, or residential purpose in a Tier 3 area as determined by rules
21 adopted by the Board.

1 * * *

2 (45) “Tier 2” means an area that is not a Tier 1 area or a Tier 3 area.

3 (46) “Tier 3” means an area consisting of critical natural resources
4 which may include river corridors, headwaters streams, habitat connectors of
5 Statewide significance, and as may be further defined by the Board.

6 Sec. 27. TIER 3 RULEMAKING

7 (a) The Environmental Review Board in consultation with the Secretary of
8 Natural Resources shall adopt rules to implement the requirements for the
9 administration of 10 V.S.A. § 6001(3)(A)(xiii) and 10 V.S.A. § 6001(46). The
10 Board shall review the definition of Tier 3 area and its use in 10 V.S.A. chapter
11 151 and recommend any additional significant natural resources that should be
12 added to the definition. It is the intent of the General Assembly that these rules
13 address the protection of critical natural resources. Rules adopted by the Board
14 shall include:

15 (1) any necessary clarifications to how the Tier 3 definition is used in 10
16 V.S.A. chapter 151;

17 (2) any necessary changes to how 10 V.S.A. § 6001(3)(A)(xiii) should
18 be administered, and when jurisdiction should be triggered to protect the
19 functions and values of resources of Statewide significance;

20 (3) the process for how Tier 3 areas will be mapped or identified by
21 Agency of Natural Resources and the Board; and

1 (4) other policies or programs that shall be developed to review
2 development impacts to Tier 3 areas if they are not included in 10 V.S.A. §
3 6001(46).

4 (b) On or before January 1, 2025, the Board shall convene a working group
5 of stakeholders to provide input to the rule prior to prefiling with the
6 Interagency Committee on Administrative Rules. The working group shall
7 include representation from regional planning commissions, environmental
8 groups, science and ecological research organizations, woodland or forestry
9 organizations, the Vermont Housing and Conservation Board, the Vermont
10 Chamber of Commerce, the League of Cities of Towns, the Land Access and
11 Opportunity Board, and other stakeholders, such as the Vermont Ski Areas
12 Association, the Department of Taxes, Division of Property Valuation and
13 Review, the Department of Forests, Parks and Recreation, the Vermont
14 Woodlands Association, and the Professional Logging Contractors of the
15 Northeast.

16 (c) The Board shall file a final proposed rule with the Secretary of State
17 and Legislative Committee on Administrative Rules on or before February 1,
18 2026.

19 (d) During the rule development, the stakeholder group established under
20 subsection (b) of this section shall solicit participation from representatives of
21 municipalities and landowners that host Tier 3 critical resource areas on their

1 properties to determine the responsibilities and education needed to
2 understand, manage, and interact with the resources.

3 * * * Tier 1 Areas * * *

4 Sec. 28. 10 V.S.A. § 6033 is added to read:

5 § 6033. REGIONAL PLAN FUTURE LAND USE MAP REVIEW

6 (a) The Board shall review requests from regional planning commissions to
7 approve or disapprove portions of future land use maps for the purposes of
8 changing jurisdictional thresholds under this chapter by identifying areas on
9 future land use maps for Tier 1B area status and to approve designations
10 pursuant to 24 V.S.A. chapter 139. The Board may produce guidelines for
11 regional planning commissions seeking Tier 1B area status. If requested by the
12 regional planning commission, the Board shall complete this review
13 concurrently with regional plan approval. A request for Tier 1B area status
14 made by a regional planning commission separate from regional plan approval
15 shall follow the process set forth in 24 V.S.A. § 4348.

16 (b) The Board shall review the portions of future land use maps that
17 include downtowns or village centers, planned growth areas, and village areas
18 to ensure they meet the requirements under 24 V.S.A. §§ 5803 and 5804 for
19 designation as downtown and village centers and neighborhood areas.

20 (c) To obtain a Tier 1B area status under this section the regional planning
21 commission shall demonstrate to the Board that the municipalities with Tier 1B

1 areas meet the following requirements as included in subsection 24 V.S.A.

2 § 4348a(a)(12)(C):

3 (A) The municipality has requested to have the area mapped for Tier
4 1B.

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

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

9 (D) The area excludes identified flood hazard and fluvial erosion
10 areas, except those areas containing preexisting development in areas suitable
11 for infill development as defined in § 29-201 of the Vermont Flood Hazard
12 Area and River Corridor Rule unless the municipality has adopted flood hazard
13 and river corridor bylaws applicable to the entire municipality that are
14 consistent with the standards established pursuant to subsection 755(b) of this
15 title (flood hazard) and subsection 1428(b) of this title (river corridor).

16 (E) The municipality has water supply, wastewater infrastructure, or
17 soils that can accommodate a community system for compact housing
18 development in the area proposed for Tier 1B.

19 (F) Municipal staff or contracted capacity adequate to support
20 development review and zoning administration in the Tier 1B area.

1 Sec. 28a. 10 V.S.A. § 6001(3)(A)(xi) is amended to read:

2 (xi) Notwithstanding any other provision of law to the contrary, until
3 ~~July 1~~ December 31, 2026, the construction of housing projects such as
4 cooperatives, condominiums, dwellings, or mobile homes, with 25 or more
5 units, constructed or maintained on a tract or tracts of land, located entirely
6 within a designated downtown development district, a designated
7 neighborhood development area, a designated village center with permanent
8 zoning and subdivision bylaws, or a designated growth center, owned or
9 controlled by a person, within a radius of five miles of any point on any
10 involved land and within any continuous period of five years. For purposes of
11 this ~~subsection~~ subdivision, the construction of four units or fewer of housing
12 in an existing structure shall only count as one unit towards the total number of
13 units.

14 Sec. 28b. 10 V.S.A. § 6001(3)(D)(viii)(III) is amended to read:

15 (III) Notwithstanding any other provision of law to the contrary, until
16 ~~July 1~~ December 31, 2026, the construction of a priority housing project
17 located entirely within a designated downtown development district,
18 designated neighborhood development area, or a designated growth center.

1 Sec. 28c. 2023 Acts and Resolves No. 47, Sec. 16a is amended to read:

2 Sec. 16a. ACT 250 EXEMPTION REQUIREMENTS

3 In order to qualify for the exemptions established in 10 V.S.A. § 6001
4 (3)(A)(xi) and (3)(D)(viii)(III), a person shall request a jurisdictional opinion
5 under 10 V.S.A. § 6007 on or before ~~June 30~~ December 30, 2026. The
6 jurisdictional opinion shall require the project to substantially complete
7 construction on or before June 30, 2029 in order to remain exempt.

8 Sec. 29. 10 V.S.A. § 6034 is added to read:

9 § 6034. TIER 1A AREA STATUS

10 (a) Application and approval.

11 (1) Beginning on January 1, 2026, a municipality, by resolution of its
12 legislative body, may apply to the Environmental Review Board for Tier 1A
13 status for the area of the municipality that is suitable for dense development
14 and meets the requirements of subsection (b) of this section.

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

18 (b) Tier 1A area status requirements.

19 (1) To obtain a Tier 1A area status under this section, a municipality
20 shall demonstrate to the Board that it has each of the following:

1 (A) A municipal plan that is approved in accordance with 24 V.S.A.
2 § 4350.

3 (B) Municipal flood hazard planning, applicable to the entire
4 municipality, in accordance with 24 V.S.A. § 4382(12) and the guidelines
5 issued by the Department pursuant to 24 V.S.A. chapter 139.

6 (C) Flood hazard and river corridor bylaws, applicable to the entire
7 municipality, that are consistent with or stronger than the standards established
8 pursuant to subsection 755(b) of this title (flood hazard) and subsection
9 1428(b) of this title (river corridor) or the proposed Tier 1A area excludes the
10 flood hazard areas and river corridor.

11 (D) A capital budget and program pursuant to 24 V.S.A. § 4430 that
12 make substantial investments in the ongoing development of the Tier 1A area,
13 are consistent with the plan's implementation program, and are consistent with
14 the smart growth principles defined in 24 V.S.A. chapter 139.

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

18 (F) Urban form bylaws for the Tier 1A area that further the smart
19 growth principles of 24 V.S.A. chapter 139, adequately regulate the physical
20 form and scale of development, with reasonable provision for a portion of the

1 areas with sewer and water to allow at least four stories, and conform to the
2 guidelines established by the Board.

3 (G) Historic preservation bylaws for established design review
4 districts, historic districts, or historic landmarks pursuant to 24 V.S.A.
5 § 4414(1)(E) and (F) for the portion of the Tier 1A area that meet State historic
6 preservation guidelines issued by the Department of Housing and Community
7 Development pursuant to 24 V.S.A. chapter 139.

8 (H) Wildlife habitat planning bylaws for the Tier 1A area that protect
9 significant natural communities; rare, threatened, and endangered species; and
10 river corridors or exclude these areas from the proposed Tier 1A area.

11 (I) Permitted water and wastewater systems with the capacity to
12 support additional development within the Tier 1A area. The municipality
13 shall have adopted consistent policies, by municipal plan and ordinance, on the
14 allocation, connection, and extension of water and wastewater lines that
15 include a defined and mapped service area to support the Tier 1A area.

16 (J) Municipal staff adequate to support coordinated comprehensive
17 and capital planning, development review, and zoning administration in the
18 Tier 1A area.

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

20 (2) If any party entitled to notice under subdivision (c)(4)(A) of this
21 section or any resident of the municipality raises concerns about the

1 municipality's compliance with the requirements, those concerns shall be
2 addressed as part of the municipality's application.

3 (c) Process for issuing determinations of Tier 1A area status.

4 (1) A preapplication meeting shall be held with the Board staff,
5 municipal staff, and staff of the relevant regional planning commission (RPC)
6 to review the requirements of subsection (b) of this section. The meeting shall
7 be held in person or electronically.

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

11 (3) After receipt of a complete final application, the Environmental
12 Review Board shall convene a public hearing in the municipality to consider
13 whether to issue a determination of Tier 1A area status under this section.

14 (A) Notice.

15 (i) At least 35 days in advance of the Board's meeting, the
16 regional planning commission shall post notice of the meeting on its website.

17 (ii) The municipality shall publish notice of the meeting at least 30
18 days and 15 days in advance of the Board's meeting in a newspaper of general
19 circulation in the municipality, and deliver physically or electronically, with
20 proof of receipt or by certified mail, return receipt requested to the Agency of
21 Natural Resources; the Division for Historic Preservation; the Agency of

1 Agriculture Food and Markets; the Agency of Transportation; the regional
2 planning commission; the regional development corporations; and the entities
3 providing educational, police, and fire services to the municipality.

4 (iii) The notice shall also be posted by the municipality in or near
5 the municipal clerk's office and in at least two other designated public places
6 in the municipality, on the websites of the municipality and the regional
7 planning commission, and on any email lists or social media that the
8 municipality uses.

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

12 (v) Notice of an application for Tier 1A area status shall be
13 delivered physically or electronically with proof of receipt or sent by certified
14 mail, return receipt requested, to each of the following:

15 (I) the chair of the legislative body of each adjoining
16 municipality;

17 (II) the executive director of each abutting regional planning
18 commission;

19 (III) the Department of Housing and Community Development
20 and the Community Investment Board for a formal review and comment; and

1 (IV) business, conservation, low-income advocacy, and other
2 community or interest groups or organizations that have requested notice in
3 writing prior to the date the hearing is warned.

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

11 (4) The Board may recess the proceedings on any application pending
12 submission of additional information. The Board shall close the proceedings
13 promptly after all parties have submitted the requested information.

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

17 (d) Review of status.

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

20 (2) The Board, on its motion, may review compliance with the Tier 1A
21 area requirements at more frequent intervals.

1 (3) If at any time the Board determines that the Tier 1A area no longer
2 meets the standards for the status, it shall take one of the following actions:

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

4 (B) terminate the status.

5 (e) Appeal.

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

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

11 (A) A person owning title to or occupying property within or abutting
12 the Tier 1A area.

13 (B) The municipality making the application or a municipality that
14 adjoins the municipality making the application.

15 (C) The RPC for the region that includes the Tier 1A area or a RPC
16 whose region adjoins the municipality in which the Tier 1A area is located.

17 (D) Any 20 persons who, by signed petition, allege that the decision
18 is not in accord with the requirements of this chapter, and who own or occupy
19 real property located within the municipality in which the Tier 1A area is
20 located or an adjoining municipality. The petition must designate one person
21 to serve as the representative of the petitioners regarding all matters related to

1 the appeal. The designated representative must have participated in the public
2 hearing described in subdivision (c)(4) of this section.

3 (E) Any person entitled to receive notice under this section that
4 participated in the Board's hearing on an application.

5 Sec. 30. TIER 1A AREA GUIDELINES

6 On or before January 1, 2026, the Environmental Review Board shall
7 publish guidelines to direct municipalities seeking to obtain the Tier 1A area
8 status.

9 Sec. 31. 24 V.S.A. § 4382 is amended to read:

10 § 4382. THE PLAN FOR A MUNICIPALITY

11 (a) A plan for a municipality shall be consistent with the goals established
12 in section 4302 of this title and compatible with approved plans of other
13 municipalities in the region and with the regional plan and shall include the
14 following:

15 * * *

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

18 * * *

19 (C) Identifies those areas, if any, proposed for designation under
20 chapter ~~76A~~ 139 of this title and for status under 10 V.S.A. §§ 6033 and 6034,
21 together with, for each area proposed for designation, an explanation of how

1 the designation would further the plan's goals and the goals of section 4302 of
2 this title; and how the area meets the requirements for the type of designation
3 to be sought.

4 * * *

5 Sec. 32. 10 V.S.A. § 6081 is amended to read:

6 § 6081. PERMITS REQUIRED; EXEMPTIONS

7 * * *

8 (z)(1) Notwithstanding any other provision of this chapter to the contrary,
9 no permit or permit amendment is required for any subdivision, development,
10 or change to an existing project that is located entirely within a Tier 1A area
11 under section 6034 of this chapter.

12 (2) Notwithstanding any other provision of this chapter to the contrary,
13 no permit or permit amendment is required within a Tier 1B area approved by
14 the Board under section 6033 of this chapter for 50 units or fewer of housing
15 on a tract or tracts of land involving 10 acres or less or for mixed-use
16 development with 50 units or fewer of housing on a tract or tracts of land
17 involving 10 acres or less.

18 (3) Upon receiving notice and a copy of the permit issued by an
19 appropriate municipal panel pursuant to 24 V.S.A. § 4460(f), a previously
20 issued permit for a development or subdivision located in a Tier 1A area shall
21 remain attached to the property. However, neither the Board nor the Agency

1 of Natural Resources shall enforce the permit or assert amendment jurisdiction
2 on the tract or tracts of land unless the designation is revoked or the
3 municipality has not taken any action to enforce the conditions of the permit.

4 (aa) No permit amendment is required for the construction of
5 improvements for a hotel or motels converted to permanently affordable
6 housing developments as defined in 24 V.S.A. § 4303(2).

7 (bb) No permit or permit amendment is required for the construction of
8 improvements for an accessory dwelling unit as defined in 24 V.S.A. § 4303.

9 (cc) No permit amendment is required for the construction of
10 improvements for converting a structure used for a commercial purpose to
11 29 or fewer housing units.

12 Sec. 33. 24 V.S.A. § 4460 is amended to read:

13 § 4460. APPROPRIATE MUNICIPAL PANELS

14 * * *

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

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

17 (B) is located in a Tier 1A area pursuant to 10 V.S.A. § 6034; and

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

20 (2) The appropriate municipal panel reviewing a municipal permit or
21 permit amendment pursuant to this subsection shall include conditions

1 contained within a permit previously issued pursuant to 10 V.S.A. chapter 151
2 unless the panel determines that the permit condition pertains to any of the
3 following:

4 (A) the construction phase of the project that has already been
5 constructed;

6 (B) compliance with another State permit that has independent
7 jurisdiction;

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

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

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

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

17 (4) The appropriate municipal panel shall comply with the notice and
18 hearing requirements provided in subdivision 4464(a)(1) of this title. In
19 addition, notice shall be provided to those persons requiring notice under
20 10 V.S.A. § 6084(b) and shall explicitly reference the existing Act 250 permit.

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

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

8 (h) Within a designated Tier 1A area, the appropriate municipal panel shall
9 enforce any existing permits issued under 10 V.S.A. chapter 151 that has not
10 had its permit conditions transferred to a municipal permit pursuant to
11 subsection (g).

12 Sec. 34. TIER 2 AREA REPORT

13 (a) On or before February 15, 2026, the Environmental Review Board shall
14 report recommendations to address Act 250 jurisdiction in Tier 2 areas. The
15 recommendations shall:

16 (1) recommend statutory changes to address fragmentation of rural and
17 working lands while allowing for development review;

18 (2) address how to apply location-based jurisdiction to Tier 2 areas
19 while meeting the Statewide planning goals, including how to address
20 commercial development and which shall also include:

1 (A) review of the effectiveness of mitigation of impacts on primary
2 agricultural soils and make recommendations for how to improve protections
3 for this natural resource;

4 (B) review of the effectiveness of jurisdictional triggers for
5 development of retail and service businesses outside of village centers, and
6 criterion 9(L), in addressing sprawl and strip development, and how to improve
7 the effectiveness of criterion 9(L);

8 (C) review whether and how Act 250 jurisdiction over commercial
9 activities on farms should be revised, including accessory on-farm businesses.

10 (b) The report shall be submitted to the House Committees on Agriculture,
11 Food Resiliency, and Forestry and on Environment and Energy and the Senate
12 Committees on Agriculture and on Natural Resources and Energy.

13 Sec. 34a. WOOD PRODUCTS MANUFACTURERS REPORT

14 (a) The Natural Resources Board, in consultation with the Department of
15 Forests, Parks and Recreation, shall convene a stakeholder group to report on
16 how to address the Act 250 permitting process to better support wood products
17 manufacturers and their vital role in the forest economy.

18 (b) The group shall examine the Act 250 permitting process and identify
19 how the minor permit process provided for in 10 V.S.A. § 6084(g) has been
20 working and whether there are shortcomings or challenges.

1 (c) The group may look at permitting holistically to understand the role of
2 permits from the Agency of Natural Resources, municipal permits, where they
3 apply, and Act 250 permits and develop recommendations to find efficiencies
4 in the entire process or recommend an alternative permitting process for wood
5 products manufacturers.

6 (d) On or before December 15, 2024, the Natural Resources Board shall
7 submit the report to the House Committees on Agriculture, Food Resiliency,
8 and Forestry and on Environment and Energy and the Senate Committees on
9 Agriculture and on Natural Resources and Energy.

10 Sec. 34b. LOCATION-BASED JURISDICTION REVIEW

11 On or before February 1, 2029, the Environmental Review Board shall
12 review and report on the new Tier jurisdiction framework used to establish
13 location-based jurisdiction for 10 V.S.A. chapter 151. The Board shall report
14 on the outcomes and outline successes and any changes that are needed. The
15 Board shall undertake an in-depth review of the Act 250 updates, including the
16 duties and responsibilities of all the staff and the Board itself, specifically
17 whether the updates have reduced appeals and whether the updates have
18 created more equity and cohesion amongst the District Commissions and
19 district coordinators.

1 Sec. 35. AFFORDABLE HOUSING DEVELOPMENT REGULATORY
2 INCENTIVES STUDY

3 (a) The Department of Housing and Community Development, the
4 Vermont Housing and Conservation Board, the Land Access and Opportunity
5 Board, and the Vermont Housing Finance Agency shall:

6 (1) engage with diverse stakeholders including housing developers, local
7 government officials, housing advocacy organizations, financial institutions,
8 and community members to identify regulatory policies that incentivize mixed-
9 income, mixed-use development and support affordable housing production as
10 a percentage of new housing units in communities throughout the State,
11 including examining the impact of inclusionary zoning; and

12 (2) develop recommendations for legislative, regulatory, and
13 administrative actions to improve and expand affordable housing development
14 incentives within State designated areas.

15 (b) On or before December 15, 2024, the Department of Housing and
16 Community Development shall submit a report to the Senate Committees on
17 Economic Development, Housing and General Affairs and on Natural
18 Resources and Energy, and the House Committees on General and Housing
19 and on Environment and Energy with its findings and recommendations.

1 * * * Future Land Use Maps * * *

2 Sec. 36. 24 V.S.A. § 4302 is amended to read:

3 §4302. PURPOSE; GOALS

4 * * *

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

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

9 (A) Intensive residential development should be encouraged
10 primarily in ~~areas related to community centers~~ downtowns, village centers,
11 planned growth areas, and village areas as described in section 4348a of this
12 title, and strip development along highways ~~should be discouraged~~ should be
13 avoided. These areas should be planned so as to accommodate a substantial
14 majority of housing needed to reach the housing targets developed for each
15 region pursuant to subdivision 4348a(a)(9) of this title.

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

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

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

6 * * *

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

9 (A) significant natural and fragile areas;

10 (B) outstanding water resources, including lakes, rivers, aquifers,
11 shorelands, and wetlands;

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

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

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

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

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

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

6 * * *

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

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

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

16 (C) Sites for ~~multi-family~~ multifamily and manufactured housing
17 should be readily available in locations similar to those generally used for
18 single-family ~~conventional~~ dwellings.

19 (D) Accessory ~~apartments~~ dwelling units within or attached to single-
20 family residences ~~which~~ that provide affordable housing in close proximity to

1 cost-effective care and supervision for relatives, elders, or persons who have a
2 disability should be allowed.

3 * * *

4 (14) To encourage flood resilient communities.

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

8 (B) The protection and restoration of floodplains and upland forested
9 areas that attenuate and moderate flooding and fluvial erosion should be
10 encouraged.

11 (C) Flood emergency preparedness and response planning should be
12 encouraged.

13 (15) To equitably distribute environmental benefits and burdens a
14 described in 3 V.S.A. chapter 72.

15 * * *

16 Sec. 37. 24 V.S.A. § 4345a is amended to read:

17 § 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

18 A regional planning commission created under this chapter shall:

19 * * *

20 (5) Prepare a regional plan and amendments that are consistent with
21 the goals established in section 4302 of this title, and compatible with

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

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

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

9 (C) conduct capacity studies;

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

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

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

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

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* * *

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

* * *

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

* * *

Sec. 38. 24 V.S.A. § 4347 is amended to read:

§ 4347. PURPOSES OF REGIONAL PLAN

A regional plan shall be made with the general purpose of guiding and accomplishing a coordinated, efficient, equitable and economic development of the region ~~which~~ that will, in accordance with the present and future needs and resources, best promote the health, safety, order, convenience, prosperity, and welfare of ~~the~~ the current and future inhabitants as well as efficiency and economy in the process of development. This general purpose includes recommending a distribution of population and of the uses of the land for

1 urbanization, trade, industry, habitation, recreation, agriculture, forestry, and
2 other uses as will tend to:

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

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

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

9 (4) promote the conservation of the supply of food, water, energy, and
10 minerals;

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

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

15 (7) help communities equitably build resilience to address the effects of
16 climate change through mitigation and adaptation consistent with the Vermont
17 Climate Action Plan adopted pursuant to 10 V.S.A. § 592 and 3 V.S.A. chapter
18 72.

1 Sec. 39. 24 V.S.A. § 4348 is amended to read:

2 § 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

3 (a) A regional planning commission shall adopt a regional plan. Any plan
4 for a region, and any amendment ~~thereof~~, shall be prepared by the regional
5 planning commission. At the outset of the planning process and throughout
6 the process, regional planning commissions shall solicit the participation of
7 each of their member municipalities, local citizens, and organizations by
8 holding informal working sessions that suit the needs of local people. The
9 purpose of these working sessions is to allow for meaningful participation as
10 defined in 3 V.S.A. § 6002, provide consistent information about new statutory
11 requirements related to the regional plan, explain the reasons for new
12 requirements, and gather information to be used in the development of the
13 regional plan and future land use element.

14 (b) 60 days prior to holding the first public hearing on a regional plan, a
15 regional planning commission shall submit a draft regional plan to the
16 Environmental Review Board and Agency of Commerce and Community
17 Development for preliminary review and comments related to conformance of
18 the draft with sections 4302 and 4348a of this title and chapter 139 of this title.
19 The Agency shall coordinate with other State agencies and respond within 60
20 days unless more time is granted by the regional planning commission.

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

5 ~~(e)~~(d)(1) At least 30 days prior to the first hearing, a copy of the proposed
6 plan or amendment, a report documenting conformance with the goals
7 established in section 4302 of this chapter and the plan elements established in
8 section 4348a of this chapter, and a description of any changes to the Regional
9 Future Land Use Map with a request for general comments and for specific
10 comments with respect to the extent to which the plan or amendment is
11 consistent with the goals established in section 4302 of this title, shall be
12 delivered physically or electronically with proof of receipt or sent by certified
13 mail, return receipt requested, to each of the following:

14 ~~(1)~~(A) the chair of the legislative body of each municipality within the
15 region;

16 ~~(2)~~(B) the executive director of each abutting regional planning
17 commission;

18 ~~(3)~~(C) the Department of Housing and Community Development within
19 the Agency of Commerce and Community Development and the Community
20 Investment Board for a formal review and comment;

1 ~~(4)~~(D) business, conservation, low-income advocacy, and other
2 community or interest groups or organizations that have requested notice in
3 writing prior to the date the hearing is warned; and

4 ~~(5)~~(E) the Agency of Natural Resources ~~and~~; the Agency of Agriculture,
5 Food and Markets; the Agency of Transportation; the Department of Public
6 Service; the Department of Public Safety’s Division of Emergency
7 Management; and the Environmental Review Board.

8 (2) At least 30 days prior to the first hearing, the regional planning
9 commission shall provide each of its member municipalities with a written
10 description of map changes within the municipality, a municipality-wide map
11 showing old versus new areas with labels, and information about the new Tier
12 structure under 10 V.S.A. chapter 151, including how to obtain Tier 1A or 1B
13 status, and the process to updating designated area boundaries.

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

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

1 receipt; or by certified mail, return receipt requested, to the chair of the
2 legislative body of each municipality within the region; and to any individual
3 or organization requesting a copy; at least 30 days prior to the final hearing.

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

14 (h)(1) Within 15 days following adoption a regional planning commission
15 shall submit its regionally adopted regional plan to the Environmental Review
16 Board for a determination of regional plan compliance with: a report
17 documenting conformance with the goals established in section 4302 of this
18 chapter and the plan elements established in section 4348a of this chapter, and
19 a description of any changes to the regional plan future land use map.

20 (2) The Environmental Review Board shall hold a public hearing within
21 60 days after receiving a plan and provide notice of it at least 15 days in

1 advance by direct mail or electronically with proof of receipt to the requesting
2 regional planning commission, posting on the website of the Environmental
3 Review Board, and publication in a newspaper of general circulation in the
4 region affected. The regional planning commission shall notify their
5 municipalities and post on their website the public hearing notice.

6 (3) The Environmental Review Board shall issue the determination in
7 writing within 15 days after the close of the hearing on the plan. If the
8 determination is affirmative, a copy of the determination shall be provided to
9 the regional planning commission and the Environmental Review Board. If
10 the determination is negative, the Environmental Review Board shall state the
11 reasons for denial in writing and, if appropriate, suggest acceptable
12 modifications. Submissions for a new determination that follow a negative
13 determination shall receive a new determination within 45 days.

14 (4) The Environmental Review Board's affirmative determination shall
15 be based upon finding the regional plan meets the following requirements:

16 (A) Consistency with the State planning goals as described in section
17 4302 of this chapter with consistency determined in the manner described
18 under subdivision 4302(f)(1) of this chapter.

19 (B) Consistency with the purposes of the regional plan established in
20 section 4347 of chapter.

1 (C) Consistency with the regional plan elements as described in
2 section 4348a of this chapter, except that the requirements of section 4352 of
3 this chapter related to enhanced energy planning shall be the under the sole
4 authority of the Department of Public Service.

5 (D) Compatibility with adjacent regional planning areas in the
6 manner described under subdivision 4302(f)(2) of this chapter.

7 (i) Objections of interested parties.

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

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

17 (A) Any 20 persons by signed petition who own property or reside
18 within the region. The petition must designate one person to serve as the
19 representative of the petitioners regarding all matters related to the objection.
20 The designated representative must have participated in the regional plan
21 adoption process as described in subdivision (e)(1) of this section.

1 (B) A party entitled to notice under subsection (d) of this section.

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

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

14 (j) Minor amendments to regional plan future land use map. A regional
15 planning commission may submit a request for a minor amendment to
16 boundaries of a future land use area for consideration by the Environmental
17 Review Board with a letter of support from the municipality. The request may
18 only be submitted after an affirmative vote of the municipal legislative body
19 and the regional planning commission board. The Environmental Review
20 Board, after consultation with the Community Investment Board and the
21 regional planning commissions, shall provide guidance about what constitutes

1 a minor amendment. Minor amendments may include any change to a future
2 land use area consisting of fewer than 10 acres. A minor amendment to a
3 future land use area shall not require an amendment to a regional plan as
4 outlined in section 4348 of this chapter. The Board may adopt rules to
5 implement this section.

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

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

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

19 ~~(g)~~(n) Regional plans may be reviewed from time to time and may be
20 amended in the light of new developments and changed conditions affecting
21 the region. As specifically enabled in this section, minor amendments to the

1 designated areas do not require the amendment of a regional plan. All minor
2 amendments to future land use areas shall be compiled and included in the next
3 iteration of the regional plan.

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

7 (1) the provisions of the regional plan shall be given effect to the extent
8 that they are not in conflict with the provisions of a duly adopted municipal
9 plan; and

10 (2) to the extent that such a conflict exists, the regional plan shall be
11 given effect if it is demonstrated that the project under consideration in the
12 proceedings would have a substantial regional impact as determined by the
13 definition in the regional plan.

14 (p) Regional planning commissions shall adopt a regional plan in
15 conformance this title by December 31, 2026.

16 Sec. 40. 24 V.S.A. § 4348a is amended to read:

17 §4348a. ELEMENTS OF A REGIONAL PLAN

18 (a) A regional plan shall be consistent with the goals established in section
19 4302 of this title and shall include the following:

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

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

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

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

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

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

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

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

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

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

3 (D) encourages preservation of rare and irreplaceable natural areas,
4 scenic and historic features, and resources.

5 (E) encourages protection and improvement of the quality of waters
6 of the State to be used in the development and furtherance of the applicable
7 basin plans established by the Secretary of Natural Resources under 10 V.S.A.
8 § 1253.

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

18 (4) A transportation element, ~~which may consist~~ consisting of a
19 statement of present and prospective transportation and circulation facilities,
20 and a map showing existing and proposed highways, including limited access
21 highways, and streets by type and character of improvement, and where

1 pertinent, anticipated points of congestion, parking facilities, transit routes,
2 terminals, bicycle paths and trails, scenic roads, airports, railroads and port
3 facilities, and other similar facilities or uses, and recommendations to meet
4 future needs for such facilities, with indications of priorities of need, costs, and
5 method of financing.

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

15 (6) ~~A statement of policies on the:~~

16 ~~(A) preservation of rare and irreplaceable natural areas, scenic and~~
17 ~~historic features, and resources; and~~

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

21 [Repealed.]

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

(A) Downtown or village centers. These areas are the vibrant, mixed-use centers bringing together community economic activity and civic assets. They include downtowns, villages, and new town centers, previously designated under chapter 76A and downtowns and village centers seeking benefits under the Community Investment Program under section 5804 of this title. The downtown or village centers are the central business and civic centers within planned growth areas, village areas, or may stand alone. Village centers are not required to have municipal water, wastewater, zoning, or subdivision bylaws.

(B) Planned growth areas. These areas include the densest existing settlement and future growth areas with the highest concentrations of

1 population, housing, and employment in each region and town, as appropriate.
2 They include a mix of commercial, residential, and civic or cultural sites with
3 active streetscapes, supported by land development regulations, public water,
4 wastewater, or both, and multimodal transportation systems. These areas
5 include new town centers, downtowns, village centers, growth centers, and
6 neighborhood development areas previously designated under chapter 76A of
7 this title. These areas should generally meet the smart growth principles
8 definition in chapter 139 of this title and the following criteria:

9 (i) The municipality has a duly adopted and approved plan and a
10 planning process that is confirmed in accordance with section 4350 of this title
11 and has adopted bylaws and regulations in accordance with sections 4414,
12 4418, and 4442 of this title.

13 (ii) This area is served by municipal water or wastewater
14 infrastructure.

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

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

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

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

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

11 (C) Village areas. These areas include the traditional settlement area
12 or a proposed new settlement area, typically comprised of a cohesive mix of
13 residential, civic, religious, commercial, and mixed-use buildings, arranged
14 along a main street and intersecting streets that are within walking distance for
15 residents who live within and surrounding the core. Village areas shall have
16 one of the following: municipal water, wastewater, or land development
17 regulations. If no municipal wastewater is available, the area must have soils
18 that are adequate for wastewater disposal. They provide some opportunity for
19 infill development or new development areas where the village can grow and
20 be flood resilient. These areas include existing village center designations and

1 similar areas statewide, but this area is larger than the village center
2 designation. Village areas must meet the following criteria:

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

5 (ii) The municipality has adopted bylaws and regulations in
6 accordance with sections 4414, 4418, and 4442 of this title.

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

14 (D) Transition or infill area. These areas include areas of existing or
15 planned commercial, office, mixed-use development, or residential uses either
16 adjacent to a planned growth or village area or a new stand-alone Transition or
17 infill area and served by, or planned for, municipal water or wastewater, or
18 both. The intent of this land use category is to transform these areas into
19 higher-density, mixed-use settlements, or residential neighborhoods through
20 infill and redevelopment or new development. New commercial strip auto-
21 oriented development is not allowed as to prevent negatively impacting the

1 economic vitality of commercial areas in the adjacent or nearby planned
2 growth or village area. This area could also include adjacent greenfields safer
3 from flooding and planned for future growth.

4 (E) Resource-based recreation areas. These areas include large-scale
5 resource-based, recreational facilities, often concentrated around ski resorts,
6 lakeshores, or concentrated trail networks, that may provide infrastructure,
7 jobs, or housing to support recreational activities.

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

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

18 (H) Rural; general. These areas include areas that promote the
19 preservation of Vermont's traditional working landscape and natural area
20 features. They allow for low-density residential and sometimes limited
21 commercial development that is compatible with productive lands and natural

1 areas. This could also include an area that a municipality is planning to make
2 more rural than it is currently.

3 (I) Rural; agricultural and forestry. These areas include blocks of
4 forest or farmland that sustain resource industries, provide critical wildlife
5 habitat and movement, outdoor recreation, flood storage, aquifer recharge, and
6 scenic beauty, and contribute to economic well-being and quality of life.

7 Development in these areas should be carefully managed to promote the
8 working landscape and rural economy, and address regional goals, while
9 protecting the agricultural and forest resource value.

10 (J) Rural; conservation. These are areas of significant natural
11 resources, identified by regional planning commissions or municipalities based
12 upon existing Agency of Natural Resources mapping that require special
13 consideration for aquifer protection; for wetland protection; for the
14 maintenance of forest blocks, wildlife habitat, and habitat connectors; or for
15 other conservation purposes. The mapping of these areas and accompanying
16 policies are intended to help meet requirements of 10 V.S.A. chapter 89. Any
17 portion of this area that is approved by the ERB as having Tier 3 area status
18 shall be identified on the future land use map as an overlay upon approval.

19 (b) The various elements and statements shall be correlated with the land
20 use element and with each other. The maps called for by this section may be

1 incorporated on one or more maps; and may be referred to in each separate
2 statement called for by this section.

3 (c) The regional plan future land use map shall delineate areas within the
4 regional planning commission's member municipalities that are eligible to
5 receive designation benefits as Centers and Neighborhoods when the future
6 land use map is approved by the Environmental Review Board per 10 V.S.A.
7 § 6033. The areas eligible for designation shall be identified on the regional
8 plan future land use map as regional downtown centers, village centers,
9 planned growth area, and village areas in a manner consistent with this section
10 and chapter 139. This methodology shall include all approved designated
11 downtowns, villages, new town centers, neighborhood development areas, and
12 growth centers existing on July 1, 2024, unless the subject member
13 municipality requests otherwise.

14 (d) With the exception of preexisting, nonconforming designations
15 approved prior to the establishment of the program under chapter 139 or areas
16 included in the municipal plan for the purposes of relocating a municipality's
17 center for flood resiliency purposes, the areas eligible for designation benefits
18 upon the Environmental Review Board's approval of the regional plan future
19 land use map for designation as a Center shall not include development that is
20 disconnected from a Center and that lacks a pedestrian connection to the
21 Center via a complete street.

1 (e) The VAPDA shall develop, maintain, and update standard methodology
2 and process for the mapping of areas eligible for Tier 1B status under 10
3 V.S.A. § 6033 and designation under 24 V.S.A. chapter 139. The
4 methodology shall be issued on or before December 31, 2024, in consultation
5 with the Department of Housing and Community Development and Natural
6 Resources Board.

7 Sec. 41. REGIONAL PLANNING COMMISSION STUDY

8 (a) The Vermont Association of Planning and Development Agencies
9 (VAPDA) shall hire an independent contractor to study the strategic
10 opportunities for regional planning commissions to better serve municipalities
11 and the State. This study shall seek to ensure that the regional planning
12 commissions are statutorily enabled and strategically positioned to meet
13 ongoing and emerging State and municipal needs and shall review the
14 following: governance, funding, programs, service delivery, equity,
15 accountability, and staffing.

16 (b) A stakeholder group composed of the Vermont League of Cities and
17 Towns, Vermont Council on Rural Development, the Department of Housing
18 and Community Development, the Agency of Administration, the Office of
19 Racial Equity, legislators and others will be invited to participate in the study
20 to provide their insights into governance structure, accountability and
21 performance standards.

1 (c) The study shall identify the gaps in statutory enabling language,
2 structure, and local engagement and make recommendations on how to
3 improve and ensure consistent and equitable statewide programming and local
4 input and engagement including methods to improve municipal participation;
5 the amount of regional planning grant funding provided to each regional
6 planning commission relative to statutory responsibilities, the number of
7 municipalities and other demands; and how to make it easier for municipalities
8 to work together.

9 (d) On or before December 31, 2024, the study report shall be submitted to
10 the House Committees on Environment and Energy, on Commerce and
11 Economic Development, and on Government Operations and Military Affairs
12 and the Senate Committees on Economic Development, Housing and General
13 Affairs, on Natural Resources and Energy, and on Government Operations.

14 Sec. 42. POSITION; DEPARTMENT OF FISH AND WILDLIFE

15 In fiscal year 2025, \$125,000.00 is appropriated from the General Fund to
16 the Department of Fish and Wildlife, Wildlife Division for one new permanent
17 classified Biologist position to assist the Department in supporting the
18 implementation of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (d) Until July 1, 2027, the annual disbursement to municipalities shall:
- 2 (1) prioritize funding grants to municipalities that do not have zoning or
- 3 subdivision bylaws to create zoning or subdivision bylaws;
- 4 (2) allow a regional planning commission to submit an application for
- 5 disbursement on behalf of a municipality; and
- 6 (3) not require a municipality without zoning or subdivision bylaws to
- 7 contribute matching funds in order to receive a grant.

8 Sec. 44. MUNICIPAL PLANNING AND RESILIENCE GRANT

9 PROGRAM

10 (a) The Agency of Commerce and Community Development shall rename

11 the Municipal Planning Grant Program that the Agency administers under

12 24 V.S.A. § 4306(b)(2) as the Municipal Planning and Resilience Grant

13 Program.

14 (b) In addition to other funds appropriated to the Agency of Commerce and

15 Community Development for grants under 24 V.S.A. § 4306, \$1,500,000.00 is

16 appropriated from the General Fund to the Municipal and Regional Planning

17 and Resilience Fund for the grants from the Fund for the following purposes:

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

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

5 Sec. 45. CLIMATE RESILIENCY PLANNING POSITIONS

6 (a) In addition to other funds appropriated to the Agency of Commerce and
7 Community Development in fiscal year 2025, \$125,000.00 is appropriated
8 from the General Fund to the Agency for the purpose of creating a new
9 permanent full-time position to staff the climate resiliency grants from the
10 Municipal Planning and Resilience Grant Program.

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

18 * * * Designated Areas Update * * *

19 Sec. 46. REPEAL

20 24 V.S.A. chapter 76A is repealed.

1 Sec. 47. 24 V.S.A. chapter 139 is added to read:

2 CHAPTER 139. STATE COMMUNITY INVESTMENT PROGRAM

3 § 5801. DEFINITIONS

4 As used in this chapter:

5 (1) “Community Investment Program” means the program established in
6 this chapter, as adapted from the former State designated areas program
7 formerly in chapter 76A of this title. Statutory references outside this chapter
8 referring to the former State-designated village centers, downtown, and new
9 town centers shall mean designated center, once established. Statutory
10 references outside this chapter referring to the former State-designated growth
11 centers and neighborhood development areas shall mean designated
12 neighborhood, once established.

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

15 (3) “Department” means the Department of Housing and Community
16 Development.

17 (4) “Downtown center” or “village center” means areas on the regional
18 plan future land use maps that may be designated as a center consistent with
19 section 4348a of this title.

20 (5) “ERB” refers to the Environmental Review Board established
21 pursuant to 10 V.S.A. § 6021.

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

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

9 (8) “Planned growth area” means an area on the regional plan future
10 land use maps required under section 4348a of this title, which may encompass
11 a downtown center or village center on the regional future land use map and
12 may be designated as a center or neighborhood or both.

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

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

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

18 (B) develops compact mixed-use centers at a scale appropriate for the
19 community and the region;

20 (C) enables choice in modes of transportation;

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

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

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

8 (G) supports a diversity of viable businesses in downtowns and
9 villages;

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

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

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

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

18 (iii) the fragmentation of farmland and forestland;

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

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

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

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

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

12 (13) “State Designated Downtown and Village Center” or “Center”
13 means a contiguous downtown or village area approved as part of the ERB
14 review of regional plan future land use maps, which may include an approved
15 preexisting designated village center, designated downtown, or designated new
16 town center established prior to the approval of the regional plan future land
17 use maps. It shall encompass an area that extends access to benefits that
18 sustain and revitalize existing buildings and maintain the basis of the
19 program’s original focus on revitalizing historic downtowns and villages by
20 promoting development patterns and historic preservation practices vital to

1 Vermont’s economy, cultural landscape, equity of opportunity, and climate
2 resilience.

3 (14) “State-designated neighborhood” or “neighborhood” means a
4 contiguous geographic area approved as part of the Environmental Review
5 Board review of regional plan future land use maps that is adjacent and
6 contiguous to a center, which may include an approved and preexisting
7 designated neighborhood development area or growth center established prior
8 to approval of the regional plan future land use maps. It means an area that is
9 compact, principally walkable to a center, principally served by complete
10 streets, primarily including historic areas, and may include areas transitioning
11 to complete streets and smart growth through municipal capital planning,
12 programming, and budgeting in complete streets in accordance with section
13 4430 of this title.

14 (15) “Vermont Downtown Program” means a program within the
15 Department that coordinates with Main Street America that helps support
16 community revitalization and economic vitality while preserving the historic
17 character of Vermont’s downtown cores. The Vermont Downtown Program
18 provides downtowns with financial incentives, training, and technical
19 assistance supporting local efforts to restore historic buildings, improve
20 housing, design walkable communities, and encourage economic development
21 by incentivizing public and private investments.

1 (16) “Village area” means an area on the regional plan future land use
2 maps pursuant to section 4348a of this title, which may encompass a village
3 center on the regional future land use map.

4 § 5802. VERMONT COMMUNITY INVESTMENT BOARD

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

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

9 (2) the Secretary of Transportation;

10 (3) the Secretary of Natural Resources;

11 (4) the Commissioner of Public Safety;

12 (5) the State Historic Preservation Officer;

13 (6) a member of the community designated by the Director of Racial
14 Equity;

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

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

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

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

5 (11) the State Treasurer;

6 (12) a member of the Vermont Planners Association designated by the
7 Association;

8 (13) a representative of a regional development corporation designated
9 by the regional development corporations; and

10 (14) a representative of a regional planning commission designated by
11 the Vermont Association of Planning and Development Agencies.

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

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

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

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

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

3 (1) to serve as the funding and benefits coordination body for the State
4 Community Investment Program;

5 (2) to review and comment on proposed regional plan future land use
6 maps prepared by the regional planning commission and presented to the ERB
7 for designated center and designated neighborhood recognition under
8 10 V.S.A. § 6033;

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

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

12 (6) to review and comment on ERB guidelines, rules, or procedures for
13 the status process and regional plan future land use maps as they relate to the
14 designations under this chapter.

15 § 5803. DESIGNATION OF DOWNTOWN AND VILLAGE CENTERS

16 (a) Designation established. A regional planning commission may apply to
17 the ERB for approval and designation of all centers by submitting the regional
18 plan future land use map adopted by the regional planning commission. The
19 regional plan future land use map shall identify downtown centers and village
20 centers as the downtown and village areas eligible for designation as centers.

1 The Department and State Board shall provide comments to the Environmental
2 Review on areas eligible for center designation as provided under this chapter.

3 (b) Inclusions. The areas mapped by the regional planning commissions as
4 a center shall allow for the designation of preexisting, approved village centers,
5 downtown centers, and new town centers in existence on or before December
6 31, 2025.

7 (c) With the exception for preexisting, nonconforming designations
8 approved prior to the establishment of the program under this chapter or areas
9 included in the municipal plan for the purposes of relocating a municipality's
10 center for flood resiliency purposes, the areas eligible for designation benefits
11 upon the Environmental Review Board's approval of the regional plan future
12 land use map for designation as a Center shall not include development that is
13 disconnected from a Center and that lacks a pedestrian connection to the
14 Center via a complete street.

15 (d) Approval. The ERB shall conduct its review pursuant to 10 V.S.A.
16 § 6033

17 (e) Transition. All designated village centers, new town centers, or
18 downtowns existing as of December 31, 2025 will retain current benefits until
19 June 30, 2026 or until approval of the regional future land use maps by the
20 ERB, whichever comes first. All existing designations in effect December 31,
21 2025 will expire June 30, 2026 if the regional planning commission does not

1 receive State Board approval of the regional plan future land use maps under
2 this chapter. All benefits for preexisting designated village centers,
3 downtowns, and new town centers that are removed under this chapter shall
4 remain with the prior designations existing as of December 31, 2025 until July
5 1, 2032. Prior to June 30, 2026, no renewal shall be required for the
6 preexisting designations. New applications may be approved by the State
7 Board prior to the approval of a regional future land use map under former
8 chapter 76A of this title by the State Board until December 31, 2025. The last
9 day to submit an application for designation prior to December 31, 2025 will
10 be October 1, 2025.

11 (f) Benefits Steps. A center may receive the benefits associated with the
12 steps in this section by meeting the established requirements. The Department
13 shall review applications from municipalities to advance from Step One to
14 Two and from Step Two to Three and issue written decisions. The Department
15 shall issue a written administrative decision within 30 days following the
16 regional plan future land use map approval. If a municipal application is
17 rejected by the Department, the municipality may appeal the administrative
18 decision to the State Board. To maintain an established Step Three Center
19 after the initial approval of regional plan future land use map by the ERB, the
20 municipality shall apply for renewal and meet the program requirements upon
21 application for approval of a regional plan future land use map. Step Three

1 designations that are not approved for renewal revert to Step Two. The
2 municipality may appeal the administrative decision of the Department to the
3 State Board. Appeals of administrative decisions shall be heard by the State
4 Board at the next meeting following a timely filing stating the reasons for the
5 appeal. The State Board's decision is final. The Department may issue
6 guidelines to administer these steps.

7 (1) Step One.

8 (A) Requirements. Step One is established to create an accessible
9 and low-barrier entry point for all villages throughout the State to access site-
10 based improvement supports and conduct initial planning. All downtown and
11 village centers shall automatically reach Step One upon approval of the
12 regional plan future land use map by the Environmental Review Board.
13 Regional plan future land use maps supersede preexisting designated areas that
14 may already meet the Step One requirement.

15 (B) Benefits. A center that reaches Step One is eligible for the
16 following benefits:

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

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

3 (2) Step Two.

4 (A) Requirements. Step Two is established to create a mid-level
5 entry point for emerging villages throughout the State to build planning and
6 implementation capacity for community-scale projects. A center reaches Step
7 Two if it:

8 (i) meets the requirements of Step One or if it has a designated
9 village center or new town center under chapter 76A of this title upon initial
10 approval of the regional plan future land use map and prior to December 31,
11 2026;

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

13 (iii) has a municipal plan with goals for investment in the center.

14 (B) Benefits. In addition to the benefits of Step One, a center that
15 reaches Step Two is eligible for the following benefits:

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

20 (ii) funding priority for infrastructure project scoping, design,
21 engineering, and construction by the State Program;

1 (iii) the authority to create a special taxing district pursuant to
2 chapter 87 of this title for the purpose of financing both capital and operating
3 costs of a project within the boundaries of a center;

4 (iv) priority consideration for State and federal affordable housing
5 funding;

6 (v) authority for the municipal legislative body to lower speed
7 limits to less than 25 mph within the center under 23 V.S.A. § 1007(g);

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

10 (vii) exemption from the land gains tax under 32 V.S.A.
11 § 10002(p); and

12 (viii) assistance and guidance from the Department for
13 establishing local historic preservation regulations.

14 (3) Step Three.

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

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

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

3 (iii) Has a downtown improvement plan.

4 (iv) Has a downtown investment agreement.

5 (v) Has a capital plan adopted under section 4430 of this title that
6 implements the downtown improvement plan.

7 (vi) Has a local downtown organization with an organizational
8 structure necessary to sustain a comprehensive long-term downtown
9 revitalization effort, including a local downtown organization that will
10 collaborate with municipal departments, local businesses, and local nonprofit
11 organizations. The local downtown organization shall work to:

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

18 (II) build consensus and cooperation among the many groups
19 and individuals who have a role in the planning, development, and
20 revitalization process;

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

3 (IV) strengthen, diversify, and increase the economic activity
4 within the downtown; and

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

7 (vii) Has available public water and wastewater service and
8 capacity.

9 (viii) Has permanent zoning and subdivision bylaws.

10 (ix) Has adopted historic preservation regulations for the district
11 with a demonstrated commitment to protect and enhance the historic character
12 of the downtown through the adoption of bylaws that adequately meet the
13 historic preservation requirements in subdivisions 4414(1)(E) and (F) of this
14 title, unless recognized by the program as a preexisting designated new town
15 center.

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

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

20 (i) Funding for the local downtown organization and technical
21 assistance from the Vermont Downtown Program for the center.

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

3 (iii) Eligibility to receive National Main Street Accreditation from
4 Main Street America through the Vermont Downtown Program.

5 (iv) Signage options pursuant to 10 V.S.A. § 494(13) and (17).

6 (v) Certain housing appeal limitations pursuant to chapter 117 of
7 this title.

8 (vi) Highest priority for locating proposed State functions by the
9 Commissioner of Buildings and General Services or other State officials, in
10 consultation with the municipality, Department, State Board, the General
11 Assembly committees of jurisdiction for the Capital Budget, and the regional
12 planning commission. When a downtown location is not suitable, the
13 Commissioner shall issue written findings to the consulted parties
14 demonstrating how the suitability of the State function to a downtown location
15 is not feasible.

16 (vii) Funding for infrastructure project scoping, design, and
17 engineering, including participation in the Downtown Transportation and
18 Related Capital Improvement Fund Program established by section 5808 of
19 this title.

20 § 5804. DESIGNATED NEIGHBORHOOD

21 (a) Designation established.

1 (1) A regional planning commission may request approval from the
2 Environmental Review Board for designation of areas on the regional plan
3 future land use maps as a designated neighborhood under 10 V.S.A. § 6033.
4 Areas eligible for designation include planned growth areas and village areas
5 identified on the regional plan future land use map. This designation
6 recognizes that the vitality of downtowns and villages and their adjacent
7 neighborhoods and the benefits structure must ensure that any subsidy for
8 sprawl repair or infill development locations within a neighborhood is
9 secondary to a primary commitment to maintain the livability and maximize
10 the climate resilience and flood-safe infill potential of these areas.

11 (2) Approval of planned growth areas and village areas as designated
12 neighborhoods shall follow the same process as approval for designated
13 centers provided for in 10 V.S.A. § 6033 and consistent with sections 4348 and
14 4348a of this title.

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

1 shall remain active with prior designations existing as of July 1, 2024 until July
2 1, 2032. During the period of transition, no renewal shall be required for the
3 existing designations. Prior to the approval of a regional plan future land use
4 map by the ERB, new neighborhood development area designations may be
5 approved by the State Board.

6 (c) Requirements. A designated neighborhood shall meet the requirements
7 for planned growth area or village area as described in section 4348a of this
8 title.

9 (d) Benefits. A designated neighborhood is eligible for the following
10 benefits:

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

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

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

18 (4) priority consideration for State and federal affordable housing
19 funding;

20 (5) certain housing appeal limitations under chapter 117 of this title;

1 (6) authority for the municipal legislative body to lower speed limits to
2 less than 25 mph within the neighborhood;

3 (7) State wastewater application fee capped at \$50.00 for residential
4 development under 3 V.S.A. § 2822(j)(4)(D); and

5 (8) exclusion from the land gains tax provided by 32 V.S.A. § 10002(p).
6 § 5805. TRANSITION

7 On or before June 30, 2026, the regional planning commissions shall update
8 the regional plan future land use maps to delineate downtown or village
9 centers, planned growth areas, which may encompass a downtown center and
10 village center; and village areas. Notwithstanding other provisions in this
11 chapter, new applications for designation under the prior chapter 76A
12 framework shall end upon approval of a regional plan future land use map by
13 the ERB.

14 § 5806. DESIGNATION DATA CENTER

15 The Department shall maintain an online municipal planning data center
16 publishing approved regional plan future land use maps and indicating the
17 status of each approved designation within the region, and associated steps for
18 centers.

1 § 5807. MUNICIPAL TECHNICAL ASSISTANCE

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

5 (b) The procedure shall include interagency assistance and address the
6 following:

7 (1) general project advising and scoping services;

8 (2) physical improvement design services;

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

10 (4) programmatic and project management services; and

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

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

16 (1) housing development growth and equity;

17 (2) climate resilience;

18 (3) coordinated infrastructure investment;

19 (4) local administrative capacity;

20 (5) equity, diversity, and access;

21 (6) livability and social service; and

1 (7) historic preservation.

2 § 5808. DOWNTOWN TRANSPORTATION AND RELATED CAPITAL

3 IMPROVEMENT FUND

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

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

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

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

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

16 (c) Any municipality with a designated center may apply to the Board for
17 financial assistance from the Fund for capital transportation and related
18 improvement projects within or serving the district. The Board may award to
19 any municipality grants in amounts not to exceed \$250,000.00 annually, loans,
20 or loan guarantees for financing capital transportation projects, including
21 construction or alteration of roads and highways, parking facilities, and rail or

1 bus facilities or equipment, or for the underground relocation of electric utility,
2 cable, and telecommunications lines, but shall not include assistance for
3 operating costs. Grants awarded by the Board shall not exceed 80 percent of
4 the overall cost of the project. The approval of the Board may be conditioned
5 upon the repayment to the Fund of some or all of the amount of a loan or other
6 financial benefits and such repayment may be from local taxes, fees, or other
7 local revenues sources. The Board shall consider geographical distribution in
8 awarding the resources of the Fund.

9 (d) The Fund shall be available to the Department of Housing and
10 Community Development for the reasonable and necessary costs of
11 administering the Fund. The amount projected to be spent on administration
12 shall be included in the Department's fiscal year budget presentations to the
13 General Assembly.

14 § 5809. PROPERTY ASSESSMENT FUND; BROWNFIELDS AND
15 REDEVELOPMENT; COMPETITIVE PROGRAM

16 (a) There is created the Property Assessment Fund pursuant to 32 V.S.A.
17 chapter 7, subchapter 5 to be administered by the Department of Housing and
18 Community Development for the purpose of providing financing, on a
19 competitive basis, to municipalities that demonstrate a financial need in order
20 to determine and evaluate a full assessment of the extent and the cost of
21 remediation of property or, in the case of an existing building, an assessment

1 that supports a clear plan, including the associated costs of renovation to bring
2 the building into compliance with State and local building codes. This shall be
3 the same Fund that was created under the prior section 2797 of this title.

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

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

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

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

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

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

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

19 (d) The Department shall distribute funds under this section in a manner
20 that provides funding for assessment projects of various sizes in as many

1 geographical areas of the State as possible and may require matching funds
2 from the municipality in which an assessment project is conducted.

3 § 5810. BETTER PLACES PROGRAM; CROWD GRANTING

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

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

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

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

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

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

16 (3) any interest earned by the Fund.

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

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

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

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

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

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

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

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

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

20 (D) An applicant shall provide matching funds raised through
21 crowdfunding of not less than 33 percent of the grant award. The Department

1 may require a higher percent of matching funds for certain project areas to
2 ensure equitable distribution of resources across Vermont.

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

7 (f) The Department of Housing and Community Development may use up
8 to 15 percent of any appropriation to the Fund from the General Fund to assist
9 with crowdfunding, administration, training, and technological needs of the
10 Program.

11 Sec. 48. 32 V.S.A. § 5930aa is amended to read:

12 § 5930aa. DEFINITIONS

13 As used in this subchapter:

14 * * *

15 (2) “Qualified building” means a building built at least 30 years before
16 the date of application, located within a designated ~~downtown, village center,~~
17 ~~or neighborhood development area~~ center or neighborhood, which, upon
18 completion of the project supported by the tax credit, will be an income-
19 producing building not used solely as a single-family residence. Churches and
20 other buildings owned by a religious organization may be qualified buildings,
21 but in no event shall tax credits be used for religious worship.

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

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

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

11 (C) to redevelop a contaminated property in a designated ~~downtown,~~
12 ~~village center, or neighborhood development area~~ center or neighborhood
13 under a plan approved by the Secretary of Natural Resources pursuant to
14 10 V.S.A. § 6615a.

15 * * *

16 (5) “Qualified façade improvement project” means the rehabilitation of
17 the façade of a qualified building that contributes to the integrity of the
18 designated ~~downtown, designated village center, or neighborhood development~~
19 ~~area~~ center or neighborhood. Façade improvements to qualified buildings
20 listed, or eligible for listing, in the State or National Register of Historic Places

1 must be consistent with the Secretary of the Interior Standards, as determined
2 by the Vermont Division for Historic Preservation.

3 (6) “Qualified Flood Mitigation Project” means any combination of
4 structural and nonstructural changes to a qualified building located within the
5 flood hazard area as mapped by the Federal Emergency Management Agency
6 that reduces or eliminates flood damage to the building or its contents. This
7 may include relocation of HVAC, electrical, plumbing, and other building
8 systems, and equipment above the flood level; repairs or reinforcement of
9 foundation walls, including flood gates; or elevation of an entire eligible
10 building above the flood level. Further eligible projects may be defined via
11 program guidance. The project shall comply with the municipality’s adopted
12 flood hazard bylaw, if applicable, and a certificate of completion shall be
13 submitted by a registered engineer, architect, qualified contractor, or qualified
14 local official to ~~the State Board~~ program staff. Improvements to qualified
15 buildings listed, or eligible for listing, in the State or National Register of
16 Historic Places shall be consistent with Secretary of the Interior’s Standards for
17 Rehabilitation, as determined by the Vermont Division for Historic
18 Preservation.

19 * * *

1 (9) “State Board” means the Vermont ~~Downtown Development~~
2 Community Investment Board established pursuant to 24 V.S.A. chapter ~~76A~~
3 139.

4 Sec. 49. 32 V.S.A. § 5930bb is amended to read:

5 § 5930bb. ELIGIBILITY AND ADMINISTRATION

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

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

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

13 (d) ~~Notwithstanding any other provision of this subchapter, qualified~~
14 ~~applicants may apply to the State Board at any time prior to June 30, 2013, to~~
15 ~~obtain a tax credit not otherwise available under subsections 5930cc(a)-(c) of~~
16 ~~this title of 10 percent of qualified expenditures resulting from damage caused~~
17 ~~by a federally declared disaster in Vermont in 2011. The credit shall only be~~
18 ~~claimed against the taxpayer’s State individual income tax under section 5822~~
19 ~~of this title. To the extent that any allocated tax credit exceeds the taxpayer’s~~
20 ~~tax liability for the first tax year in which the qualified project is completed,~~
21 ~~the taxpayer shall receive a refund equal to the unused portion of the tax credit.~~

1 ~~If within two years after the date of the credit allocation no claim for a tax~~
2 ~~credit or refund has been filed, the tax credit allocation shall be rescinded and~~
3 ~~recaptured pursuant to subdivision 5930ee(6) of this title. The total amount of~~
4 ~~tax credits available under this subsection shall not be more than \$500,000.00~~
5 ~~and shall not be subject to the limitations contained in subdivision 5930ee(2)~~
6 ~~of this subchapter.~~

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

11 Sec. 50. 32 V.S.A. § 5930cc is amended to read:

12 § 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX

13 CREDITS

14 * * *

15 (c) Code improvement tax credit. The qualified applicant of a qualified
16 code improvement project shall be entitled, upon the approval of the State
17 Board, to claim against the taxpayer's State individual income tax, State
18 corporate income tax, or bank franchise or insurance premiums tax liability a
19 credit of 50 percent of qualified expenditures up to a maximum tax credit of
20 \$12,000.00 for installation or improvement of a platform lift, a maximum
21 credit of \$60,000.00 for the installation or improvement of a limited use or

1 limited application elevator, a maximum tax credit of \$75,000.00 for
2 installation or improvement of an elevator, a maximum tax credit of
3 \$50,000.00 for installation or improvement of a sprinkler system, and a
4 maximum tax credit of ~~\$50,000.00~~ \$100,000.00 for the combined costs of all
5 other qualified code improvements.

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

12 Sec. 51. REVISION AUTHORITY

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

16 * * * Effective Dates * * *

17 Sec. 52. EFFECTIVE DATES

18 This act shall take effect on passage, except that:

19 (1) Secs. 13 (10 V.S.A. chapter 220) and 14 (4 V.S.A. § 34) shall take
20 effect on October 1, 2026;

- 1 (2) Secs. 19 (10 V.S.A. § 6001), 20 (10 V.S.A. § 6086(a)(8)), and 26 (10
2 V.S.A. § 6001) shall take effect on December 31, 2026;
3 (3) Sec. 24 (10 V.S.A. § 6001(3)(A)(xii) shall take effect on July 1,
4 2026; and
5 (4) Sec. 46 (repeal) shall take effect on January 1, 2027.