

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. 1a. 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 adding a new subsection (o) to read
19 as follows:

20 (o) Beginning on January 1, 2026, the Board shall hear appeals of
21 jurisdictional opinions. The Board shall adopt rules for the appeals of

1 jurisdictional opinions that shall prohibit ex parte communications between
2 District Coordinators and the Board on such appeals. Appeals of the Board's
3 decisions on jurisdictional opinions shall be made to the Supreme Court.

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 as follows:

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
12 authority, by striking out subsection (a) in its entirety and inserting in lieu
13 thereof a new subsection (a) to read as follows:

14 (a) The Governor shall appoint the members of the Land Use Review
15 Board on or before January 1, 2025, and the terms of any Natural Resources
16 Board 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 Eighth: By adding a Sec. **11b** and reader assistance heading to read as
2 follows:

3 * * * Appeals * * *

4 Sec. 11b. 10 V.S.A. § 6089 is amended to read:

5 § 6089. APPEALS

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

13 (b) A person who seeks review of a jurisdictional opinion issued by a
14 district coordinator shall bring to the Board an appeal of issues addressed in the
15 opinion.

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

19 (2) Failure to appeal within 30 days following the issuance of the
20 jurisdictional opinion shall render the decision of the district coordinator under
21 section 6007(c) of this chapter the final determination regarding jurisdiction

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

4 Ninth: By adding a Sec. 11c to read as follows:

5 Sec. 11c. 10 V.S.A. chapter 220 is amended to read:

6 CHAPTER 220. CONSOLIDATED ENVIRONMENTAL APPEALS

7 § 8501. PURPOSE

8 It is the purpose of this chapter to:

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

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

17 (3) encourage people to get involved in the Act 250 permitting process
18 at the initial stages of review by a District Commission by requiring
19 participation as a prerequisite for an appeal of a District Commission decision
20 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 (e) ~~Act 250 jurisdictional determinations by a district coordinator.~~

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

6 (2) ~~Failure to appeal within the time required under subsection (a) of~~
7 ~~this section shall render the decision of the district coordinator under~~
8 ~~subsection 6007(c) of this title the final determination regarding jurisdiction~~
9 ~~under chapter 151 of this title unless the underlying jurisdictional opinion was~~
10 ~~not properly served on persons listed in subdivisions 6085(c)(1)(A) through~~
11 ~~(D) of this title and on persons on a subdivision 6085(c)(1)(E) list approved~~
12 ~~under subsection 6007(c) of this title. [Repealed.]~~

13 * * *

14 § 8505. APPEALS TO THE SUPREME COURT

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

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

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, by adding subdivision (19) to read as
9 follows:

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

11 * * *

12 (iv) A tract or tracts of land, owned or controlled by a person, that
13 the person has partitioned or divided for the purpose of resale into one or more
14 lots within a radius of five miles of any point on any lot, or within Tier 3,
15 within any continuous period of five years.

16 Eleventh: In Sec. 22, Tier 3 rulemaking, by striking out subsection (a) and
17 inserting in lieu thereof a new subsection (a) to read:

18 (a) The Land Use Review Board, in consultation with the Secretary of
19 Natural Resources, shall adopt rules to implement the requirements for the
20 administration of 10 V.S.A. § 6001(3)(A)(xiii) and 10 V.S.A. § 6001(46) and
21 (19). It is the intent of the General Assembly that these rules identify critical

1 natural resources for protection. The Board shall review the definition of Tier
2 3 area; determine the critical natural resources that shall be included in Tier 3,
3 giving due consideration to river corridors, headwater streams, habitat
4 connectors of statewide significance, riparian areas, class A waters, natural
5 communities; any additional critical natural resources that should be added to
6 the definition; and how to define the boundaries. Rules adopted by the Board
7 shall include:

8 (1) any necessary clarifications to how the Tier 3 definition is used in
9 10 V.S.A. chapter 151;

10 (2) any necessary changes to how 10 V.S.A. § 6001(3)(A)(xiii) should
11 be administered, and when jurisdiction should be triggered to protect the
12 functions and values of resources of critical natural resources;

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

15 (4) other policies or programs that shall be developed to review
16 development impacts to Tier 3 areas if they are not included in 10 V.S.A.
17 § 6001(46); and

18 (5) if a critical natural resource area is not recommended for protection
19 under Tier 3, it shall be identified in the rule, and a rationale shall be provided
20 as to why the critical resource was not selected for Tier 3 protection.

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

3 Sec. 23. 10 V.S.A. § 6001(3)(A)(xi) is amended to read:

4 (xi) Notwithstanding any other provision of law to the contrary, until
5 July 1, ~~2026~~ 2028, the construction of housing projects such as cooperatives,
6 condominiums, dwellings, or mobile homes, with 25 or more units, constructed
7 or maintained on a tract or tracts of land, located entirely within a designated
8 downtown development district, a designated neighborhood development area,
9 a designated village center with permanent zoning and subdivision bylaws, or a
10 designated growth center, owned or controlled by a person, within a radius of
11 five miles of any point on any involved land and within any continuous period
12 of five years. For purposes of this ~~subsection~~ subdivision, the construction of
13 four units or fewer of housing in an existing structure shall only count as one
14 unit towards the total number of units.

15 Thirteenth: By striking out Sec. 24, 10 V.S.A. § 6001(3)(D)(viii)(III), in its
16 entirety and inserting in lieu thereof a new Sec. 23 to read as follows:

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

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

1 Fourteenth: By striking out Sec. 25, repeals, in its entirety and inserting in
2 lieu thereof a new Sec. 25 to read as follows:

3 Sec. 25. REPEAL

4 2023 Acts and Resolves No. 47, Sec. 19c is repealed.

5 Fifteenth: By adding a Sec. 25a to read as follows:

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

7 Sec. 16a. ACT 250 EXEMPTION REQUIREMENTS

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

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

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

16 § 6033. REGIONAL PLAN FUTURE LAND USE MAP REVIEW

17 (a) The Board shall review requests from regional planning commissions to
18 approve or disapprove portions of future land use maps for the purposes of
19 changing jurisdictional thresholds under this chapter by identifying areas on
20 future land use maps for Tier 1B area status and to approve designations
21 pursuant to 24 V.S.A. chapter 139. The Board may produce guidelines for

1 regional planning commissions seeking Tier 1B area status. If requested by the
2 regional planning commission, the Board shall complete this review
3 concurrently with regional plan approval. A municipality may have multiple
4 noncontiguous areas receive Tier 1B area status. A request for Tier 1B area
5 status made by a regional planning commission separate from regional plan
6 approval shall follow the process set forth in 24 V.S.A. § 4348.

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

11 (c) To obtain a Tier 1B area status under this section the regional planning
12 commission shall demonstrate to the Board that the municipalities with Tier 1B
13 areas meet the following requirements as included in subdivision 24 V.S.A.
14 § 4348a(a)(12)(C):

15 (1) The municipality has requested to have the area mapped for Tier
16 1B.

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

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

1 (4) 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 § 29-201 of the Vermont Flood Hazard
4 Area and River Corridor Rule unless the municipality has adopted flood hazard
5 and river corridor bylaws applicable to the entire municipality that are
6 consistent with the standards established pursuant to subsection 755(b) of this
7 title (flood hazard) and subsection 1428(b) of this title (river corridor).

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

11 (6) The municipality has municipal staff or contracted capacity
12 adequate to support development review and zoning administration in the Tier
13 1B area.

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

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

19 (A) A municipal plan that is approved in accordance with 24 V.S.A.
20 § 4350.

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

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

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

12 (E) The municipality has permanent land development regulations for
13 the Tier 1A area that further the smart growth principles of 24 V.S.A. chapters
14 76A, adequately regulate the physical form and scale of development, provide
15 reasonable provision for a portion of the areas with sewer and water to allow at
16 least four stories, and conform to the guidelines established by the Board.

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

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

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

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

9 Eighteenth: In Sec. 31, 10 V.S.A. § 6081, by striking out subsection (dd) in
10 its entirety and inserting in lieu thereof a new subsection (dd) to read as
11 follows:

12 (dd) Interim housing exemptions.

13 (1) Notwithstanding any other provision of law to the contrary, until
14 January 1, 2027, no permit or permit amendment is required for the
15 construction of housing projects such as cooperatives, condominiums,
16 dwelling, or mobile homes, with 75 or units fewer, constructed or maintained
17 on a tract or tracts of land, located entirely within a designated new town
18 center, a designated growth center, or a designated neighborhood development
19 area. Housing units constructed pursuant to this subdivision shall not count
20 towards the total units constructed in other areas. This exemption shall not
21 apply to areas within mapped river corridors and floodplains.

1 (2)(A) Notwithstanding any other provision of law to the contrary, until
2 January 1, 2027, no permit or permit amendment is required for the
3 construction of housing projects such as cooperatives, condominiums,
4 dwelling, or mobile homes, with 50 or fewer units, constructed or maintained
5 on a tract or tracts of land of 10 acres or less, located entirely within a
6 designated village center with permanent zoning and subdivision bylaws.

7 (3) Notwithstanding any other provision of law to the contrary, until
8 January 1, 2027, no permit or permit amendment is required for the
9 construction of housing projects such as cooperatives, condominiums,
10 dwelling, or mobile homes, constructed or maintained on a tract or tracts of
11 land, located entirely within a designated downtown development district.
12 Housing units constructed pursuant to this subdivision shall not count towards
13 the total units constructed in other areas. This exemption shall not apply to
14 areas within mapped river corridors and floodplains.

15 Nineteenth: By striking out Sec. 32, 10 V.S.A. § 6001(50) and (51), in its
16 entirety and inserting in lieu thereof a new Sec. 32 to read as follows:
17 Sec. 32. 10 V.S.A. § 6001(50) is added to read :

18 (50) “Accessory dwelling unit” means a distinct unit that is clearly
19 subordinate to a single-family dwelling, located on an owner-occupied lot and
20 has facilities and provisions for independent living, including sleeping, food

1 preparation, and sanitation, provided there is compliance with all of the
2 following:

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

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

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

9 In any district that allows year-round residential development, duplexes
10 shall be an allowed use with ~~the same~~ dimensional standards as that are not
11 more restrictive than is required for a single-unit dwelling, including no
12 additional land or lot area than would be required for a single-unit dwelling.

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

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

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

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

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

6 and that after passage the title of the bill remain: “An act relating to
7 community resilience and biodiversity protection through land use”