

1 H.52

2 Introduced by Representative Deen of Westminster

3 Referred to Committee on

4 Date:

5 Subject: Municipal planning and development; municipal plan; flood
6 resilience plan

7 Statement of purpose of bill as introduced: This bill proposes to require
8 municipalities to include flood resilience plans as a part of their municipal
9 plans.

10 An act relating to municipal plans and flood resilience

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

12 Sec. 1. 24 V.S.A. § 4302 is amended to read:

13 § 4302. PURPOSE; GOALS

14 (a) General purposes. It is the intent and purpose of this chapter to
15 encourage the appropriate development of all lands in this ~~state~~ State by the
16 action of its constituent municipalities and regions, with the aid and assistance
17 of the ~~state~~ State, in a manner which will promote the public health, safety
18 against fire, floods, explosions and other dangers; to promote prosperity,
19 comfort, access to adequate light and air, convenience, efficiency, economy
20 and general welfare; to enable the mitigation of the burden of property taxes on

1 agricultural, forest, and other open lands; to encourage appropriate
2 architectural design; to encourage the development of renewable resources; to
3 protect residential, agricultural, and other areas from undue concentrations of
4 population and overcrowding of land and buildings, from traffic congestion,
5 from inadequate parking and the invasion of through traffic, and from the loss
6 of peace, quiet, and privacy; to facilitate the growth of villages, towns, and
7 cities and of their communities and neighborhoods so as to create an optimum
8 environment, with good civic design; to encourage development of a rich
9 cultural environment and to foster the arts; and to provide means and methods
10 for the municipalities and regions of this ~~state~~ State to plan for the prevention,
11 minimization, and future elimination of such land development problems as
12 may presently exist or which may be foreseen and to implement those plans
13 when and where appropriate. In implementing any regulatory power under this
14 chapter, municipalities shall take care to protect the constitutional right of the
15 people to acquire, possess, and protect property.

16 * * *

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

19 * * *

20 (14) To encourage flood-resilient communities.

1 (B) “Floodway” shall have the same meaning as “regulatory
2 floodway” under 44 C.F.R. § 59.1.

3 (C) “Hazard area” means land subject to landslides, soil erosion,
4 fluvial erosion, earthquakes, water supply contamination, or other natural or
5 human-made hazards as identified within a “local mitigation plan” enacted
6 under section 4424 of this title and in conformance with and approved pursuant
7 to the provisions of 44 C.F.R. § 201.6.

8 (D) “National Flood Insurance Program” means the National Flood
9 Insurance Program under 42 U.S.C. chapter 50 and implementing federal
10 regulations in 44 C.F.R. parts 59 and 60.

11 (E) “New construction” means construction of structures or filling
12 commenced on or after the effective date of the adoption of a community’s
13 flood hazard bylaws.

14 (F) “Substantial improvement” means any repair, reconstruction, or
15 improvement of a structure, the cost of which equals or exceeds 50 percent of
16 the market value of the structure either before the improvement or repair is
17 started or, if the structure has been damaged and is being restored, before the
18 damage occurred. However, the term does not include either of the following:

19 (i) Any project or improvement of a structure to comply with
20 existing state or local health, sanitary, or safety code specifications that are
21 solely necessary to assure safe living conditions.

1 (ii) Any alteration of a structure listed on the National Register of
2 Historic Places or a state inventory of historic places.

3 (G) “Equilibrium condition” means the width, depth, meander
4 pattern, and longitudinal slope of a stream channel that occurs when water
5 flow, sediment, and woody debris are transported by the stream in such a
6 manner that it generally maintains dimensions, pattern, and slope without
7 unnaturally aggrading or degrading the channel bed elevation.

8 (H) “Fluvial erosion” means the erosion or scouring of riverbeds and
9 banks during high flow conditions of a river.

10 (I) “River” means the full length and width, including the bed and
11 banks, of any watercourse, including rivers, streams, creeks, brooks, and
12 branches which experience perennial flow. “River” does not mean constructed
13 drainageways, including water bars, swales, and roadside ditches.

14 (J) “River corridor” means the land area adjacent to a river that is
15 required to accommodate the dimensions, slope, planform, and buffer of the
16 naturally stable channel and that is necessary for the natural maintenance or
17 natural restoration of a dynamic equilibrium condition and for minimization of
18 fluvial erosion hazards, as delineated by the ~~agency of natural resources~~
19 Agency of Natural Resources in accordance with river corridor protection
20 procedures.

1 mitigate risks to public safety, critical infrastructure, historic structures, and
2 municipal investments.

3 (B) A flood resilience plan may incorporate an existing local hazard
4 mitigation plan approved under 44 C.F.R. § 201.6.

5 * * *

6 Sec. 4. 10 V.S.A. § 1427 is amended to read:

7 § 1427. RIVER CORRIDORS AND BUFFERS

8 (a) River corridor and floodplain management program. The ~~secretary of~~
9 ~~natural resources~~ Secretary of Natural Resources shall establish a river corridor
10 and floodplain management program to aid and support the municipal adoption
11 of a flood resilience plan under 24 V.S.A. § 4382 and of river corridor,
12 floodplain, and buffer bylaws. Under the river corridor and floodplain
13 management program, the ~~secretary~~ Secretary shall:

14 (1) assess the geomorphic condition and sensitivity of the rivers of the
15 ~~state~~ State and identify where the sensitivity of a river poses a probable risk of
16 harm to life, property, or infrastructure.

17 (2) delineate and map river corridors based on the river sensitivity
18 assessments required under subdivision (1) of this subsection according to a
19 priority schedule established by the ~~secretary~~ Secretary by procedure; and

20 (3) develop recommended best management practices for the
21 management of river corridors, floodplains, and buffers.

1 * * *

2 Sec. 5. EFFECTIVE DATE

3 This act shall take effect on July 1, 2013.