

1 TO THE HOUSE OF REPRESENTATIVES:

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

7 * * * Act 250 * * *

8 Sec. 1. PURPOSE

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

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

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

9 § 6000. PURPOSE; CONSTRUCTION

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

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

15 § 6021. BOARD; VACANCY; REMOVAL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 § 6032. ENVIRONMENTAL REVIEW BOARD NOMINATING
2 COMMITTEE

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

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

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

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

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

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

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

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

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

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

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

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

15 (1) operating procedures of the Committee;

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

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

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

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

8 (j) Duties.

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

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

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

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

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

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

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

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

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

15 § 6025. RULES

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

21 * * *

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

2 § 6027. POWERS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 Director shall be responsible for:

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

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

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

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

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

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

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

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

8 * * *

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

14 * * *

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

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

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

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

9 § 6089. APPEALS

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

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

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

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

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

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

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

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

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

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

5 (6) Prehearing discovery.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 * * *

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

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

6 § 8502. DEFINITIONS

7 As used in this chapter:

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

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

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

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

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

18 (A) the applicant;

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

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

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

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

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

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

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

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

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

3 § 8503. APPLICABILITY

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

8 * * *

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

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

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

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

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

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

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

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

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

12 § 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

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

19 * * *

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

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

3 * * *

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

9 * * *

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

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

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

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

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

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

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

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

15 (2) is a party by right;

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

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

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

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

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

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

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

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

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

16 § 8505. APPEALS TO THE SUPREME COURT

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

1 * * * Transition; Revision Authority; Effective Dates * * *

2 Sec. 15. ENVIRONMENTAL REVIEW BOARD POSITIONS;

3 APPROPRIATION

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

6 (1) two Staff Attorneys; and

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

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

12 Sec. 16. NATURAL RESOURCES BOARD TRANSITION

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

16 § 6021(a)(1)(A) or (B) shall expire on that day.

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

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

1 Sec. 17. ENVIRONMENTAL DIVISION; CONTINUED JURISDICTION

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

9 Sec. 18. REVISION AUTHORITY

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

14 * * * Forest Blocks * * *

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

16 § 6001. DEFINITIONS

17 As used in this chapter:

18 * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (B) Forest blocks.

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

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

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

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

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

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

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

1 (C) Connecting habitat.

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

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

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

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

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

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

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

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

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

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

6 **§ 6094. MITIGATION OF FOREST BLOCKS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 § 127. RESOURCE MAPPING

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

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

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

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

13 * * *

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

17 * * *

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

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

3 * * *

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

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

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

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

1 (I) ~~It~~ As used in this subdivision (iii), “public auction” means
2 any auction advertised or publicized in any manner or to which more than ~~ten~~
3 10 persons have been invited.

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

9 * * *

10 (50) “Critical resource area” means a river corridor, a significant
11 wetland as defined under section 902 of this title, ~~land at or above 2,000 feet,~~
12 land characterized by slopes greater than 15 percent and shallow depth to
13 bedrock, an area with any amount of prime agricultural soil, and a parcel
14 containing all or part of a connecting habitat.

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

17 * * * Planned Growth Area Designation * * *

18 Sec. 24. 10 V.S.A. § 6032 is added to read:

19 § 6032. PLANNED GROWTH AREA DESIGNATION

20 (a) Application and approval.

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

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

8 (3) The Board shall issue an affirmative determination on finding that
9 the municipality meets the requirements of subsection (b) of this section within
10 45 days after the application is received.

11 (b) Planned growth area designation requirements.

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

15 (A) A municipal plan that is approved in accordance with 24 V.S.A.
16 § 4350.

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

20 (C) Flood hazard and river corridor bylaws, applicable to the entire
21 municipality, that are consistent with the standards established pursuant to

1 subsection 755(b) of this title (flood hazard) and subsection 1428(b) of this
2 title (river corridor).

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

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

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

15 (G) Historic preservation bylaws for established design review
16 districts, historic districts, or historic landmarks pursuant to 24 V.S.A.
17 § 4414(1)(E) and (F) for the planned growth area that meet State historic
18 preservation guidelines issued by the Department pursuant to subsection
19 2792(d) of this title.

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

4 (I) Permitted water and wastewater systems with the capacity to
5 support additional development within the planned growth area. The
6 municipality shall have adopted consistent policies, by municipal plan and
7 ordinance, on the allocation, connection, and extension of water and
8 wastewater lines that include a defined service area to support the planned
9 growth area.

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

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

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

18 (3) If any party entitled to notice under subdivision (c)(4)(A) of this
19 section or any resident of the municipality raises concerns about the
20 municipality's compliance with the requirements for the underlying

1 designation, those concerns must be addressed as part of the municipality's
2 application.

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

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

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) The relevant regional planning commission shall establish a
12 procedure for submission of a draft application that involves review and
13 comment by all the parties to be noticed in subdivision (4)(A) of this
14 subsection. The RPC shall issue a preapplication memorandum incorporating
15 the comments to the applicant after receipt of a draft preliminary application
16 and a preliminary approval or denial of the application. A municipality shall
17 not submit an application to the Environmental Review Board unless it has
18 been approved the RPC.

19 (4) After receipt of a complete final application, the Environmental
20 Review Board shall convene a public hearing in the municipality to consider

1 whether to issue a determination of planned growth area designation under this
2 section.

3 (A) Notice.

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

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

15 (iii) The notice shall also be posted by the municipality in or near
16 the municipal clerk’s office and in at least two other designated public places
17 in the municipality, and on the websites of the municipality and the regional
18 planning commission.

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

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

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

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

15 (d) Review of designation status.

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

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

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

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

5 (B) terminate the designation.

6 (e) Appeal.

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

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

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

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

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

19 (D) Any 20 persons who, by signed petition, allege that the decision
20 is not in accord with the requirements of this chapter, and who own or occupy
21 real property located within the municipality in which the designated area is

1 located or an adjoining municipality. The petition must designate one person
2 to serve as the representative of the petitioners regarding all matters related to
3 the appeal. The designated representative must have participated in the public
4 hearing described in subdivision (c)(4) of this section.

5 Sec. 25. PLANNED GROWTH AREA GUIDELINES

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

9 Sec. 26. 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 of this title or 10 V.S.A. § 6032, together with, for each area
21 proposed for designation, an explanation of how the designation would further

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

3 * * *

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

5 § 6081. PERMITS REQUIRED; EXEMPTIONS

6 * * *

7 (z) Notwithstanding any other provision of this chapter to the contrary, no
8 permit or permit amendment is required for any subdivision, development, or
9 change to an existing project that is located entirely within a Tier 1A planned
10 growth area designated under section 6032 of this chapter. Notwithstanding
11 any other provision of this chapter to the contrary, no permit or permit
12 amendment is required for 50 units or fewer of housing located entirely within
13 a Tier 1B planned growth area designated under section 6032 of this chapter.
14 Upon receiving notice and a copy of the permit issued by an appropriate
15 municipal panel pursuant to 24 V.S.A. § 4460(f), a previously issued permit
16 for a development or subdivision located in a planned growth area shall remain
17 attached to the property. However, neither the Board nor the Agency of
18 Natural Resources shall enforce the permit or assert amendment jurisdiction on
19 the tract or tracts of land unless the designation is revoked or the municipality
20 has not taken any action to enforce the conditions of the permit.

21 Sec. 28. 24 V.S.A. § 4460 is amended to read:

1 § 4460. APPROPRIATE MUNICIPAL PANELS

2 * * *

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

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

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

6 V.S.A. § 6032; and

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

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

14 (A) the construction phase of the project that has already been
15 constructed;

16 (B) compliance with another State permit that has independent
17 jurisdiction;

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

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

1 §4302. PURPOSE; GOALS

2 * * *

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

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

7 (A) Intensive residential development should be encouraged
8 primarily in ~~areas related to community centers~~ Downtowns, Village Centers,
9 Planned Growth Areas and Village Areas as described in 24 V.S.A. §4348a,
10 and strip development along highways ~~should be discouraged~~ should be
11 avoided. These areas should be planned so as to accommodate the majority of
12 housing needed to reach the housing targets in each region developed per 24
13 V.S.A. § 4348a(a)(9).

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

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

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

3 * * *

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

6 (A) significant natural and fragile areas as described in 10 V.S.A.
7 chapter 89;

8 (B) outstanding water resources, including lakes, rivers, aquifers,
9 shorelands, and wetlands;

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

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

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

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

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

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

3 * * *

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

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

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

13 (C) Sites for multi-family and manufactured housing should be
14 readily available in locations similar to those generally used for single-family
15 conventional dwellings.

16 (D) Accessory apartments within or attached to single-family
17 residences which provide affordable housing in close proximity to cost-
18 effective care and supervision for relatives, elders, or persons who have a
19 disability should be allowed.

20 * * *

21 (14) To encourage flood resilient communities.

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

4 (B) The protection and restoration of floodplains and upland forested
5 areas that attenuate and moderate flooding and fluvial erosion should be
6 encouraged.

7 (C) Flood emergency preparedness and response planning should be
8 encouraged.

9 * * *

10 Sec. 30. 24 V.S.A. § 4345a is amended to read:

11 § 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

12 A regional planning commission created under this chapter shall:

13 * * *

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

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

1 (B) develop a regional data base that is compatible with, useful to,
2 and shared with the geographic information system established under 3 V.S.A.

3 § 20;

4 (C) conduct capacity studies;

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

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

13 (F) consider the probable social and economic benefits and
14 consequences of the proposed plan; and

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

17 * * *

18 (11) Review proposed State capital expenditures prepared pursuant to
19 32 V.S.A. chapter 5 and the Transportation Program prepared pursuant to 19
20 V.S.A. chapter 1 for compatibility and consistency with regional plans and

1 submit comments to the Secretaries of Transportation and Administration and
2 the legislative committees of jurisdiction.

3 * * *

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

8 * * *

9 (21) Review and participate as an interested party in the municipal
10 development review process for projects defined to have a substantial regional
11 impact and are located in areas exempted under Act 250 per 10 V.S.A. § 6032.
12 Sec. 31. 24 V.S.A. § 4347 is amended to read:

13 § 4347. PURPOSES OF REGIONAL PLAN

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

1 industry, habitation, recreation, agriculture, forestry, and other uses as will tend

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

18 Sec. 32. 24 V.S.A. § 4348 is amended to read:

19 § 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

20 (a) A regional planning commission shall adopt a regional plan. Any plan
21 for a region, and any amendment thereof, shall be prepared by the regional

1 planning commission. At the outset of the planning process and throughout
2 the process, regional planning commissions shall solicit the participation of
3 local citizens and organizations by holding informal working sessions that suit
4 the needs of local people.

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

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

15 ~~(e)~~(d) At least 30 days prior to the first hearing, a copy of the proposed plan
16 or amendment, a report documenting conformance with the goals established
17 in section 4302 of this chapter and the plan elements established in section
18 4348a of this chapter, a description of any changes to the Regional Future
19 Land Use Map, and the definition of substantial regional impact with a request
20 for general comments and for specific comments with respect to the extent to
21 which the plan or amendment is consistent with the goals established in section

1 4302 of this title, shall be delivered physically or electronically with proof of
2 receipt or sent by certified mail, return receipt requested, to each of the
3 following:

4 (1) the chair of the legislative body of each municipality within the
5 region;

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

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

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

14 (5) the Agency of Natural Resources ~~and~~, the Agency of Agriculture,
15 Food and Markets, the Agency of Transportation, the Department of Public
16 Service, the Department of Public Safety's Division of Emergency
17 Management; and the Environmental Review Board.

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

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

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

18 (h)(1) A regional planning commission shall submit its regionally adopted
19 regional plan to the Environmental Review Board for a determination of
20 regional plan compliance with the following: a report documenting
21 conformance with the goals established in section 4302 of this chapter and the

1 plan elements established in section 4348a of this chapter, a description of any
2 changes to the Regional Future Land Use Map, the definition of substantial
3 regional impact, and a recommendation from the State Downtown Board.

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

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

1 acceptable modifications. Submissions for a new determination that follow a
2 negative determination shall receive a new determination within 45 days.

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

5 (A) Consistency with the State planning goals as described in section
6 4302 of this chapter with consistency determined in the manner described
7 under subdivision 4302(f)(1) of this chapter.

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

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

15 (i) Minor Amendments to Regional Future Land Use Plan. A regional
16 planning commission and a municipality may submit a joint request for a
17 minor amendment to boundaries of a Designated Area pursuant to this chapter
18 for consideration by the Environmental Review Board. The joint request may
19 only be submitted after an affirmative vote of the municipal legislative body
20 and the regional planning commission board. The Environmental Review
21 Board, after consultation with the Downtown Development Board and the

1 regional planning commissions, shall provide guidance about what constitutes
2 a minor amendment. Minor amendments may include any change to a future
3 land use district consisting of less than 10 acres. A minor amendment to a
4 Designated Area plan shall not require an amendment to a regional plan as
5 outlined in section 4348 of this chapter.

6 (j) 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 (k) 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 (l) 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)(m) 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 section 4353 of this title, minor

1 amendments to the Designated Areas do not require the amendment of a
2 regional plan. All minor amendments to Designated Areas shall be compiled
3 and included in the next iteration of the regional plan.

4 (h)(n) 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;

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.

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

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

16 §4348a. ELEMENTS OF A REGIONAL PLAN

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

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

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

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

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

20 (C) ~~Indicates locations proposed for developments with a potential~~
21 ~~for regional impact, as determined by the regional planning commission,~~

1 including flood control projects, surface water supply projects, industrial parks,
2 office parks, shopping centers and shopping malls, airports, tourist attractions,
3 recreational facilities, private schools, public or private colleges, and
4 residential developments or subdivisions.

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

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

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

20 (3) An energy element, ~~may include~~ including an analysis of resources,
21 needs, scarcities, costs, and problems within the region across all energy

1 sectors, including electric, thermal, and transportation; a statement of policy on
2 the conservation and efficient use of energy and the development and siting of
3 renewable energy resources; a statement of policy on patterns and densities of
4 land use likely to result in conservation of energy; and an identification of
5 potential areas for the development and siting of renewable energy resources
6 and areas that are unsuitable for siting those resources or particular categories
7 or sizes of those resources.

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

17 (5) A utility and facility element, consisting of a map and statement of
18 present and prospective local and regional community facilities and public
19 utilities, whether publicly or privately owned, showing existing and proposed
20 educational, recreational and other public sites, buildings and facilities,
21 including public schools, State office buildings, hospitals, libraries, power

1 generating plants and transmission lines, wireless telecommunications facilities
2 and ancillary improvements, water supply, sewage disposal, refuse disposal,
3 storm drainage, and other similar facilities and activities, and recommendations
4 to meet future needs for those facilities, with indications of priority of need.

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

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

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

11 * * *

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

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

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

15 (i) The municipality has a duly adopted and approved plan and a
16 planning process that is confirmed in accordance with section 4350 of this title
17 and has adopted bylaws and regulations in accordance with sections 4414,
18 4418, and 4442 of this title.

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

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

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

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

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

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

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

17 (II) development that limits transportation options, especially
18 for pedestrians;

19 (III) the fragmentation of farmland and forestland;

20 (VI) development that is not serviced by municipal
21 infrastructure or that requires the extension of municipal infrastructure across

1 undeveloped lands in a manner that would extend service to lands located
2 outside compact village and urban centers:

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

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

15 (D) Transition/Infill Area. These areas include areas of existing or
16 planned commercial, office, mixed-use development, or residential uses either
17 adjacent to a Planned Growth or Village Area or a new stand-alone Transition
18 Area and served by, or planned for, water or wastewater, or both. The intent of
19 this land use category is to transform these areas into higher-density, mixed-
20 use settlements, or residential neighborhoods through infill and redevelopment
21 or new development. New commercial strip auto-oriented development is not

1 allowed as to prevent negatively impacting the economic vitality of
2 commercial areas in the adjacent or nearby Planned Growth or Village Area.
3 This area could also include adjacent greenfields safer from flooding and
4 planned for future growth.

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

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

15 (G) Hamlet. Small historic clusters of homes and perhaps a school,
16 church, store, or other public buildings not planned for significant growth; no
17 public water supply or wastewater systems; and mostly focused along 1–2
18 roads. These may be depicted as points on the future land use map.

19 (H) Rural; General. These areas include areas that promote the
20 preservation of Vermont’s traditional working landscape and natural area
21 features. They allow for low-density residential and sometimes limited

1 commercial development that is compatible with productive lands and natural
2 areas. This could also include an area that a municipality is planning to make
3 more rural than it is currently.

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

11 (J) Rural; Conservation. These areas include areas intended to be
12 conserved often with regulations or State or nonprofit purchase of property
13 rights limiting development, fragmentation, and conversion in order to
14 maintain ecological health and scenic beauty. These lands have significant
15 ecological value, and require special protection due to their uniqueness,
16 fragility, or ecological importance. They may include protected lands, areas
17 with specific features like steep slopes or endangered species, wetlands, flood
18 hazard areas, and shoreline protection areas and are intended to remain largely
19 undeveloped for the benefit of future generations. Some portion of managed
20 forestland will likely fall into this category.

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

5 * * * Municipal Bylaws * * *

6 Sec. 34. 24 V.S.A. § 4462 is amended to read:

7 § 4462. COMBINED REVIEW

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

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

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

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

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

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

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

14 Sec. 35. 24 V.S.A. § 4464 is amended to read:

15 § 4464. HEARING AND NOTICE REQUIREMENTS; DECISIONS AND

16 CONDITIONS; ADMINISTRATIVE REVIEW; ROLE OF

17 ADVISORY COMMISSIONS IN DEVELOPMENT REVIEW

18 (a) Notice procedures. All development review applications before an
19 appropriate municipal panel under procedures set forth in this chapter shall
20 require notice as follows:;

1 pursuant to 10 V.S.A. § 6081 that meet the definition of substantial regional
2 impact or that generate 75 or more peak hour trip ends.

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

7 * * *

8 (e) Role of regional planning commissions and the Agency of
9 Transportation. The regional planning commissions and the Agency of
10 Transportation, identified as interested persons in section 4465 of this title,
11 may participate only in proceedings regarding applications within areas exempt
12 pursuant to 10 V.S.A. § 6081 that meet the definition of substantial regional
13 impact or that generate 75 or more peak hour trip ends. The regional planning
14 commissions and the Agency of Transportation shall perform the following
15 functions: review the application; inform the applicant about any State
16 permitting and any other statutory requirements, including transportation
17 impact fees as required by 10 V.S.A. § 6104, related to the proposed
18 development; and prepare recommendations on each of the review standards
19 within the commission's or agency's purview for consideration by the
20 applicant. Recommendations may be shared with the appropriate municipal
21 panel in order to coordinate municipal and State permit review. The regional

1 planning commission or the Agency of Transportation may meet with the
2 applicant or interested parties, or both; conduct site visits; and perform other
3 fact-finding that will enable the preparation of recommendations.

4 Sec. 36. 24 V.S.A. § 4465 is amended to read:

5 § 4465. APPEALS OF DECISIONS OF THE ADMINISTRATIVE OFFICER

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

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

15 * * *

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

19 Sec. 37. 10 V.S.A. § 6104 is amended to read:

20 § 6104. TRANSPORTATION IMPACT FEE; DISTRICT COMMISSION

21 * * *

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

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

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

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

13 (B) 70 percent shall be disbursed to the Secretary of Commerce and
14 Community Development for performance contracts with regional planning
15 commissions to provide regional planning services pursuant to section 4341a
16 of this title; and

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

18 (b)(1) Allocations for performance contract funding to regional planning
19 commissions shall be determined according to a formula to be adopted by rule
20 under 3 V.S.A. chapter 25 by the Department for the assistance of the regional
21 planning commissions. Disbursement of funding to regional planning

1 commissions shall be predicated upon meeting performance goals and targets
2 pursuant to the terms of the performance contract.

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

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

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

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

15 (3) Of the annual disbursement to municipalities, an amount not to
16 exceed 20 percent of the total may be disbursed to the Department to
17 administer a program providing direct technical consulting assistance under
18 retainer on a rolling basis to any eligible municipality to meet the requirements
19 for designated neighborhood development area under chapter 76A of this title,
20 provided that the municipality is eligible for funding under subdivision (2) of
21 this subsection and meets funding guidelines established by the Department to

1 ensure accessibility for lower capacity communities, municipal readiness, and
2 statewide coverage.

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

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

6 (1) funding the regional planning commission in undertaking capacity
7 studies;

8 (2) carrying out the provisions of subchapters 5 through 10 of this
9 chapter;

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

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

18 Sec. 40. MUNICIPAL PLANNING AND RESILIENCE GRANT

19 PROGRAM

20 (a) The Agency of Commerce and Community Development shall rename
21 the Municipal Planning Grant Program that the Agency administers under

1 24 V.S.A. § 4306(b)(2) as the Municipal Planning and Resilience Grant
2 Program.

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

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

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

14 Sec. 41. CLIMATE RESILIENCY PLANNING POSITIONS

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

20 (b) In addition to other funds appropriated to the Agency of Natural
21 Resources in fiscal year 2025, \$125,000.00 is appropriated from the General

1 Fund to the Agency for the purposes of funding a new permanent full-time
2 position in the Water Investment Division of the Department of Environmental
3 Conservation for the purposes of assisting in the financing of climate resilience
4 projects from the Special Environmental Revolving Funds under 24 V.S.A.
5 chapter 120.

6 * * * Effective Dates * * *

7 Sec. 42. EFFECTIVE DATES

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

10

11

12

13

14 (Committee vote: _____)

15

16

Representative _____

17

FOR THE COMMITTEE