

1 H.687

2 Representatives Bongartz of Manchester, Sheldon of Middlebury, move that
3 the House concur with the Senate proposal of amendment with further proposal
4 of amendment as follows:

5 First: By adding a new Sec. 1a to read as follows:

6 Sec. 1. PURPOSE

7 The purpose of this act is to further assist the State in achieving the
8 conservation vision and goals for the State established in 10 V.S.A. § 2802
9 and 24 V.S.A. § 4302. It provides a regulatory framework that supports the
10 vision for Vermont of human and natural community resilience and
11 biodiversity protection in the face of climate change, as described in 2023 Acts
12 and Resolves No. 59. It would strengthen the administration of the Act 250
13 program by changing the structure, function, and name of the Natural
14 Resources Board. The program updates established in this act would be used
15 to guide State financial investment in human and natural infrastructure.

16 Second: In Sec. 3, 10 V.S.A. § 6032, in subsection (b), by striking out
17 “July 31”and inserting in lieu thereof “June 30”

18 Third: In Sec. 5, 10 V.S.A. § 6027, by striking out subdivision (j) in its
19 entirety and inserting in lieu thereof a new subsection (j) to read as follows:

1 (j) ~~The Natural Resources Board may participate as a party in all matters~~
2 ~~before the Environmental Division that relate to land use permits issued under~~
3 ~~this chapter~~ The Board shall hear appeals of jurisdictional opinions.

4 Fourth: In Sec. 8, 10 V.S.A. § 6086(h), in the second sentence, by striking
5 out “and shall be notarized”

6 Fifth: In Sec. 9, 10 V.S.A. § 6083a, by adding a new subsection to be
7 subsection (k) to read:

8 (k) All persons filing an appeal of a jurisdictional opinion shall pay a fee of
9 \$295.00, plus publication costs, unless the Board approves a waiver of fees
10 based on indigency.

11 Sixth: In Sec. 11, land use review board appointments; revision authority,
12 by striking out subsection (a) in its entirety and inserting in lieu thereof a new
13 subsection (a) to read as follows:

14 (a) The Governor shall appoint the members of Land Use Review Board on
15 or before January 1, 2025, and the terms of any Natural Resources Board
16 member not appointed consistent with the requirements of 10 V.S.A.
17 § 6021(a)(1)(A) or (B) shall expire on that day.

18 Seventh: In Sec. 11, land use review board appointments; revision
19 authority, in subsection (b), by striking out “July” and inserting in lieu thereof
20 of “January”

1 section 6007(c) of this chapter the final determination regarding jurisdiction
2 unless the underlying jurisdictional opinion was not properly served on persons
3 listed in subdivisions 6085(c)(1)(A) through (D) of this title and on persons on
4 a subdivision 6085(c)(1)(E) list approved under subsection (c) of this section.

5 Ninth: By adding a new Sec. 11b to read as follows:

6 Sec. 11b. 10 V.S.A. chapter 220 is amended to read:

7 CHAPTER 220. CONSOLIDATED ENVIRONMENTAL APPEALS

8 § 8501. PURPOSE

9 It is the purpose of this chapter to:

10 (1) consolidate existing appeal routes for municipal zoning and
11 subdivision decisions and acts or decisions of the Secretary of Natural
12 Resources, ~~district environmental coordinators,~~ and District Commissions,
13 excluding enforcement actions brought pursuant to chapters 201 and 211 of
14 this title and the adoption of rules under 3 V.S.A. chapter 25;

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

18 (3) encourage people to get involved in the Act 250 permitting process
19 at the initial stages of review by a District Commission by requiring
20 participation as a prerequisite for an appeal of a District Commission decision
21 to the Environmental Division;

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

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

8 § 8502. DEFINITIONS

9 As used in this chapter:

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

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

14 [Repealed.]

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

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

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

20 (A) the applicant;

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

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

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

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

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

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

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

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

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

4 § 8503. APPLICABILITY

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

9 * * *

10 (b) This chapter shall govern:

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

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

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

19 * * *

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

4 * * *

5 § 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

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

12 * * *

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

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

21 * * *

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

2 (3) the Supreme Court determines that:

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

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

7 * * *

8 Tenth: In Sec. 21, 10 V.S.A. § 6001, in subsection (46) by striking out
9 “whether and”

10 Eleventh: In Sec. 22, tier 3 rulemaking, in subsection (a), by striking out
11 “Natural Resources Board” and inserting in lieu thereof “Land Use Review
12 Board”

13 Twelfth: In Sec. 22, tier 3 rulemaking, in subsection (a), by striking out
14 “recommend”

15 Thirteenth: By striking out Sec. 23, 10 V.S.A. § 6001(3)(A)(xi), in its
16 entirety and inserting in lieu thereof a new Sec. 23 to read as follows:
17 Sec. 23. 10 V.S.A. § 6001(3)(A)(xi) is amended to read:

18 (xi) Notwithstanding any other provision of law to the contrary, until
19 ~~July 1~~ December 31, 2026, the construction of housing projects such as
20 cooperatives, condominiums, dwellings, or mobile homes, with 25 or more
21 units, constructed or maintained on a tract or tracts of land, located entirely

1 within a designated downtown development district, a designated
2 neighborhood development area, a designated village center with permanent
3 zoning and subdivision bylaws, or a designated growth center, owned or
4 controlled by a person, within a radius of five miles of any point on any
5 involved land and within any continuous period of five years. For purposes of
6 this ~~subsection~~ subdivision, the construction of four units or fewer of housing
7 in an existing structure shall only count as one unit towards the total number of
8 units.

9 Fourteenth: By striking out Sec. 24, 10 V.S.A. § 6001(3)(A)(xi), in its
10 entirety and inserting in lieu thereof a new Sec. 23 to read as follows:

11 Sec. 24. 10 V.S.A. § 6001(3)(D)(viii)(III) is amended to read:

12 (III) Notwithstanding any other provision of law to the contrary, until
13 July 1, ~~2026~~ 2028, the construction of a priority housing project located
14 entirely within a designated downtown development district, designated
15 neighborhood development area, or a designated growth center.

16 Fifteenth: By striking out Sec. 25, repeals, in its entirety and inserting in
17 lieu thereof a new Sec. 25 to read as follows:

18 Sec. 25. REPEAL

19 2023 Acts and Resolves No. 47, Sec. 19c is repealed.

20 Sixteenth: By adding a new Sec. to be Sec. 25a to read as follows:

1 Sec. 25a. 2023 Acts and Resolves No. 47, Sec. 16a is amended to read:

2 Sec. 16a. ACT 250 EXEMPTION REQUIREMENTS

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

8 Seventeenth: By striking out Sec. 27, 10 V.S.A. § 6033, in its entirety and
9 inserting in lieu thereof a new Sec. 27 to read as follows:

10 Sec. 27. 10 V.S.A. § 6033 is added to read:

11 § 6033. REGIONAL PLAN FUTURE LAND USE MAP REVIEW

12 (a) The Board shall review requests from regional planning commissions to
13 approve or disapprove portions of future land use maps for the purposes of
14 changing jurisdictional thresholds under this chapter by identifying areas on
15 future land use maps for Tier 1B area status and to approve designations
16 pursuant to 24 V.S.A. chapter 139. The Board may produce guidelines for
17 regional planning commissions seeking Tier 1B area status. If requested by the
18 regional planning commission, the Board shall complete this review
19 concurrently with regional plan approval. A municipality may have multiple
20 noncontiguous areas receive Tier 1B area status. A request for Tier 1B area

1 status made by a regional planning commission separate from regional plan
2 approval shall follow the process set forth in 24 V.S.A. § 4348.

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

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

11 (A) The municipality has requested to have the area mapped for Tier
12 1B.

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

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

17 (D) The area excludes identified flood hazard and fluvial erosion
18 areas, except those areas containing preexisting development in areas suitable
19 for infill development as defined in § 29-201 of the Vermont Flood Hazard
20 Area and River Corridor Rule unless the municipality has adopted flood hazard
21 and river corridor bylaws applicable to the entire municipality that are

1 consistent with the standards established pursuant to subsection 755(b) of this
2 title (flood hazard) and subsection 1428(b) of this title (river corridor).

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

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

8 Eighteenth: In Sec. 28, 10 V.S.A. § 6034, in subsection (b), by striking out
9 subdivision (1) in entirety and inserting in lieu thereof a new subdivision (1) to
10 read as follows:

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

13 (A) A municipal plan that is approved in accordance with 24 V.S.A.
14 § 4350.

15 (B) The boundaries are consistent with downtown or village centers
16 and planned growth areas as defined 24 V.S.A. § 4348a(a)(12) in an approved
17 regional plan future land use map with any minor amendments.

18 (C) The municipality has adopted flood hazard and river corridor
19 bylaws, applicable to the entire municipality, that are consistent with or
20 stronger than the standards established pursuant to subsection 755(b) of this

1 title (flood hazard) and subsection 1428(b) of this title (river corridor) or the
2 proposed Tier 1A area excludes the flood hazard areas and river corridor.

3 (D) The municipality has adopted permanent zoning and subdivision
4 bylaws that do not include broad exemptions that exclude significant private or
5 public land development from requiring a municipal land use permit.

6 (E) The municipality has permanent land development regulations for
7 the Tier 1A area that further the smart growth principles of 24 V.S.A. chapters
8 76A, adequately regulate the physical form and scale of development, provide
9 reasonable provision for a portion of the areas with sewer and water to allow at
10 least four stories, and conform to the guidelines established by the Board.

11 (F) The Tier 1A area is compatible with the character of adjacent
12 National Register Historic Districts, National or State Register Historic Sites,
13 and other significant cultural and natural resources identified by local or State
14 government.

15 (G) The municipality has identified and planned for the maintenance
16 of significant natural communities, rare, threatened, and endangered species
17 located in the Tier 1A area or excluded those areas from the Tier 1A area.

18 (H) Public water and wastewater systems have the capacity to
19 support additional development within the Tier 1A area.

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

4 Nineteenth: In Sec. 31, 10 V.S.A. § 6081, by striking out subsection (dd) in
5 its entirety.

6 Twentieth: By striking out Sec. 32, 10 V.S.A. § 6001(50) and (51), in its
7 entirety and inserting in lieu thereof a new Sec. 32 to read as follows:

8 Sec. 32. 10 V.S.A. § 6001(50) is added to read :

9 (50) “Accessory dwelling unit” means a distinct unit that is clearly
10 subordinate to a single-family dwelling, located on an owner-occupied lot and
11 has facilities and provisions for independent living, including sleeping, food
12 preparation and sanitation, provided there is compliance with all of the
13 following:

14 (A) the unit does not exceed 30 percent of the habitable floor area of
15 the single-family dwelling or 900 square feet, whichever is greater; and

16 (B) the unit is located within or appurtenant to an existing single-
17 family dwelling.

18 Twenty first: In Sec. 52, 24 V.S.A. § 4412, in subdivision (1)(D), by
19 striking out the third sentence in its entirety and inserting in lieu thereof:

20 In any district that allows year-round residential development, duplexes
21 shall be an allowed use with ~~the same~~ dimensional standards as that are not

1 more restrictive than is required for a single-unit dwelling, including no
2 additional land or lot area than would be required for a single-unit dwelling.

3 Twenty first: In Sec. 52, 24 V.S.A. § 4412, by striking out subdivision (12)
4 in its entirety and inserting in lieu thereof:

5 (12) In any area served by municipal sewer and water infrastructure that
6 allows residential development, bylaws shall establish lot and building
7 dimensional standards that allow five or more dwelling units per acre for each
8 allowed residential use, ~~and density.~~ Density and minimum lot size standards
9 for multiunit dwellings shall not be more restrictive than those required for
10 single-family dwellings.

11 Twenty second: By striking out Sec. 57, 24 V.S.A. § 4429, in its entirety
12 and inserting in lieu thereof:

13 Sec. 57. [Deleted.]

14 Twenty third: By striking out Sec. 58, 24 V.S.A. § 4464, in its entirety and
15 inserting in lieu thereof:

16 Sec. 58. [Deleted.]

17 Twenty fourth: By striking out Sec. 59, 24 V.S.A. § 4465, in its entirety
18 and inserting in lieu thereof:

19 Sec. 59. [Deleted.]

20 Twenty fifth: By striking out Sec. 68, 32 V.S.A. § 5930aa, in its entirety
21 and inserting in lieu thereof the following:

1 Sec. 68. [Deleted.]

2 * * *

3 Thirty second: By striking out Sec. 114, effective dates, and inserting in
4 lieu thereof the following:

5 Sec. 114. EFFECTIVE DATES

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

7 (1) Secs. 12 (10 V.S.A. § 6001), 13 (10 V.S.A. § 6086(a)(8)), and 20 (10
8 V.S.A. § 6001) shall take effect on December 31, 2026;

9 (2) Sec. 19 (10 V.S.A. § 6001(3)(A)(xii)) shall take effect on July 1,
10 2026;

11 (3) Sec. 83 (grand list contents, 32 V.S.A. § 4152(a)) shall take effect on
12 July 1, 2029; and

13 (4) Secs. 73 (property transfer tax rates) and 83a (property transfer tax
14 exemption for abandoned property) shall take effect on August 1, 2024.

15 (5) Sec. 75 (clean water surcharge) shall take effect on July 1, 2027.

16 and that after passage the title of the bill be amended to read: “An act
17 relating to land use planning, development, and housing”