

1 Introduced by
2 Referred to Committee on
3 Date:
4 Subject: Conservation and development; land use; Act 250; regional planning;
5 municipal planning; Designated Areas; Act 250 permit appeals;
6 Natural Resources Board
7 Statement of purpose of bill as introduced: This bill proposes to make multiple
8 changes to the State’s land use planning processes, including Act 250 permit
9 appeals, regional plan future land use maps, and the Designated Areas.

10 An act relating to updates to land use planning

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

12 * * * Act 250 * * *

13 Sec. 1. 10 V.S.A. § 6000 is added to read:

14 § 6000. PURPOSE; CONSTRUCTION

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

1 Sec. 2. 10 V.S.A. § 6021 is amended to read:

2 § 6021. BOARD; VACANCY; REMOVAL

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

5 (1) The Board shall consist of five members appointed by the Governor,
6 after review and approval by the Environmental Review Board Nominating
7 Committee in accordance with subdivision (2) of this subsection and
8 confirmed with the advice and consent of the Senate, so that one appointment
9 expires in each year. The Chair shall be a full-time position, and the other four
10 members shall be half-time positions. In making these appointments, the
11 Governor and the Senate shall give consideration to candidates who have
12 experience, expertise, or skills relating to the environment or land use one or
13 more of the following areas: environmental science, natural resources law and
14 policy, land use planning, community planning, or environmental justice.

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

20 (B) Following initial appointments, the members, ~~except for the~~
21 ~~Chair,~~ shall be appointed for terms of ~~four~~ five years. All terms shall begin on

1 July 1 and expire on June 30. A member may continue serving until a
2 successor is appointed. The initial appointments shall be for staggered terms
3 of one year, two years, three years, four years, and five years.

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

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

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

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

1 (b) ~~Any vacancy occurring in the membership of the Board shall be filled~~
2 ~~by the Governor for the unexpired portion of the term~~ Terms; vacancy;
3 succession. The term of each appointment subsequent to the initial
4 appointments described in subsection (a) of this section shall be five years.
5 Any appointment to fill a vacancy shall be for the unexpired portion of the
6 term vacated. A member may seek reappointment by informing the Governor.
7 If the Governor decides not to reappoint the member, the Nominating
8 Committee shall advertise the vacancy.

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

15 (d) Disqualified members. The Chair of the Board, upon request of the
16 Chair of a District Commission, may appoint and assign former Commission
17 members to sit on specific Commission cases when some or all of the regular
18 members and alternates of the District Commission are disqualified or
19 otherwise unable to serve.

20 (e) Retirement from office. When a Board member who hears all or a
21 substantial part of a case retires from office before the case is completed, the

1 member may remain a member of the Board, at the member’s discretion, for
2 the purpose of concluding and deciding that case and signing the findings and
3 judgments involved. A retiring chair shall also remain a member for the
4 purpose of certifying questions of law if a party appeals to the Supreme Court.
5 For the service, the member shall receive a reasonable compensation to be
6 fixed by the remaining members of the Board and necessary expenses while on
7 official business.

8 Sec. 3. 10 V.S.A. § 6032 is added to read:

9 § 6032. ENVIRONMENTAL REVIEW BOARD NOMINATING

10 COMMITTEE

11 (a) Creation. The Environmental Review Board Nominating Committee is
12 created for the purpose of assessing the qualifications of applicants for
13 appointment to the Environmental Review Board in accordance with section
14 6021 of this title.

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

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

20 (2) The Speaker of the House of Representatives shall appoint two
21 members from the House of Representatives.

1 (3) The Senate Committee on Committees shall appoint two members
2 from the Senate.

3 (c) Terms. The members of the Committee shall serve for terms of two
4 years. Members shall serve until their successors are appointed. Members
5 shall serve not more than three consecutive terms. A legislative member who
6 is appointed as a member of the Committee shall retain the position for the
7 term appointed to the Committee even if the member is subsequently not
8 reelected to the General Assembly during the member’s term on the
9 Committee.

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

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

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

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

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

1 (1) operating procedures of the Committee;

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

5 (3) all proceedings of the Committee prior to the receipt of the first
6 candidate’s completed application; and

7 (4) at the time the Committee sends the names of the candidates to the
8 Governor, the total number of applicants for the vacancies and the total number
9 of candidates sent to the Governor.

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

14 (j) Duties.

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

20 (2) An applicant for the position of member of the Environmental
21 Review Board shall not be required to be an attorney. If the candidate is

1 admitted to practice law in Vermont or practices a profession requiring
2 licensure, certification, or other professional regulation by the State, the
3 Committee shall submit the candidate’s name to the Court Administrator or the
4 applicable State professional regulatory entity, and that entity shall disclose to
5 the Committee any professional disciplinary action taken or pending
6 concerning the candidate.

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

11 (4) The Committee shall ensure a candidate possesses the following
12 attributes:

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

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

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

18 (D) Availability. A candidate shall have adequate time to dedicate to
19 the position.

1 Sec. 4. 10 V.S.A. § 6025 is amended to read:

2 § 6025. RULES

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

8 * * *

9 Sec. 5. 10 V.S.A. § 6027 is amended to read:

10 § 6027. POWERS

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

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

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

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

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

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

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

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

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

20 (f) The Board shall publish its decisions online. The Board may publish
21 online or contract to publish annotations and indices of its decisions, the

1 decisions of the Environmental Division of the Superior Court and the
2 Supreme Court, and the text of those decisions. The published product shall be
3 available at a reasonable rate to the general public and at a reduced rate to
4 libraries and governmental bodies within the State.

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

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

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

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

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

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

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

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

7 (i) The Chair, subject to the direction of the Board, shall have general
8 charge of the offices and employees of the Board and the offices and
9 employees of the District Commissions.

10 (j) ~~The Natural Resources Board may participate as a party in all matters~~
11 ~~before the Environmental Division that relate to land use permits issued under~~
12 ~~this chapter~~ The Board shall review applications for a planned growth area and
13 approve or disapprove based on whether a municipal application demonstrates
14 compliance with the requirements of section 6032 of this title. The Board shall
15 produce guidelines for municipalities seeking to obtain the planned growth
16 area designation.

17 (k) The Board shall review applications for a Designated Planned Growth
18 Areas and approve or disapprove based on whether a municipal application
19 demonstrates compliance with the requirements of 24 V.S.A. § 5806. The
20 Environmental Reviewboard shall produce guidelines and adopt rules for
21 municipalities seeking to obtain the Planned Growth Area designation.

1 (k) The Board shall review for compliance the future land use maps
2 developed by the regional planning commissions pursuant to 24 V.S.A.
3 § 4348a(a)(2).

4 * * *

5 Sec. 6. 10 V.S.A. § 6022 is amended to read:

6 § 6022. PERSONNEL

7 (a) Regular personnel. The Board may appoint legal counsel, scientists,
8 engineers, experts, investigators, temporary employees, and administrative
9 personnel as it finds necessary in carrying out its duties, ~~unless the Governor~~
10 ~~shall otherwise provide~~ in providing personnel to assist the District
11 Commissions and in investigating matters within its jurisdiction.

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

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

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

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

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

2 Sec. 7. 10 V.S.A. § 6084 is amended to read:

3 § 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF
4 REVIEW

5 (a) ~~On or before the date of~~ Upon the filing of an application with the
6 District Commission, the ~~applicant~~ District Commission shall send, by
7 electronic means, notice ~~and a copy~~ of the ~~initial~~ application to the owner of
8 the land if the applicant is not the owner; the municipality in which the land is
9 located; the municipal and regional planning commissions for the municipality
10 in which the land is located; the Vermont Agency of Natural Resources; and
11 any adjacent Vermont municipality and municipal and regional planning
12 commission if the land is located on a municipal or regional boundary. The
13 ~~applicant shall furnish to the~~ District Commission ~~the names of those furnished~~
14 ~~notice by affidavit, and shall post~~ send by electronic means a copy of the notice
15 in ~~to~~ the town clerk's office of the town or towns in which the project lies. The
16 town clerk shall post the notice in the town office. The applicant shall also
17 provide a list of adjoining landowners to the District Commission. Upon
18 request and for good cause, the District Commission may authorize the
19 applicant to provide a partial list of adjoining landowners in accordance with
20 Board rules.

21 * * *

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

6 * * *

7 Sec. 8. 10 V.S.A. § 6086(f) is amended to read:

8 (f) Prior to any appeal of a permit issued by a District Commission, any
9 aggrieved party may file a request for a stay of construction with the District
10 Commission together with a declaration of intent to appeal the permit. The
11 stay request shall be automatically granted for seven days upon receipt and
12 notice to all parties and pending a ruling on the merits of the stay request
13 pursuant to Board rules. The automatic stay shall not extend beyond the 30-
14 day appeal period unless a valid appeal has been filed with the ~~Environmental~~
15 ~~Division~~ Board. The automatic stay may be granted only once under this
16 subsection during the 30-day appeal period. Following appeal of the District
17 Commission decision, any stay request must be filed with the ~~Environmental~~
18 ~~Division pursuant to the provisions of chapter 220 of this title~~ Board. A
19 District Commission shall not stay construction authorized by a permit
20 processed under the Board's minor application procedures.

1 Sec. 9. 10 V.S.A. § 6089 is amended to read:

2 § 6089. APPEALS

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

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

13 (2) Participation before District Commission. A person shall not appeal
14 an act or decision that was made by a District Commission unless the person
15 was granted party status by the District Commission pursuant to subdivision
16 6085(c)(1)(E) of this title, participated in the proceedings before the District
17 Commission, and retained party status at the end of the District Commission
18 proceedings. In addition, the person may only appeal those issues under the
19 criteria with respect to which the person was granted party status. However,
20 notwithstanding these limitations, a person may appeal an act or decision of the
21 District Commission if the Board determines that:

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

3 (B) the decision being appealed is the grant or denial of party status;
4 or

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

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

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

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

19 (6) Prehearing discovery.

20 (A) A party may obtain discovery of expert witnesses who may
21 provide testimony relevant to the appeal. Expert witness prefiled testimony

1 shall be in accordance with the Vermont Rules of Evidence. The use of
2 discovery for experts shall comply with the requirements in the Vermont Rules
3 of Civil Procedure 26–37.

4 (B) Interrogatories served on nonexpert witnesses shall be limited to
5 discovery of the identity of witnesses and a summary of each witness’
6 testimony, except by order of the Board for cause shown. Interrogatories
7 served on expert witnesses shall be in accordance with the Vermont Rules of
8 Civil Procedure.

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

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

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

15 (b) Prior decisions. Prior decisions of the former Environmental Board, the
16 Water Resources Board, the Waste Facilities Panel, and the Environmental
17 Division of the Superior Court shall be given the same weight and
18 consideration as prior decisions of the Environmental Review Board.

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

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

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

9 (f) Precedent. Precedent from the former Environmental Board and of the
10 Environmental Review Board that interpret this chapter shall be provided the
11 same deference by the Supreme Court as precedents accorded to other
12 Executive Branch agencies charged with administering their enabling act. On
13 appeal to the Supreme Court from the Environmental Review Board, decisions
14 of the Environmental Review Board interpreting this act also shall be accorded
15 that deference.

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

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

1 (i) Court of record; jurisdiction. The Board shall have the powers of a
2 court of record in the determination and adjudication of all matters within its
3 jurisdiction. It may initiate proceedings on any matter within its jurisdiction.
4 It may render judgments and enforce the same by any suitable process issuable
5 by courts in this State. An order issued by the Board on any matter within its
6 jurisdiction shall have the effect of a judicial order. The Board’s jurisdiction
7 shall include:

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

10 (2) the issuance of decisions on appeals pursuant to sections 6007 and
11 6089 of this title.

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

13 § 6007. ACT 250 DISCLOSURE STATEMENT; JURISDICTIONAL
14 DETERMINATION

15 * * *

16 (c) With respect to the partition or division of land, or with respect to an
17 activity that might or might not constitute development, any person may
18 submit to the district coordinator an “Act 250 Disclosure Statement” and other
19 information required by the rules of the Board and may request a jurisdictional
20 opinion from the district coordinator concerning the applicability of this
21 chapter. If a requestor wishes a final determination to be rendered on the

1 question, the district coordinator, at the expense of the requestor and in
2 accordance with rules of the Board, shall publish notice of the issuance of the
3 opinion in a local newspaper generally circulating in the area where the land
4 that is the subject of the opinion is located and shall serve the opinion on all
5 persons listed in subdivisions 6085(c)(1)(A) through (D) of this title. In
6 addition, the requestor who is seeking a final determination shall consult with
7 the district coordinator and obtain approval of a subdivision 6085(c)(1)(E) list
8 of persons who shall be notified by the district coordinator because they are
9 adjoining property owners or other persons who would be likely to be able to
10 demonstrate a particularized interest protected by this chapter that may be
11 affected by an act or decision by a District Commission.

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

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

18 (2) Failure to appeal within 30 days following the issuance of the
19 jurisdictional opinion shall render the decision of the district coordinator under
20 subsection (c) of this section the final determination regarding jurisdiction
21 unless the underlying jurisdictional opinion was not properly served on persons

1 listed in subdivisions 6085(c)(1)(A) through (D) of this title and on persons on
2 a subdivision 6085(c)(1)(E) list approved under subsection (c) of this section.

3 Sec. 11. 10 V.S.A. § 6083a is amended to read:

4 § 6083a. ACT 250 FEES

5 * * *

6 (i) All persons filing an appeal, cross appeal, or petition from a District
7 Commission decision or jurisdictional opinion shall pay a fee of \$295.00, plus
8 publication costs.

9 (j) Any municipality filing an application for a planned growth area
10 designation shall pay a fee of \$250.00.

11 (k) Any regional planning commission filing a regional plan or future land
12 use map to be reviewed by the Board shall pay a fee of \$250.00.

13 * * * Appeals * * *

14 Sec. 12. 10 V.S.A. chapter 220 is amended to read:

15 CHAPTER 220. CONSOLIDATED ENVIRONMENTAL APPEALS

16 § 8501. PURPOSE

17 It is the purpose of this chapter to:

18 (1) consolidate existing appeal routes for municipal zoning and
19 subdivision decisions and acts or decisions of the Secretary of Natural
20 Resources, ~~district environmental coordinators, and District Commissions,~~

1 excluding enforcement actions brought pursuant to chapters 201 and 211 of
2 this title and the adoption of rules under 3 V.S.A. chapter 25;

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

6 (3) ~~encourage people to get involved in the Act 250 permitting process~~
7 ~~at the initial stages of review by a District Commission by requiring~~
8 ~~participation as a prerequisite for an appeal of a District Commission decision~~
9 ~~to the Environmental Division;~~

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

12 (5)(4) consolidate appeals of decisions related to renewable energy
13 generation plants and telecommunications facilities with review under,
14 respectively, 30 V.S.A. §§ 248 and 248a, with appeals and consolidation of
15 proceedings pertaining to telecommunications facilities occurring only while
16 30 V.S.A. § 248a remains in effect.

17 § 8502. DEFINITIONS

18 As used in this chapter:

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

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

3 [Repealed.]

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

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

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

9 (A) the applicant;

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

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

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

16 (E) the solid waste management district in which the land is located,
17 if the development or subdivision constitutes a facility pursuant to subdivision
18 6602(10) of this title; and

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

20 (6) “Person” means any individual; partnership; company; corporation;
21 association; joint venture; trust; municipality; the State of Vermont or any

1 agency, department, or subdivision of the State; any federal agency; or any
2 other legal or commercial entity.

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

8 (8) “Secretary” means the Secretary of Natural Resources or the
9 Secretary’s duly authorized representative. As used in this chapter,
10 “Secretary” ~~shall also mean~~ means the Commissioner of Environmental
11 Conservation; the Commissioner of Forests, Parks and Recreation; and the
12 Commissioner of Fish and Wildlife; with respect to those statutes that refer to
13 the authority of that commissioner or department.

14 § 8503. APPLICABILITY

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

19 * * *

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

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

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

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

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

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

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

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

20 (g) This chapter shall govern all appeals of an act or decision of the
21 Secretary of Natural Resources that a solid waste implementation plan for a

1 municipality proposed under 24 V.S.A. § 2202a conforms with the State Solid
2 Waste Implementation Plan adopted pursuant to section 6604 of this title.

3 § 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

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

10 * * *

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

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

19 [Repealed.]

20 * * *

1 (d) Requirement to participate before ~~the District Commission or the~~
2 Secretary.

3 (1) ~~Participation before District Commission. An aggrieved person shall~~
4 ~~not appeal an act or decision that was made by a District Commission unless~~
5 ~~the person was granted party status by the District Commission pursuant to~~
6 ~~subdivision 6085(c)(1)(E) of this title, participated in the proceedings before~~
7 ~~the District Commission, and retained party status at the end of the District~~
8 ~~Commission proceedings. In addition, the person may only appeal those issues~~
9 ~~under the criteria with respect to which the person was granted party status.~~
10 ~~However, notwithstanding these limitations, an aggrieved person may appeal~~
11 ~~an act or decision of the District Commission if the Environmental judge~~
12 ~~determines that:~~

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

15 (B) ~~the decision being appealed is the grant or denial of party status;~~

16 ~~or~~

17 (C) ~~some other condition exists that would result in manifest injustice~~
18 ~~if the person's right to appeal was disallowed. [Repealed.]~~

19 (2) Participation before the Secretary.

20 * * *

21 (e) ~~Act 250 jurisdictional determinations by a district coordinator.~~

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

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

12 * * *

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

15 * * *

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

21 * * *

1 (k) Limitations on appeals. Notwithstanding any other provision of this
2 section;

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

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

10 ~~(3) if a District Commission issues a partial decision under subsection~~
11 ~~6086(b) of this title, any appeal of that decision must be taken within 30 days~~
12 ~~of the date of that decision.~~

13 (l) Representation. The Secretary may represent the Agency of Natural
14 Resources in all appeals under this section. ~~The Chair of the Natural~~
15 ~~Resources Board may represent the Board in any appeal under this section,~~
16 ~~unless the Board directs otherwise.~~ If more than one State agency, ~~other than~~
17 ~~the Board,~~ either appeals or seeks to intervene in an appeal under this section,
18 only the Attorney General may represent the interests of those agencies of the
19 State in the appeal.

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

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

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

8 (2) is a party by right;

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

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

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

12 § 4465, with respect to appeals under 24 V.S.A. chapter 117; or

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

15 (o) With respect to review of an act or decision of the Secretary pursuant to
16 3 V.S.A. § 2809, the Division may reverse the act or decision or amend an
17 allocation of costs to an applicant only if the Division determines that the act,
18 decision, or allocation was arbitrary, capricious, or an abuse of discretion. In
19 the absence of such a determination, the Division shall require the applicant to
20 pay the Secretary all costs assessed pursuant to 3 V.S.A. § 2809.

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

4 (1) there is an appeal of an act or decision of the Secretary that is based
5 on that record; or

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

10 § 8505. APPEALS TO THE SUPREME COURT

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

16 (1) the person was a party to the proceeding before the Environmental
17 Division; or

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

19 (3) the Supreme Court determines that:

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

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

3 * * *

4 * * * Environmental Division * * *

5 Sec. 13. 4 V.S.A. § 34 is amended to read:

6 § 34. JURISDICTION; ENVIRONMENTAL DIVISION

7 The Environmental Division shall have:

8 (1) jurisdiction of matters arising under 10 V.S.A. chapters 201 and 220;

9 and

10 (2) jurisdiction of matters arising under 24 V.S.A. chapter 61,

11 subchapter 12 and 24 V.S.A. chapter 117; ~~and~~

12 ~~(3) original jurisdiction to revoke permits under 10 V.S.A. chapter 151.~~

13 * * * Transition; Revision Authority; Effective Dates * * *

14 Sec. 14. ENVIRONMENTAL REVIEW BOARD POSITIONS;

15 APPROPRIATION

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

18 (1) one Staff Attorney 1; and

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

20 (b) The sum of \$384,000.00 is appropriated to the Environmental Review
21 Board from the General Fund in fiscal year 2025 for the positions established

1 in subsection (a) of this section and for additional operating costs required to
2 implement the appeals process established in this act.

3 Sec. 15. NATURAL RESOURCES BOARD TRANSITION

4 (a) The Governor shall appoint the members of Environmental Review
5 Board on or before July 1, 2025, and the terms of any Natural Resources Board
6 member not appointed consistent with the requirements of 10 V.S.A.
7 § 6021(a)(1)(A) or (B) shall expire on that day.

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

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

12 Sec. 16. ENVIRONMENTAL DIVISION; CONTINUED JURISDICTION

13 Notwithstanding the repeal of its jurisdictional authority to hear appeals
14 relative to land use permits under Sec. 12 of this act, the Environmental
15 Division of the Superior Court shall continue to have jurisdiction to complete
16 its consideration of any appeal that is pending before it as of July 1, 2026 if the
17 act or appeal has been filed. The Environmental Review Board shall have
18 authority to be a party in any appeals pending under this section until July 1,
19 2026.

1 Sec. 17. REVISION AUTHORITY

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

6 * * * Location-Based Jurisdiction * * *

7 Sec. 18. 10 V.S.A. § 6001 is amended to read:

8 § 6001. DEFINITIONS

9 As used in this chapter:

10 * * *

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

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

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

1 (I) has not adopted permanent zoning and subdivision bylaws;
2 or

3 (II) has adopted permanent zoning and subdivision bylaws, if
4 the municipality in which the proposed project is located has elected by
5 ordinance, adopted under 24 V.S.A. chapter 59, to have this jurisdiction apply.

6 * * *

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

10 * * *

11 (xii) The construction of a road, roads, driveway, or driveways,
12 which in combination is greater than 2,000 feet, to provide access to or within
13 a tract or tracts of land of more than one acre owned or controlled by a person.

14 (I) For the purposes of determining jurisdiction under this
15 subdivision (x), any tract or tracts of land that will be provided access by the
16 road or driveway is involved land.

17 (II) As used in this subdivision (x), “road” shall include any
18 new road or upgrade of a Class 4 highway by a person other than a
19 municipality, including a road that will be transferred to or maintained by a
20 municipality after its construction or upgrade. For the purposes of this
21 subdivision (II), routine maintenance of a Class 4 highway or stormwater

1 improvement required pursuant to section 1264 of this title shall not constitute
2 an “upgrade.”

3 (aa) Routine maintenance shall include replacing a culvert
4 or ditch, applying new stone, grading, or making repairs after adverse weather.

5 (bb) Routine maintenance shall not include changing the
6 size of the road, changing the location or layout of the road, or adding
7 pavement.

8 (III) For the purpose of determining the length under this
9 subdivision, the length of all roads and driveways within the tract or tracts of
10 land constructed within any continuous period of 10 years after October 1,
11 2024 shall be included.

12 (IV) This subdivision (x) shall not apply to

13 (aa) a road constructed for a municipal, county, or State
14 purpose; a utility corridor of an electric transmission or distribution company;
15 or a road located entirely within in a designated downtown or neighborhood
16 development area.

17 (bb) a road used primarily for farming or forestry purposes
18 unless used for residential purpose.

19 * * *

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

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

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

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

17 (I) ~~In~~ As used in this subdivision (iii), “public auction” means
18 any auction advertised or publicized in any manner or to which more than ~~ten~~
19 10 persons have been invited.

20 (II) If sales described under this subdivision (iii) are of interests
21 that, when sold by means other than public auction, are exempt from the

1 provisions of this chapter under the provisions of subsection 6081(b) of this
2 title, the fact that these interests are sold by means of a public auction shall not,
3 in itself, create a requirement for a permit under this chapter.

4 * * *

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

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

12 * * * Planned Growth Area Designation * * *

13 Sec. 19. 10 V.S.A. § 6032 is added to read:

14 § 6032. PLANNED GROWTH AREA DESIGNATION

15 (a) Application and approval.

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

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

3 (3) The Board shall issue an affirmative determination on finding that
4 the municipality meets the requirements of subsection (b) of this section within
5 45 days after the application is received.

6 (b) Planned growth area designation requirements.

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

10 (A) A municipal plan that is approved in accordance with 24 V.S.A.
11 § 4350.

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

15 (C) Flood hazard and river corridor bylaws, applicable to the entire
16 municipality, that are consistent with the standards established pursuant to
17 subsection 755(b) of this title (flood hazard) and subsection 1428(b) of this
18 title (river corridor).

19 (D) A capital budget and program pursuant to 24 V.S.A. § 4430 that
20 make substantial investments in the ongoing development of the planned

1 growth area, are consistent with the plan’s implementation program, and are
2 consistent with the smart growth principles defined in 24 V.S.A. § 2791(13).

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

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

11 (G) Historic preservation bylaws for established design review
12 districts, historic districts, or historic landmarks pursuant to 24 V.S.A.
13 § 4414(1)(E) and (F) for the planned growth area that meet State historic
14 preservation guidelines issued by the Department pursuant to subsection
15 2792(d) of this title.

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

19 (I) Permitted water and wastewater systems with the capacity to
20 support additional development within the planned growth area. The
21 municipality shall have adopted consistent policies, by municipal plan and

1 ordinance, on the allocation, connection, and extension of water and
2 wastewater lines that include a defined service area to support the planned
3 growth area.

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

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

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

12 (3) If any party entitled to notice under subdivision (c)(4)(A) of this
13 section or any resident of the municipality raises concerns about the
14 municipality's compliance with the requirements for the underlying
15 designation, those concerns must be addressed as part of the municipality's
16 application.

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

18 (1) A preapplication meeting shall be held with staff of the relevant
19 regional planning commission to review the requirements of subsection (b) of
20 this section. The meeting shall be held in the municipality unless another
21 location is agreed to by the municipality.

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

4 (3) The relevant regional planning commission shall establish a
5 procedure for submission of a draft application that involves review and
6 comment by all the parties to be noticed in subdivision (4)(A) of this
7 subsection and shall issue a preapplication memorandum incorporating the
8 comments to the applicant after receipt of a draft preliminary application.

9 (4) After receipt of a complete final application, the Environmental
10 Review Board shall convene a public hearing in the municipality to consider
11 whether to issue a determination of planned growth area designation under this
12 section.

13 (A) Notice.

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

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

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

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

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

11 (B) No defect in the form or substance of any requirements of this
12 subsection (c) shall invalidate the action of the Board where reasonable efforts
13 are made to provide adequate posting and notice. However, the action shall be
14 invalid when the defective posting or notice was materially misleading in
15 content. If an action is ruled to be invalid by the Superior Court or by the
16 Board itself, the regional planning commission shall provide and the
17 municipality shall issue new posting and notice, and the Board shall hold a
18 new hearing and take a new action.

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

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

4 (d) Review of designation status.

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

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

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

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

14 (B) terminate the designation.

15 (e) Appeal.

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

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

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

3 (B) The municipality making the application or a municipality that
4 adjoins the municipality making the application.

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

8 (D) Any 20 persons who, by signed petition, allege that the decision
9 is not in accord with the requirements of this chapter, and who own or occupy
10 real property located within the municipality in which the designated area is
11 located or an adjoining municipality. The petition must designate one person
12 to serve as the representative of the petitioners regarding all matters related to
13 the appeal. The designated representative must have participated in the public
14 hearing described in subdivision (c)(4) of this section.

15 Sec. 20. PLANNED GROWTH AREA GUIDELINES

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

19 Sec. 21. 24 V.S.A. § 4382 is amended to read:

20 § 4382. THE PLAN FOR A MUNICIPALITY

1 (a) A plan for a municipality shall be consistent with the goals established
2 in section 4302 of this title and compatible with approved plans of other
3 municipalities in the region and with the regional plan and shall include the
4 following:

5 * * *

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

8 * * *

9 (C) Identifies those areas, if any, proposed for designation under
10 chapter 76A of this title or 10 V.S.A. § 6032, together with, for each area
11 proposed for designation, an explanation of how the designation would further
12 the plan’s goals and the goals of section 4302 of this title; and how the area
13 meets the requirements for the type of designation to be sought.

14 * * *

15 Sec. 22. 10 V.S.A. § 6081 is amended to read:

16 § 6081. PERMITS REQUIRED; EXEMPTIONS

17 * * *

18 (z) Notwithstanding any other provision of this chapter to the contrary, no
19 permit or permit amendment is required for any subdivision, development, or
20 change to an existing project that is located entirely within a Tier 1A planned
21 growth area designated under section 6032 of this chapter. Notwithstanding

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

12 Sec. 23. 24 V.S.A. § 4460 is amended to read:

13 § 4460. APPROPRIATE MUNICIPAL PANELS

14 * * *

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

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

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

18 V.S.A. § 6032; and

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

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

6 (A) the construction phase of the project that has already been
7 constructed;

8 (B) compliance with another State permit that has independent
9 jurisdiction;

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

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

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

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

19 (4) The appropriate municipal panel shall comply with the notice and
20 hearing requirements provided in subdivision 4464(a)(1) of this title. In

1 addition, notice shall be provided to those persons requiring notice under
2 10 V.S.A. § 6084(b) and shall explicitly reference the existing Act 250 permit.

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

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

10 (h) Within a designated planned growth area, the appropriate municipal
11 panel shall enforce any existing permits issued under 10 V.S.A. chapter 151.

12 * * * Municipal and Regional Planning * * *

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

14 §4302. PURPOSE; GOALS

15 * * *

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

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

20 (A) Intensive residential development should be encouraged
21 primarily in ~~areas related to community centers~~ Downtowns, Village Centers,

1 Planned Growth Areas and Village Areas as described in 24 V.S.A. §4348a,
2 and strip development along highways should be ~~discouraged~~ avoided. These
3 areas should be planned to accommodate the majority of housing needed to
4 reach the housing targets in each region developed pursuant to section
5 4348a(a)(9) of this chapter.

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

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

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

15 * * *

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

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

20 * * *

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

3 (A) Housing should be encouraged to meet the needs of a diversity of
4 social and income groups in each Vermont community, particularly for those
5 citizens of low and moderate income, and consistent with housing targets

6 * * *

7 (14) To encourage flood resilient communities.

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

11 (B) The protection and restoration of floodplains and upland forested
12 areas that attenuate and moderate flooding and fluvial erosion should be
13 encouraged.

14 (C) Flood emergency preparedness and response planning should be
15 encouraged.

16 * * *

17 * * * Preparation and Adoption of Regional Plans * * *

18 Sec. 25. 24 V.S.A. § 4345a is amended to read:

19 § 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

20 A regional planning commission created under this chapter shall:

21 * * *

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

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

8 (B) develop a regional data base that is compatible with, useful to,
9 and shared with the geographic information system established under 3 V.S.A.
10 § 20;

11 (C) conduct capacity studies;

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

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

20 (F) consider the probable social and economic benefits and
21 consequences of the proposed plan; and

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

3 * * *

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

9 * * *

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

14 * * *

15 (21) Review and participate as an interested party in the municipal
16 development review process for projects defined to have a substantial regional
17 impact and are located in areas exempted under Act 250 pursuant to 10 V.S.A.
18 § 6081.

19 * * *

20 Sec. 26. 24 V.S.A. § 4347 is amended to read:
21 § 4347. PURPOSES OF REGIONAL PLAN

1 A regional plan shall be made with the general purpose of guiding and
2 accomplishing a coordinated, efficient, equitable and economic development
3 of the region which will, in accordance with the present and future needs and
4 resources, best promote the health, safety, order, convenience, prosperity, and
5 welfare of current and future ~~the~~-inhabitants as well as efficiency and economy
6 in the process of development. This general purpose includes recommending a
7 distribution of population and of the uses of the land for urbanization, trade,
8 industry, habitation, recreation, agriculture, forestry, and other uses as will tend
9 to:

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

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

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

16 (4) promote ~~the~~ conservation of the supply of food, water, energy, and
17 minerals;

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

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

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

4 * * *

5 Sec. 27. 24 V.S.A. § 4348 is amended to read:

6 § 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

7 (a) A regional planning commission shall adopt a regional plan. Any plan
8 for a region, and any amendment ~~thereof~~, shall be prepared by the regional
9 planning commission. At the outset of the planning process and throughout
10 the process, regional planning commissions shall solicit the participation of
11 local citizens and organizations by holding informal working sessions that suit
12 the needs of local people.

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

19 ~~(b)~~(c)The regional planning commission shall hold two or more public
20 hearings within the region after public notice on any proposed plan or

1 amendment. The minimum number of required public hearings may be
2 specified within the bylaws of the regional planning commission.

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

13 (1) the chair of the legislative body of each municipality within the
14 region;

15 (2) the executive director of each abutting regional planning
16 commission;

17 (3) the Department of Housing and Community Development within the
18 Agency of Commerce and Community Development and the State Downtown
19 Board for a formal review and recommendation;

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

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

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

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

19 ~~(f)~~(g) A regional plan or amendment shall be adopted by not less than a 60
20 percent vote of the commissioners representing municipalities, in accordance
21 with the bylaws of the regional planning commission, ~~and immediately~~

1 ~~submitted to the legislative bodies of the municipalities that comprise the~~
2 ~~region. The plan or amendment shall be considered duly adopted and shall take~~
3 ~~effect 35 days after the date of adoption, unless, within 35 days of the date of~~
4 ~~adoption, the regional planning commission receives certification from the~~
5 ~~legislative bodies of a majority of the municipalities in the region vetoing the~~
6 ~~proposed plan or amendment. In case of such a veto, the plan or amendment~~
7 ~~shall be deemed rejected.~~

8 (h) A regional planning commission shall submit its regionally-adopted
9 regional plan to the Environmental Review Board for a determination of
10 regional plan compliance with the following: a report documenting
11 conformance with the goals established in section 4302 of this chapter and the
12 plan elements established in section 4348a of this chapter, a description of any
13 changes to the Regional Future Land Use Map, the definition of substantial
14 regional impact, and a recommendation from the State Downtown Board.
15 Within 30 days of submittal of the plan, Environmental Review Board staff
16 shall provide a recommendation and the Environmental Review Board shall
17 warn a public hearing noticed at least 15 days in advance by direct mail or
18 electronically with proof of receipt to the requesting regional planning
19 commission, posting on the website of the Environmental Review Board, and
20 publication in a newspaper of general circulation in the region affected. The
21 regional planning commission shall notify their municipalities and post on

1 their website the public hearing notice. The recommendation from the
2 Downtown Board shall receive substantial deference from the Environmental
3 Review Board with respect to the mapping of proposed Downtowns, Village
4 Centers, Planned Growth Areas, and Village Areas. The Environmental
5 Review Board shall issue the determination in writing within 45 days after the
6 receipt of a request for a determination. If the determination is affirmative, a
7 copy of the determination shall be provided to the regional planning
8 commission and the Environmental Review Board. If the determination is
9 negative, the Environmental Review Board shall state the reasons for denial in
10 writing and, if appropriate, suggest acceptable modifications. Submissions for
11 a new determination that follow a negative determination shall receive a new
12 determination within 45 days. The Environmental Review Board’s affirmative
13 determination shall be based upon finding the regional plan meets the
14 following requirements:

15 (1) consistency with the state planning goals as described in subdivision
16 4302 of this chapter with consistency determined in the manner described
17 under section 4302(f)(1) of this chapter;

18 (2) consistency with the regional plan elements as described in section
19 4348a of this chapter. The requirements of subdivision 4352 of this chapter
20 related to enhanced energy planning shall be the under the sole authority of the

1 Public Service Department and shall not be reviewed by the Downtown
2 Development Board; and

3 (3) compatibility with adjacent regional planning areas in the manner
4 described under section 4302(f)(2) of this chapter.

5 (i) Minor Amendments to Regional Future Land Use Plan. A regional
6 planning commission and a municipality may submit a joint request for a
7 minor amendment to boundaries of a Designated Area pursuant to this chapter
8 for consideration by the Environmental Review Board. The joint request may
9 only be submitted after an affirmative vote of the municipal legislative body
10 and the regional planning commission board. The Environmental Review
11 Board, after consultation with the Downtown Development Board and the
12 regional planning commissions, shall provide guidance about what constitutes
13 a minor amendment. Minor amendments may include any change to a future
14 land use district consisting of less than 10 acres. A minor amendment to a
15 Designated Area plan shall not require an amendment to a regional plan as
16 outlined in section 4348 of this chapter.

17 (j) An affirmative determination of regional plan compliance issued
18 pursuant to this section shall remain in effect until the end of the period for
19 expiration or readoption of the plan to which it applies.

20 (k) Regional planning commissions shall be provided up to 18 months from
21 a negative determination by the Environmental Review Board to obtain an

1 affirmative determination of regional plan compliance. If a regional planning
2 commission is unable to obtain affirmative determination of regional plan
3 compliance, member municipalities shall lose benefits related to Designations,
4 Act 250, or State infrastructure investments.

5 (l) Upon approval by the Environmental Review Board, the plan shall be
6 considered duly adopted, shall take effect, and is not appealable. The plan
7 shall be immediately submitted to the entities listed in paragraph (d) above.

8 ~~(g)~~(m) Regional plans may be reviewed from time to time and may be
9 amended in the light of new developments and changed conditions affecting
10 the region. As specifically enabled in section 4353 of this title, minor
11 amendments to the Designated Areas do not require the amendment of a
12 regional plan. All minor amendments to Designated Areas shall be compiled
13 and included in the next iteration of the regional plan.

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

17 (1) the provisions of the regional plan shall be given effect to the extent
18 that they are not in conflict with the provisions of a duly adopted municipal
19 plan;

1 (2) to the extent that such a conflict exists, the regional plan shall be
2 given effect if it is demonstrated that the project under consideration in the
3 proceedings would have a substantial regional impact.

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

6 Sec. 28. 24 V.S.A. § 4348a is amended to read:

7 §4348a. ELEMENTS OF A REGIONAL PLAN

8 (a) A regional plan shall be consistent with the goals established in section
9 4302 of this title and shall include the following:

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

13 (2) A natural resources and working lands ~~land-use~~ element, which shall
14 consist of a map or maps and policies ~~statement of present and prospective~~
15 ~~land-uses~~, that:

16 (A) Indicates those areas of significant natural resources, including
17 proposed for forests, wetlands, vernal pools, rare and irreplaceable natural
18 areas, floodplains, river corridors, recreation, agriculture, (using the
19 agricultural lands identification process established in 6 V.S.A. § 8), residence,
20 commerce, industry, public, and semi-public uses, open spaces, areas reserved
21 for flood plain, forest blocks, habitat connectors, recreation areas and

1 recreational trails, and areas identified by the State, regional planning
2 commissions, or municipalities that require special consideration for aquifer
3 protection; for wetland protection; for the maintenance of forest blocks,
4 wildlife habitat, and habitat connectors; or for other conservation purposes.

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

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

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

19 ~~(E) Indicates those areas that have the potential to sustain agriculture~~
20 ~~and recommendations for maintaining them which may include transfer of~~

1 development rights, acquisition of development rights, or farmer assistance
2 programs.

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

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

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

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

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

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

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

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

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* * *

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

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

(B) Planned Growth Areas: These areas include the densest existing settlement and future growth areas with the highest concentrations of population, housing, and employment in each region and town, as appropriate. They include a mix of commercial, residential, and civic or cultural sites with active streetscapes, supported by land development regulations, public water,

1 wastewater, or both, and multi-modal transportation systems. These areas
2 include historic or new town centers, downtowns, and village centers. These
3 areas should substantially meet the following criteria:

4 (i) The municipality has a duly adopted and approved plan and a
5 planning process that is confirmed in accordance with section 4350 of this title
6 and has adopted bylaws and regulations in accordance with sections 4414,
7 4418, and 4442 of this title.

8 (ii) The area is generally within walking distance from the
9 municipality’s or an adjacent municipality’s downtown, village center, new
10 town center or growth center.

11 (iii) The area excludes identified flood hazard and fluvial erosion
12 areas, except those areas containing preexisting development in areas suitable
13 for infill development as defined in § 29-201 of the Vermont Flood Hazard
14 Area and River Corridor Rule.

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

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

19 (vi) The area is served by planned or existing transportation
20 infrastructure that conforms with “complete streets” principles as described

1 under 19 V.S.A. § 309d and establishes pedestrian access directly to the
2 downtown, village center, or new town center.

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

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

7 (II) development that limits transportation options, especially
8 for pedestrians;

9 (III) the fragmentation of farmland and forestland;

10 (VI) development that is not serviced by municipal
11 infrastructure or that requires the extension of municipal infrastructure across
12 undeveloped lands in a manner that would extend service to lands located
13 outside compact village and urban centers;

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

16 (C) Village Areas: These areas include the traditional settlement area
17 or a proposed new settlement area, typically comprised of a cohesive mix of
18 residential, civic, religious, commercial, and mixed-use buildings, arranged
19 along a main street and intersecting streets that are within walking distance for
20 residents who live within and surrounding the core. Village Areas may or may
21 not have one of the following: water, sewer, or land development regulations.

1 They provide some opportunity for infill development or new development
2 areas where the village can grow and be flood resilient. These areas include
3 existing village center designations and similar areas statewide, but this area is
4 larger than the Village Center designation.

5 (D) Transition/Infill Area: These areas include areas of existing or
6 planned commercial, office, mixed-use development, or residential uses either
7 adjacent to a Planned Growth or Village Area or a new stand-alone Transition
8 Area and served by, or planned for, water and/or wastewater. The intent of this
9 land use category is to transform these areas into higher-density, mixed-use
10 settlements, or residential neighborhoods through infill and redevelopment or
11 new development. New commercial strip auto-oriented development is not
12 allowed as to prevent negatively impacting the economic vitality of
13 commercial areas in the adjacent or nearby Planned Growth or Village Area.
14 This area could also include adjacent greenfields safer from flooding and
15 planned for future growth.

16 (E) Resource-Based Recreation Areas: These areas include large-
17 scale resource-based, recreational facilities, often concentrated around ski
18 resorts, lakeshores, or concentrated trail networks, which provide
19 infrastructure, jobs, and housing to support recreational activities.

20 (F) Enterprise Areas: These areas include locations of high economic
21 activity and employment which are not adjacent to Planned Growth Areas.

1 These include industrial parks, areas of natural resource extraction, or other
2 commercial uses which involve larger land areas. Enterprise areas typically
3 have ready access to water supply, sewage disposal, electricity, and freight
4 transportation networks.

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

9 (H) Rural - General: These areas include areas that promote the
10 preservation of Vermont's traditional working landscape and natural area
11 features. They allow for low-density residential and sometimes limited
12 commercial development that is compatible with productive lands and natural
13 areas. This could also include an area that a municipality is planning to make
14 more rural than it is currently.

15 (I) Rural - Agricultural and Forestry: These areas include blocks of
16 forest or farmland that sustain resource industries, provide critical wildlife
17 habitat and movement, outdoor recreation, flood storage, aquifer recharge, and
18 scenic beauty, and contribute to economic well-being and quality of life.
19 Development in these areas should be carefully managed to promote the
20 working landscape and rural economy, and address regional goals, while
21 protecting the agricultural and forest resource value.

1 (J) Rural - Conservation: These areas include areas intended to be
2 conserved often with regulations or State or non-profit purchase of property
3 rights limiting development, fragmentation, and conversion in order to
4 maintain ecological health and scenic beauty. These lands have significant
5 ecological value, and require special protection due to their uniqueness,
6 fragility, or ecological importance. They may include protected lands, areas
7 with specific features like steep slopes or endangered species, wetlands, flood
8 hazard areas, and shoreline protection areas and are intended to remain largely
9 undeveloped for the benefit of future generations. Some portion of managed
10 forest land will likely fall into this category.

11 (b) The various elements and statements shall be correlated with the land
12 use element and with each other. The maps called for by this section may be
13 incorporated on one or more maps, and may be referred to in each separate
14 statement called for by this section.

15 * * * Municipal Bylaws * * *

16 Sec. 29. 24 V.S.A. § 4462 is amended to read:

17 § 4462. COMBINED REVIEW

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

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

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

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

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

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

1 (5) Administration. The administrative officer is enabled with the
2 authority to enforce a decision of the appropriate municipal panel that
3 conditions municipal approval upon the issuance of a state permit. This
4 authority shall not be deemed a conflict with section 4449(e) of this title.

5 Sec. 30. 24 V.S.A. § 4464 is amended to read:

6 § 4464. HEARING AND REQUIREMENTS; DECISIONS AND
7 CONDITIONS; ADMINISTRATIVE REVIEW; ROLE OF
8 ADVISORY COMMISSIONS IN DEVELOPMENT REVIEW

9 (a) Notice procedures. All development review applications before an
10 appropriate municipal panel under procedures set forth in this chapter shall
11 require notice as follows.

12 (1) A warned public hearing shall be required for conditional use
13 review, variances, administrative officer appeals, and final plat review for
14 subdivisions. Any public notice for a warned public hearing shall be given not
15 less than 15 days prior to the date of the public hearing by all the following:

16 * * *

17 (D) Written notification to the regional planning commission of the
18 subject municipality and the Secretary of Transportation for all quasi-judicial
19 development applications within areas exempted from Act 250 per 10 V.S.A. §
20 6081 that meet the definition of substantial regional impact or which generates
21 75 or more peak hour trip ends.

1 (E) For an application for a project located within 500 feet of a
2 municipal boundary, the notice shall be sent to the clerk and the chair of the
3 appropriate municipal panel of an adjacent municipality at least 15 days prior
4 to the public hearing.

5 (2) Public notice for hearings on all other types of development review,
6 including site plan review, shall be given not less than seven days prior to the
7 date of the public hearing, and shall include at a minimum all the following:

8 * * *

9 (C) Written notification to the regional planning commission of the
10 subject municipality and the Secretary of Transportation for all applications
11 requiring the approval of an appropriate municipal panel within areas
12 exempted from Act 250 per 10 V.S.A. § 6081 that meet the definition of
13 substantial regional impact or which generates 75 or more peak hour trip ends.

14 (D) For an application for a project located within 500 feet of a
15 municipal boundary, the notice shall be sent to the clerk and the chair of the
16 appropriate municipal panel of an adjacent municipality at least 7 days prior to
17 the public hearing.

18 * * *

19 (e) Role of regional planning commissions and Agency of Transportation.
20 The regional planning commissions and Agency of Transportation, identified
21 as interested persons in section 4465 of this title, may participate only in

1 proceedings regarding applications within areas exempted from Act 250 per 10
2 V.S.A. § 6081 that meet the definition of substantial regional impact or which
3 generates 75 or more peak hour trip ends. The regional planning commissions
4 and Agency of Transportation shall perform the following functions: Review
5 the application, inform the applicant about any State permitting and any other
6 statutory requirements, including transportation impact fees as required by 10
7 V.S.A. §6104, related to the proposed development, and prepare
8 recommendations on each of the review standards within the commission or
9 agency’s purview for consideration by the applicant. Recommendations may
10 be shared with the appropriate municipal panel in order to coordinate
11 municipal and State permit review. The regional planning commission or
12 Agency of Transportation may meet with the applicant, interested parties, or
13 both, conduct site visits, and perform other fact-finding that will enable the
14 preparation of recommendations.

15 Sec. 31. 24 V.S.A. § 4465 is amended to read:

16 § 4465. APPEALS OF DECISIONS OF THE ADMINISTRATIVE OFFICER

17 (a) An interested person may appeal any decision or act taken by the
18 administrative officer in any municipality by filing a notice of appeal with the
19 secretary of the board of adjustment or development review board of that
20 municipality or with the clerk of that municipality if no such secretary has been
21 elected. This notice of appeal must be filed within 15 days following the date

1 of that decision or act, and a copy of the notice of appeal shall be filed with the
2 administrative officer.

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

5 * * *

6 (6) The Agency of Transportation for all development applications
7 within areas exempted from Act 250 per 10 V.S.A. § 6081 which generates 75
8 or more peak hour trip ends.

9
10 Sec. 32. 10 V.S.A. §6104 is amended to read:

11 § 6104 TRANSPORTATION IMPACT FEE; DISTRICT COMMISSION

12 * * *

13 (e) Within areas exempted from Act 250 pursuant to section 6081 of this
14 title, the Secretary of Transportation may exercise all powers of the District
15 Commission according to this chapter, including the ability to require a
16 transportation impact fee in accordance with section 6106 of this title, provided
17 the subject land development generates 75 or more peak hour trip ends on a
18 State Highway or Class 1 Town Highway or is required to obtain a permit per
19 19 V.S.A. §1111.

20 Sec. 33. 19 V.S.A. §10b is amended to read:

21 §10b. STATEMENT OF POLICY; GENERAL

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(c) In developing the State’s annual Transportation Program, the Agency shall, consistent with the planning goals listed in 24 V.S.A. § 4302 and with ~~appropriate consideration~~ substantial deference to local, regional, and State agency plans:

* * *

Sec. 34. REPEAL

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

Sec. 35. 24 V.S.A. chapter 139 is added to read:

Chapter 139: State Community Revitalization Program

§ 5801. DEFINITIONS

As used in this chapter:

(1) “Community Revitalization Program” means the program established in this chapter, as adapted from the former Designated Areas Program formerly in 24 V.S.A. chapter 76A. Statutory references outside this chapter referring to the former State Designated Village Centers, Downtown Centers, and New Town Centers shall mean Designated Center, once established. Statutory references outside this chapter referring to the former State Designated Growth Centers and Neighborhood Development areas shall mean Designated Neighborhood, once established.

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

1 (3) “Department” means the Department of Housing and Community
2 Development.

3 (4) “Downtown” or “Village” means the traditional and historic central
4 business district of a community that has served as the focus of socio-
5 economic interaction in the community, characterized by a cohesive core of
6 commercial and mixed use buildings, some of which may contain mixed use
7 spaces, often interspersed with civic, religious, residential, and industrial
8 buildings and public spaces, typically arranged along a main street and
9 intersecting side streets that are within walking distance for residents who live
10 within and surrounding the center and that are served by public infrastructure
11 such as sidewalks and public transit. Downtowns are typically larger in scale
12 than village centers and are characterized by a development pattern that is
13 consistent with smart growth principles and that are served by complete streets.
14 Industrial uses may be found within or immediately adjacent to these centers.

15 (5) “Infill” means the use of vacant land or property or the
16 redevelopment of existing buildings within a built-up area for further
17 construction or land development.

18 (6) “Local downtown organization” means either a nonprofit
19 corporation, or a board, council, or commission created by the legislative body
20 of the municipality, whose primary purpose is to administer and implement the

1 community reinvestment agreement and other matters regarding the
2 revitalization of the downtown.

3 (7) “Downtown Center” or “Village Center” means areas on the regional
4 plan future land use maps which may be designated as a Center.

5 (8) “Regional plan future land use map” means the map prepared
6 pursuant to 24 V.S.A. § 4348a(a)(2).

7 (9) “Planned Growth Area” means an area on the regional plan future
8 land use maps, which may encompass a Downtown Center or Village Center
9 on the regional future land use map and may be designated as a Center or
10 Neighborhood or both.

11 (10) “Village Area” means an area on the regional plan future land use
12 maps, which may encompass a Village Center on the regional future land use
13 map and which may be designated as a Neighborhood and may not be
14 designated as a State Planned Growth Area due to more limited water or sewer
15 infrastructure or the absence of municipal plans and regulations.

16 (11) “Smart growth principles” means growth that:

17 (A) Maintains the historic development pattern of compact village
18 and urban centers separated by rural countryside.

19 (B) Develops compact mixed-use centers at a scale appropriate for
20 the community and the regional planning commission.

21 (C) Enables choice in modes of transportation.

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

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

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

8 (G) Supports a diversity of viable businesses in downtowns and
9 villages.

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

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

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

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

18 (iii) the fragmentation of farmland and forestland;

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

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

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

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

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

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

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

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

14 (16) “Tier 1 Planned Growth Area” means a geographic area designated
15 by the Environmental Resview Board under this chapter that overlays a
16 Designated Downtown and Village Center or Designated Neighborhood. It
17 creates an area that can be applied to Centers and Neighborhoods in whole or
18 part, within a Regional Planned Growth Area on the regional plan future land
19 use map. The purpose of the Designated Planned Growth Area is to
20 principally extend State regulatory and non-regulatory benefits, including
21 possible Act 250 exemption, delegation, jurisdictional ease, presumptions of

1 compliance, or fee reductions to recognize local conditions and capacity in
2 areas planned for smart-growth development and redevelopment.

3 (17) “Vermont Downtown Program” means the Vermont branch of the
4 State Coordinating Program of “Main Street America” which provides
5 technical assistance, training, and funding incentives to downtown
6 organizations.

7 § 5802. VERMONT COMMUNITY REVITALIZATION BOARD

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

11 (1) The Secretary of Commerce and Community Development.

12 (2) The Secretary of Transportation.

13 (3) The Secretary of Natural Resources.

14 (4) The Commissioner of Public Safety.

15 (5) The State Historic Preservation Officer.

16 (6) The Director of Racial Equity.

17 (7) A person appointed by the Governor from a list of three names
18 submitted by the Vermont Natural Resources Council and the Preservation
19 Trust of Vermont.

20 (8) A person appointed by the Governor from a list of three names
21 submitted by the Association of Chamber Executives.

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

4 (10) The Executive Director of the Vermont Bond Bank.

5 (11) The State Treasurer.

6 (12) A member of the Vermont Planners Association designated by the
7 Association.

8 (13) The Chair of the Environmental Review Board.

9 (14) A representative of a Regional planning commission designated by
10 the Vermont Association of Planning and Development Agencies Region or
11 their designee.

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

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

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

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

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

3 (1) serving as the funding and benefits coordination body for the State
4 Community Revitalization Program;

5 (2) reviewing and issuing decisions on proposed regional plan future
6 land use maps prepared by the Regional planning commission and presented to
7 the Environmental Review Board for Designated Center and Designated
8 Neighborhood recognition under this chapter;

9 (3) ability to recommend conditioned designation approvals and
10 modifications to the regional plan future land use maps presented for the
11 designated areas;

12 (4) ability to recommend suspension or removal of a designation
13 approved by the Environmental Review Board;

14 (5) tax credit review and approval under the 32 V.S.A. § 5930aa et seq.;

15 (6) Downtown Transportation and Related Capital Improvement Fund
16 Program established by section 5808 of this title;

17 (7) to have standing in regional plan approvals before the Environmental
18 Review Board; and

19 (8) to review and comment on Environmental Review Board guidelines,
20 rules, or procedures as they relate to the designations under this chapter.

1 § 5803. MAPPING BY REGIONAL PLANNING COMMISSIONS

2 (a) The regional plan future land use map developed per section 4348a of
3 this title shall delineate areas within the regional planning commission’s
4 member municipalities that are eligible to be designated as Centers and
5 Neighborhoods in consultation with the municipalities. The areas eligible for
6 designation shall be identified on the regional plan future land use map as
7 Regional Downtown Centers, Village Centers, Planned Growth Area, and
8 Village Areas in a manner consistent with this chapter. This methodology
9 shall include all approved designated downtowns, villages, new town centers,
10 neighborhood development areas, and growth centers existing on July 1, 2024,
11 unless the subject member municipality requests otherwise.^[06]

12 (b) Exclusions. With the exception for pre-existing, non-conforming
13 designations approved prior to the establishment of this program, the areas
14 eligible for designation on the regional plan future land use map for
15 designation as a Center shall not include leap-frog development that is
16 disconnected from a Center and which lacks a pedestrian connection to the
17 Center via a complete street or the following categories defined in regional
18 plan future land use maps:

- 19 (1) Transition areas;
- 20 (2) Unplanned expansions not served by infrastructure;
- 21 (3) Resource-Based Recreation Areas;
- 22 (4) Enterprise Areas not part of a Regional Planned Growth Area; and

1 (5) Rural Areas: hamlets, general, farms, forest, conservation areas.

2 (c) A proposed Planned Growth Areas for Sate designation may be mapped
3 by a municipality in consultation with the regional planning commission
4 pursuant to section 5806 of this title.

5 (d) The Vermont Association of Planning and Development Agencies
6 (VAPDA) shall develop a standard methodology for the regional plan future
7 land use maps which shall include the areas eligible for designation under this
8 chapter which shall integrate consistent elements in the municipal and regional
9 plan.

10 (e) On or before December 31, 2024, the VAPDA shall develop standard
11 methodology and process for the mapping of areas eligible for designation
12 under this chapter in consultation with the Department and Environmental
13 Review Board which shall integrate elements in the regional plan and plan for
14 a municipality. The methodology and process shall recommend a streamlined
15 procedure for minor amendments by the State Board to the boundaries of the
16 approved designated areas upon request by member municipalities to map
17 eligible areas for designation under this chapter.

18 (f) Any Regional planning commission may issue independent comments
19 to the panel or State Board on a proposed regional plan future land use map
20 The VAPDA shall develop a pre-adoption process by which the Department
21 and Environmental Review Board can review the proposed regional plan future

1 land use maps and issue findings on conformance with this chapter and chapter
2 117 of this title.

3 (g) The regional plan future land use map shall be submitted to the
4 Environmental Review Board for review and approval with the advice and
5 consent of the Department and State Board on those Downtown and Village
6 Centers and Neighborhoods areas to be designated under this chapter.

7 § 5804. DESIGNATION OF DOWNTOWN AND VILLAGE CENTERS

8 (a) Designation established. A regional planning commission may apply to
9 the Environmental Review Board for designation of all Centers within the
10 regional planning commission, by submitting the regional plan future land use
11 map adopted by the region. The Environmental Review Board shall seek the
12 advice and consent of the Department and State Board on areas eligible for
13 Center Designation as provided under this chapter.

14 (1) A preapplication meeting shall be held with Environmental Review
15 Board and Department staff to review the program requirements at least 60
16 days prior to submission and review of the regional planning commission
17 future land use map and adjoining regional planning commission review. The
18 meeting shall be held in the regional planning commission unless the regional
19 planning commission agrees to another location.

20 (2) An application by a regional planning commission shall contain the
21 regional plan future land use map that delineates all centers eligible for
22 designation within the municipalities throughout the regional planning

1 commission. The regional plan future land use map shall identify Downtown
2 Centers and Village Centers as the downtown and village areas eligible for
3 designation as Centers. The application shall also include evidence that the
4 municipalities have been notified of the regional planning commission’s intent
5 to apply, evidence that notice of its application has been published on the
6 regional planning commission’s website, and information showing that the
7 eligible regional land use areas that the standards for designation established in
8 this chapter.

9 (b) Inclusions. The areas designated by the regional planning commissions
10 as a center shall allow for the designation of pre-existing, approved village
11 centers, downtown centers, and new town centers in existence on or before
12 December 25, 2025.

13 (c) Approval. The Environmental Review Board shall hold a hearing to
14 approve a regional plan future land use map within 90 days of the receipt of a
15 complete application and forward the application to the Department within 15
16 days. The State Board shall hold a hearing on a complete application to review
17 the regional plan future land use map within 60 days of the receipt of a
18 complete application. The State Board shall issue a written decision that the
19 regional plan future land use map has met the requirements of at least one Step
20 one the Benefits ladder described in subsection (e) and forward its decision to
21 the Environmental Review Board. The Environmental Review Board shall

1 issue specific written findings if its decision does not accept the State Board’s
2 determination for community revitalization boundaries.

3 (d) Transition. All designated village centers, new town centers, or
4 downtowns existing as of July 1, 2024 will retain current benefits until July 1,
5 2029 or until approval of the regional future land use maps by the State Board,
6 whichever comes first. All existing designations in effect July 1, 2024 will
7 expire July 1, 2029 if the regional planning commission does not receive State
8 Board approval of the regional plan future land use maps under this chapter.
9 All benefits for pre-existing designated village centers, downtowns, and new
10 town centers that are removed under this chapter shall remain with the prior
11 designations existing as of July 1, 2024 until July 1, 2032. During the period
12 of transition, no renewal shall be required for the pre-existing designations.
13 New applications may be approved by the State Board prior to the approval of
14 a regional future land use map under 76A by the State Board until July 1, 2025.

15 (e) Benefits Steps. A Center may receive the benefits associated with the
16 steps in this chapter by meeting the established requirements. The Department
17 shall review applications from municipalities to advance from Step One to
18 Two, and Two to Three and issue written decisions. If a municipal application
19 is rejected by the Department the municipality may appeal the administrative
20 decision to the State Board. Applications to the Department will reviewed and
21 approved by Staff within 30 days of receipt of a complete application. Appeals

1 will be heard by the State Board within 30 days of an appeal. The Department
2 may issue guidelines to administer these steps.

3 (1) Step One.

4 (A) Requirements. Step One is established to create an accessible
5 and low-barrier entry point for all villages throughout the State to access site-
6 based improvement supports and conduct initial planning. Any municipality
7 with an approved Designated Village Center as of July 1, 2024; shall
8 automatically reach Step One upon approval of the regional plan future land
9 use map by the Environmental Review Board. Regional plan future land use
10 maps supersede pre-existing designated areas that may already meet the Step
11 One requirement.

12 (B) Benefits. A Center that reaches Step One is eligible for the
13 following benefits:

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

18 (ii) Funding for developing or amending the municipal plan,
19 visioning, and assessments.

20 (2) Step Two.

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

5 (i) meets the requirements of Step One or if it has an approved
6 village center or new town center as of July 1, 2024;

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

8 (iii) has a municipal plan with goals for investment in the Center.

9 (B) Benefits. In addition to the benefits of Step One, a Center that
10 reaches Step Two is eligible for the following benefits:

11 (i) General grant priority for bylaws and special-purpose plans,
12 area improvement or re-investment plans, including the Better Connections
13 Program and other applicable programs identified by Department guidance,
14 and for capital plans.

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

19 (iii) The authority to create a special taxing district pursuant to
20 chapter 87 of this title for the purpose of financing both capital and operating
21 costs of a project within the boundaries of a Center;

1 (iv) Priority consideration for State and Federal affordable
2 housing funding;

3 (v) authority for the municipal legislative body to lower speed
4 limits less than 25 mph within the Center under 23 V.S.A. §1007(g).

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

7 (vii) exemption from the land gains tax under 32 V.S.A.
8 § 10002(p).

9 (3) Step Three.

10 (A) Requirements. Step Three is established to create the higher-
11 level entry point for downtowns throughout the State to create vibrant mixed-
12 use centers. A Center reaches Step Three and achieves status as a Downtown
13 if the Department finds that it meets the following requirements:

14 (i) meets the requirements of Step Two, or if it has an existing
15 designated downtown in effect as of July 1, 2024;

16 (ii) is listed or eligible for listing in the National Register of
17 Historic Places;

18 (iii) has a downtown improvement plan;

19 (iv) has a downtown investment agreement;

20 (v) has a capital plan that implements the downtown improvement
21 plan; and

1 (vi) has a Local Downtown Organization with an organizational
2 structure necessary to sustain a comprehensive long-term downtown
3 revitalization effort, including a local downtown organization that will
4 collaborate with municipal departments, local businesses, and local nonprofit
5 organizations. The Local Downtown Organization shall work to;

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

12 (II) build consensus and cooperation among the many groups
13 and individuals who have a role in the planning, development, and
14 revitalization process;

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

17 (IV) strengthen, diversify, and increase the economic activity
18 within the downtown district;

19 (V) measure annually progress and achievements of the
20 revitalization efforts as required by Department guidelines;

21 (vii) has available water and wastewater service and capacity;

1 (viii) has permanent zoning and subdivision bylaws;
2 (ix) has adopted historic preservation regulations for the district
3 with a demonstrated a commitment to protect and enhance the historic
4 character of the downtown through the adoption of bylaws that adequately
5 meet the historic preservation requirements in subdivisions 4414(1)(E) and (F)
6 of this title, unless recognized by the program as a pre-existing designated new
7 town center; and

8 (x) has adopted design or form-based regulations that adequately
9 regulate the physical form and scale of development.

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

12 (i) Funding for the local downtown organization and technical
13 assistance from the Vermont Downtown Program for the Center;

14 (ii) Tax Increment Financing location pursuant to 32 V.S.A. §
15 5404a;

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

18 (iv) A rebate of the cost of a qualified sprinkler system in an
19 amount not to exceed \$2,000.00 for building owners or lessees. Rebates shall
20 be paid by the Department of Public Safety. To be qualified, a sprinkler
21 system must be a complete automatic fire sprinkler system installed in accord

1 with Department of Public Safety rules in an older or historic building that is
2 certified for a State tax credit under 32 V.S.A. § 5930cc(a) or (b) and is located
3 in a Center. A total of no more than \$40,000.00 of rebates shall be granted in
4 any calendar year by the Department of Public Safety. If in any year
5 applications for rebates exceed this amount, the Department of Public Safety
6 shall grant rebates for qualified systems according to the date the building was
7 certified for a State tax credit under 32 V.S.A. § 5930cc(a) or (b) with the
8 earlier date receiving priority.

9 (v) Signage options 10 V.S.A. § 494 (13) and (17);

10 (vi) Certain appeal limitations pursuant to chapter 117 of this title;

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

19 (ix) Until 2032, regulatory benefits under 10 V.S.A. chapter 151.

20 (f) Appeal. A decision of the Environmental Review Board on regional
21 plan future land use map approval for designations under this section may be

1 appealed to the Environmental Division of the Superior Court within 15 days
2 of the issuance of the written decision.

3 § 5805. DESIGNATED NEIGHBORHOOD

4 (a) Designation established.

5 (1) A regional planning commission may apply to the Environmental
6 Review Board for designation of residential areas on the regional plan future
7 land use maps within that regional planning commission as a Designated
8 Neighborhood. Areas eligible for designation include Planned Growth Area
9 and Village Areas identified on the regional plan future land use map. This
10 designation recognizes that continued reinvestment is needed to maintain the
11 vitality of downtowns and villages and their adjacent neighborhoods, and that
12 the benefits structure must ensure that any subsidy for sprawl repair or infill
13 development locations within a Neighborhoods is secondary to a primary
14 commitment to maintain the livability and maximize the climate resilience and
15 flood-safe infill potential of these areas.

16 (2) An application for a Designated Neighborhood shall supplement the
17 original application for the associated designation and follow the same
18 application process.

19 (3) An application by a regional planning commission shall contain the
20 regional plan future land use map that accurately delineates the Planned
21 Growth Area and Village Areas as the areas eligible for designation as
22 Neighborhoods. The application shall also include evidence that the

1 municipalities have been notified of the regional planning commission’s intent
2 to apply, evidence that notice of its application has been published on the
3 commission’s website, and information showing that the district meets the
4 standards for designation established in subsection (d) of this section.

5 (b) Exclusions. The areas eligible for designation as a Neighborhood shall
6 not include the excluded regional areas identified on the regional plan future
7 land use map and flood hazard and fluvial erosion areas, except those areas
8 containing preexisting development in areas suitable for infill development as
9 defined in § 29-201 of the Vermont Flood Hazard Area and River Corridor
10 Rule, as determined by the Agency of Natural Resources.

11 (c) Approval. The Environmental Review Board shall hold a hearing to
12 approve a regional plan future land use map within 90 days of the receipt of a
13 complete application and forward the application to the Department within 15
14 days. The State Board shall hold a hearing on a complete application to review
15 the regional plan future land use map within 60 days of the receipt of a
16 complete application. The State Board shall issue a written decision that the
17 regional future land use map has met the requirements described in subsection
18 (d) and forward its decisions to the Environmental Review Board. The
19 Environmental Review Board shall issue specific written findings if its
20 decision does not accept the State Board’s determination for community
21 revitalization boundaries.

1 (d) Transition. Any municipality with an existing designated growth center
2 or neighborhood development area will retain current benefits until July 1,
3 2029 or upon approval of the regional plan future land use maps, whichever
4 comes first. All existing neighborhood development area and growth center
5 designations in effect July 1, 2024 will expire July 1, 2029 if the regional
6 planning commission does not gain approval. All benefits that are removed for
7 neighborhood development areas and growth centers under this chapter shall
8 remain active with prior designations existing as of July 1, 2024 until July 1,
9 2032. During the period of transition, no renewal shall be required for the
10 existing designations. Prior to the approval of a regional plan future land use
11 map by the State Board, only neighborhood development area designations
12 may be approved by the State Board.

13 (e) Requirements. A Designated Neighborhood shall meet the following
14 requirements:

15 (1) has an existing growth centers and neighborhood development areas
16 in effect July 1, 2024 or is an area located within a Regional Planned Growth
17 Area or Regional Village Area on a regional plan future land use map;

18 (2) is anchored by a contiguous Center designated under this chapter,
19 unless recognized by the program as a pre-existing designated neighborhood
20 development area or a growth center or otherwise separated by a river corridor
21 or flood hazard area;

1 (3) has a confirmed municipal planning process;

2 (4) has implemented the Complete Streets principals or has a capital
3 plan under section 4430 of this title to implement Complete Streets principals;
4 and

5 (5) has adopted permanent zoning and subdivision bylaws that
6 adequately allow housing.

7 (f) Benefits. A Designated Neighborhood is eligible for the following
8 benefits:

9 (1) General grant priority for bylaws and special-purpose plans, area
10 improvement or re-investment plans, including the Better Connections
11 Program and other programs identified in Department guidance, and for capital
12 plans;

13 (2) Funding for infrastructure project scoping, design, engineering,
14 including participation in the Downtown Transportation and Related Capital
15 Improvement Fund Program established by section 5808 of this title;

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

18 (4) Priority consideration for State and Federal affordable housing
19 funding;

20 (5) priority for funding for neighborhood infrastructure;

1 (6) authority for the municipal legislative body to lower speed limits to
2 20 mph within the Neighborhood;

3 (7) application fee limit for State wastewater applications stated in 3
4 V.S.A. § 2822(j)(4)(D); and

5 (8) exclusion from the land gains tax provided by 32 V.S.A. § 10002(p)
6 limitations pursuant to chapter 117 of this title.

7 (g) Appeal. A decision of the Board on designation under this section may
8 be appealed to the Environmental Review Board within 15 days following the
9 issuance of the decision.

10 § 5806. DESIGNATION OF A PLANNED-GROWTH AREA

11 (a) Designation established.

12 (1) A municipality, by its legislative body, may apply to the
13 Environmental Review Board for designation of an area within that
14 municipality as a State Designated Tier 1 Planned Growth Area as an overlay
15 to a Designated Center or Neighborhood that can be applied, in whole or part
16 to a Center or Neighborhood. The purpose of a Designated planned-growth
17 area is to principally extend State regulatory benefits, including possible Act
18 250 exemption, delegation, jurisdictional ease, presumptions of compliance, or
19 fee waivers from the requirements of 10 V.S.A. chapter 151 through the
20 recognition of local conditions and capacity in areas planned for smart-growth
21 development and redevelopment to recognize the municipal implementation of

1 best practices supported by the Center and Neighborhood benefits that support
2 the designation of planned growth areas capable of supporting major
3 development and redevelopment.

4 (2) The municipal plan shall include the intention to apply for
5 designation as a Planned Growth Area under this section, and the plan shall
6 explain how the designation would further the municipality’s goals and the
7 goals of section 4302 of this title.

8 (3) A preapplication meeting shall be held with Environmental Review
9 Board staff to review the program requirements and to preliminarily identify
10 possible designation boundaries. The meeting shall be held in the municipality
11 unless another location is agreed to by the municipality.

12 (4) An application by a municipality shall contain a map that accurately
13 delineates the proposed Designated Planned Growth Area and is consistent
14 with the eligible areas on the regional planning map for the municipality. The
15 application shall also include evidence that the regional planning commission
16 has been notified of the municipality’s intent to apply, evidence that the
17 regional planning commission, through action of its board, supports the
18 boundaries of the Area, evidence that the municipality has published notice of
19 its application in a local newspaper of general circulation within the
20 municipality, and information showing that the district meets the standards for
21 designation established in subsection (b) of this section.

1 (b) Approval. The Environmental Review Board shall hold a hearing on a
2 complete application to review the regional plan future land use map within 60
3 days following the receipt of a complete application. The Environmental
4 Review Board shall designate a Planned Growth Area if the Environmental
5 Review Board finds in its written decision that the municipality has met the
6 requirements of subsection (c).

7 (c) Requirements. A municipality shall receive designation as a
8 Designated Planned Growth Area and its associated types of benefits if it
9 meets the following requirements:

10 (1) Land development regulations, including addressing 10 V.S.A. §
11 6086(a)(9)(L), smart growth principles and elements in the existing
12 Neighborhood Development Area Designation;

13 (2) Advanced development review administration as allowed under the
14 Environmental Review Board rules;

15 (3) An enhanced energy plan and housing mitigation plan to advance the
16 State’s energy plan and climate action plan goals.

17 (4) Advanced capital planning that supports the smart growth principles,
18 Complete Streets, and climate action;

19 (5) Maps of water, sewer, and stormwater infrastructure and an
20 ordinance on connections to public systems; and

1 (6) Area improvement plan and capital investments for settlement
2 expansion, infill development, or sprawl repair.

3 (d) Benefits. A municipality may receive the following benefits for
4 designation of a Planned Growth Area:

5 (1) exemption from the requirements of 10 V.S.A. chapter 151; and

6 (2) Tax Increment Financing location.

7 (e) Appeal. A decision on of the Environmental Review Board on
8 designation under this section may be appealed to the Environmental Division
9 of the Superior Court within 15 days of the issuance of the decision.

10 § 5807. TRANSITION

11 (a) On or before July 1, 2029, the regional planning commissions shall
12 update the regional plan future land use maps to delineate Downtown Centers,
13 Village Centers, Planned Growth Areas, which may encompass a Downtown
14 Center and Village Center, and Village Areas.

15 (b) Until July 1, 2029, any municipality with an existing designated
16 downtown, village center, or new town center may be granted a Center
17 designation by the State Downtown and Village Board through approval of the
18 regional plan future land use map.

19 (c) Until July 1, 2029, any municipality with an existing designated
20 neighborhood development area or growth center may be granted a Designated
21 Neighborhood by the State Downtown and Village Board, through approval of
22 a regional plan future land use map

1 § 5808. DESIGNATION DATA CENTER

2 Data Center. The Department shall maintain an online Municipal Planning
3 Data Center publishing approved regional plan future land use maps and
4 indicating the status of each approved designation and within the regional
5 planning commission, and associated steps for Centers.

6 § 5809. MUNICIPAL TECHNICAL ASSISTANCE

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

10 (b) The procedure shall include interagency assistance and address the
11 following:

12 (1) general project advising and scoping services;

13 (2) physical improvement design services;

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

15 (4) programmatic and project management services; and

16 (5) legislative recommendations to the General Assembly to better align
17 designation benefits with strategic priorities by December 15, 2026.

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

21 (1) Housing development growth and equity;

22 (2) climate resilience;

- 1 (3) coordinated infrastructure investment;
- 2 (4) local administrative capacity;
- 3 (5) equity, diversity, and access;
- 4 (6) livability and social service; and
- 5 (7) historic preservation.

6 § 5810. DOWNTOWN TRANSPORTATION AND RELATED CAPITAL
7 IMPROVEMENT FUND

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

15 (b) The Fund shall be comprised of the following:

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

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

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

20 (c) Any municipality with a designated Center may apply to the Board for
21 financial assistance from the Fund for capital transportation and related
22 improvement projects within or serving the district. The Board may award to

1 any municipality grants in amounts not to exceed \$250,000.00 annually, loans,
2 or loan guarantees for financing capital transportation projects, including
3 construction or alteration of roads and highways, parking facilities, and rail or
4 bus facilities or equipment, or for the underground relocation of electric utility,
5 cable, and telecommunications lines, but shall not include assistance for
6 operating costs. Grants awarded by the Board shall not exceed 80 percent of
7 the overall cost of the project. The approval of the Board may be conditioned
8 upon the repayment to the Fund of some or all of the amount of a loan or other
9 financial benefits and such repayment may be from local taxes, fees, or other
10 local revenues sources. The Board shall consider geographical distribution in
11 awarding the resources of the Fund.

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

17 § 5811. PROPERTY ASSESSMENT FUND; BROWNFIELDS AND
18 REDEVELOPMENT; COMPETITIVE PROGRAM

19 (a) There is created a Property Assessment Fund pursuant to 32 V.S.A.
20 chapter 7, subchapter 5 to be administered by the Department of Housing and
21 Community Development for the purpose of providing financing, on a

1 competitive basis, to municipalities that demonstrate a financial need in order
2 to determine and evaluate a full assessment of the extent and the cost of
3 remediation of property, or in the case of an existing building, an assessment
4 that supports a clear plan, including the associated costs of renovation to bring
5 the building into compliance with State and local building codes. This shall be
6 the same Fund that was created under the prior section 2797 of this title.

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

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

10 (2) Any gifts, grants, or other contributions to the funds; and

11 (3) Proceeds from the issuance of general obligation bonds.

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

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

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

1 (d) The Department shall distribute funds under this section in a manner
2 that provides funding for assessment projects of various sizes in as many
3 geographical areas of the State as possible and may require matching funds
4 from the municipality in which an assessment project is conducted.

5 § 5812. BETTER PLACES PROGRAM; CROWD GRANTING

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

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

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

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

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

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

18 (3) any interest earned by the Fund.

19 (c) As used in this section, “public space” means an area or place that is
20 open and accessible to all people with no charge for admission and includes
21 village greens, squares, parks, community centers, town halls, libraries, and

1 other publicly accessible buildings and connecting spaces such as sidewalks,
2 streets, alleys, and trails.

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

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

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

12 (4) The minimum amount of a grant award is \$5,000, and the maximum
13 amount of a grant award is \$40,000.

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

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

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

20 (C) A donor may not contribute more than \$10,000 or 35 percent of
21 the campaign goal, whichever is less.

1 (D) An applicant shall provide matching funds raised through
2 crowdfunding of not less than 33 percent of the grant award. The Department
3 may require a higher percent of matching funds for certain project areas to
4 ensure equitable distribution of resources across Vermont.

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

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

13 Sec. 36. 32 V.S.A. § 5930aa is amended to read:

14 § 5930aa. DEFINITIONS

15 As used in this subchapter:

16 * * *

17 (2) “Qualified building” means a building built at least 30 years before
18 the date of application, located within a designated ~~downtown, village center,~~
19 ~~or neighborhood development area~~ Center or Neighborhood, which, upon
20 completion of the project supported by the tax credit, will be an income-
21 producing building not used solely as a single-family residence. Churches and

1 other buildings owned by religious organization may be qualified buildings,
2 but in no event shall tax credits be used for religious worship.

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

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

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

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

17 * * *

18 (5) “Qualified façade improvement project” means the rehabilitation of
19 the façade of a qualified building that contributes to the integrity of the
20 designated ~~downtown, designated village center, or neighborhood development~~
21 ~~area~~ Center or Neighborhood. Façade improvements to qualified buildings

1 listed, or eligible for listing, in the State or National Register of Historic Places
2 must be consistent with the Secretary of the Interior Standards, as determined
3 by the Vermont Division for Historic Preservation.

4 (6) “Qualified Flood Mitigation Project” means any combination of
5 structural and nonstructural changes to a building located within ~~the flood~~
6 ~~hazard area as mapped by the Federal Emergency Management Agency a~~
7 designated downtown, designated village center, or neighborhood development
8 area that reduces or eliminates flood damage to the building or its contents.

9 This may include but is not limited to, relocation of HVAC, electrical,
10 plumbing, and other building systems, and equipment above the flood level;
11 repairs or reinforcement of foundation walls, including flood gates; or
12 elevation of an entire eligible building above the flood level. Further eligible
13 projects may be defined via program guidance. The project shall comply with
14 the municipality’s adopted flood hazard bylaw, if applicable, and a certificate
15 of completion shall be submitted by a registered engineer, architect, qualified
16 contractor, or qualified local official to ~~the State Board~~ program staff.

17 Improvements to qualified buildings listed, or eligible for listing, in the State
18 or National Register of Historic Places shall be consistent with Secretary of the
19 Interior’s Standards for Rehabilitation, as determined by the Vermont Division
20 for Historic Preservation.

21 * * *

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

4 Sec. 37. 32 V.S.A. § 5930bb is amended to read:

5 § 5930bb. ELIGIBILITY AND ADMINISTRATION

6 * * *

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

11 Sec. 38. 32 V.S.A. § 5930bb is amended to read:

12 § 5930bb. Eligibility and administration

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

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

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

20 ~~(d) Notwithstanding any other provision of this subchapter, qualified~~
21 ~~applicants may apply to the State Board at any time prior to June 30, 2013, to~~
22 ~~obtain a tax credit not otherwise available under subsections 5930cc(a)-(c) of~~

1 ~~this title of 10 percent of qualified expenditures resulting from damage caused~~
2 ~~by a federally declared disaster in Vermont in 2011. The credit shall only be~~
3 ~~claimed against the taxpayer's State individual income tax under section 5822~~
4 ~~of this title. To the extent that any allocated tax credit exceeds the taxpayer's~~
5 ~~tax liability for the first tax year in which the qualified project is completed,~~
6 ~~the taxpayer shall receive a refund equal to the unused portion of the tax credit.~~
7 ~~If within two years after the date of the credit allocation no claim for a tax~~
8 ~~credit or refund has been filed, the tax credit allocation shall be rescinded and~~
9 ~~recaptured pursuant to subdivision 5930cc(6) of this title. The total amount of~~
10 ~~tax credits available under this subsection shall not be more than \$500,000.00~~
11 ~~and shall not be subject to the limitations contained in subdivision 5930cc(2)~~
12 ~~of this subchapter.~~

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

17 Sec. 39. 32 V.S.A. § 5930cc is amended to read:

18 § 5930cc. Downtown and Village Center Program tax credits

19 * * *

20 (c) Code improvement tax credit. The qualified applicant of a qualified
21 code improvement project shall be entitled, upon the approval of the State

1 Board, to claim against the taxpayer’s State individual income tax, State
2 corporate income tax, or bank franchise or insurance premiums tax liability a
3 credit of 50 percent of qualified expenditures up to a maximum tax credit of
4 \$12,000.00 for installation or improvement of a platform lift, a maximum
5 credit of \$60,000.00 for the installation or improvement of a limited use or
6 limited application elevator, a maximum tax credit of \$75,000.00 for
7 installation or improvement of an elevator, a maximum tax credit of
8 \$50,000.00 for installation or improvement of a sprinkler system, and a
9 maximum tax credit of ~~\$50,000.00~~ \$100,000.00 for the combined costs of all
10 other qualified code improvements.

11 (d) Flood Mitigation Tax Credit. The qualified applicant of a qualified
12 flood mitigation project shall be entitled, upon the approval of the State Board,
13 to claim against the taxpayer’s State individual income tax, State corporate
14 income tax, or bank franchise or insurance premiums tax liability a credit of 50
15 percent of qualified expenditures up to a maximum tax credit of ~~\$75,000.00~~
16 \$100,000.00.

17 Sec. 40. 32 V.S.A. § 5930ee is amended to read:

18 § 5930ee. LIMITATIONS

19 Beginning in fiscal year 2010 and thereafter, the State Board may award tax
20 credits to all qualified applicants under this subchapter, provided that:

1 (1) the total amount of tax credits awarded annually, together with sales
2 tax reallocated under section 9819 of this title, does not exceed ~~\$3,000,000.00~~
3 \$5,000,000.00;

4 * * *

5 Sec. 41. REVISION AUTHORITY

6 In preparing the Vermont Statutes Annotated for publication in 2024, the
7 Office of Legislative Counsel shall replace all references to the “24 V.S.A.
8 chapter 76A” with the “24 V.S.A. chapter 139.”

9 * * * Effective Dates * * *

10 Sec. 42. EFFECTIVE DATES

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

12 (1) Secs. 12 and 13 (10 V.S.A. chapter 220; 4 V.S.A. § 34) shall take
13 effect on July 1, 2026; and

14 (2) Sec. 34 (repeal) shall take effect on July 1, 2029.