

1 S.308

2 Introduced by Committee on Natural Resources and Energy

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 (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 (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 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 * * *

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

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

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

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 [Repealed.]~~

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

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

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

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

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

5 § 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

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

12 * * *

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

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

21 [Repealed.]

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

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

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

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

~~or~~

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

(2) Participation before the Secretary.

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

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

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

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

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

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

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

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

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

18 (I) ~~In~~ As used in this subdivision (iii), “public auction” means
19 any auction advertised or publicized in any manner or to which more than ~~ten~~
20 10 persons have been invited.

1 is suitable for dense development and meets the requirements of subsection (b)
2 of this section.

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

5 (3) The Board shall issue an affirmative determination on finding that
6 the municipality meets the requirements of subsection (b) of this section within
7 45 days after the application is received.

8 (b) Planned growth area designation requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (A) Notice.

19 (i) At least 35 days in advance of the Board's meeting, the
20 regional planning commission shall provide notice to the municipality and post
21 it on its website.

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

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

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

16 (B) No defect in the form or substance of any requirements of this
17 subsection (c) shall invalidate the action of the Board where reasonable efforts
18 are made to provide adequate posting and notice. However, the action shall be
19 invalid when the defective posting or notice was materially misleading in
20 content. If an action is ruled to be invalid by the Superior Court or by the
21 Board itself, the regional planning commission shall provide and the

1 municipality shall issue new posting and notice, and the Board shall hold a
2 new hearing and take a new action.

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

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

9 (d) Review of designation status.

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

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

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

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

19 (B) terminate the designation.

1 (e) Appeal.

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

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

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

9 (B) The municipality making the application or a municipality that
10 adjoins the municipality making the application.

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

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

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

2 § 6081. PERMITS REQUIRED; EXEMPTIONS

3 * * *

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

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

20 § 4460. APPROPRIATE MUNICIPAL PANELS

21 * * *

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

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

3 (B) is located in a planned growth area designated pursuant to 10
4 V.S.A. § 6032; and

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

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

12 (A) the construction phase of the project that has already been
13 constructed;

14 (B) compliance with another State permit that has independent
15 jurisdiction;

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

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

19 (E) a physical or use condition that is no longer in effect or
20 applicable or that will no longer be in effect or applicable once the new project
21 is approved.

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

4 (4) The appropriate municipal panel shall comply with the notice and
5 hearing requirements provided in subdivision 4464(a)(1) of this title. In
6 addition, notice shall be provided to those persons requiring notice under
7 10 V.S.A. § 6084(b) and shall explicitly reference the existing Act 250 permit.

8 (5) The appropriate municipal panel's decision shall be issued in
9 accordance with subsection 4464(b) of this title and shall include specific
10 findings with respect to its determinations pursuant to subdivision (2) of this
11 subsection.

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

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

17 * * * Municipal and Regional Planning * * *

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

19 § 4302. PURPOSE; GOALS

20 * * *

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

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

5 (A) Intensive residential development should be encouraged
6 primarily in ~~areas related to community centers~~ Downtowns, Village Centers,
7 Planned Growth Areas and Village Areas as described in section 4348a of this
8 title, and strip development along highways should be ~~discouraged~~ avoided.
9 These areas should be planned to accommodate the majority of housing needed
10 to reach the housing targets in each region developed pursuant to subdivision
11 4348a(a)(9) of this chapter.

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

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

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

21 * * *

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

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

5 * * *

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

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

11 * * *

12 (14) To encourage flood resilient communities.

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

16 (B) The protection and restoration of floodplains and upland forested
17 areas that attenuate and moderate flooding and fluvial erosion should be
18 encouraged.

19 (C) Flood emergency preparedness and response planning should be
20 encouraged.

21 * * *

1 ~~Markets under 6 V.S.A. § 8, to identify viable agricultural lands~~ consider the
2 potential environmental benefits and environmental burdens, as defined in 3
3 V.S.A. § 6002, of the proposed plan;

4 (F) consider the probable social and economic benefits and
5 consequences of the proposed plan; and

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

8 * * *

9 (11) Review proposed State capital expenditures prepared pursuant to
10 32 V.S.A. chapter 5 and the Transportation Program prepared pursuant to
11 19 V.S.A. chapter 1 for compatibility and consistency with regional plans and
12 submit comments to the Secretaries of Transportation and Administration and
13 the legislative committees of jurisdiction.

14 * * *

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

19 * * *

20 (21) Review and participate as an interested party in the municipal
21 development review process for projects defined to have a substantial regional

1 impact and are located in areas exempted under Act 250 pursuant to 10 V.S.A.
2 § 6081.

3 Sec. 26. 24 V.S.A. § 4347 is amended to read:

4 § 4347. PURPOSES OF REGIONAL PLAN

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

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

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

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

20 (4) promote the conservation of the supply of food, water, energy, and
21 minerals;

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

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

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

8 * * *

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

10 § 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

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

17 (b) A regional planning commission shall submit a draft regional plan to
18 the Environmental Review Board and Agency of Commerce and Community
19 Development for preliminary review and comments related to conformance of
20 the draft with sections 4302 and 4348a of this title. The Agency shall

1 coordinate with other state agencies and respond within 60 days unless more
2 time is granted by the regional planning commission.

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

7 ~~(e)~~(d) At least 30 days prior to the first hearing, a copy of the proposed plan
8 or amendment, a report documenting conformance with the goals established
9 in section 4302 of this chapter and the plan elements established in section
10 4348a of this chapter, a description of any changes to the Regional Future
11 Land Use Map, and the definition of substantial regional impact with a request
12 for general comments and for specific comments with respect to the extent to
13 which the plan or amendment is consistent with the goals established in section
14 4302 of this title, shall be delivered physically or electronically with proof of
15 receipt or sent by certified mail, return receipt requested, to each of the
16 following:

17 (1) the chair of the legislative body of each municipality within the
18 region;

19 (2) the executive director of each abutting regional planning
20 commission;

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

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

7 (5) the Agency of Natural Resources ~~and~~, the Agency of Agriculture,
8 Food and Markets, the Agency of Transportation, the Department of Public
9 Service, the Department of Public Safety's Division of Emergency
10 Management; and the Environmental Review Board.

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

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

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

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

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

18 (1) Consistency with the State planning goals as described in section
19 4302 of this chapter with consistency determined in the manner described
20 under subdivision 4302(f)(1) of this chapter.

1 (2) Consistency with the regional plan elements as described in section
2 4348a of this chapter. The requirements of section 4352 of this chapter related
3 to enhanced energy planning shall be the under the sole authority of the Public
4 Service Department and shall not be reviewed by the Downtown Development
5 Board.

6 (3) Compatibility with adjacent regional planning areas in the manner
7 described under subdivision 4302(f)(2) of this chapter.

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

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

4 (k) Regional planning commissions shall be provided up to 18 months from
5 a negative determination by the Environmental Review Board to obtain an
6 affirmative determination of regional plan compliance. If a regional planning
7 commission is unable to obtain affirmative determination of regional plan
8 compliance, member municipalities shall lose benefits related to Designations,
9 Act 250, or State infrastructure investments.

10 (l) Upon approval by the Environmental Review Board, the plan shall be
11 considered duly adopted, shall take effect, and is not appealable. The plan
12 shall be immediately submitted to the entities listed in subsection (d) of this
13 section.

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

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

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

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

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

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

13 §4348a. ELEMENTS OF A REGIONAL PLAN

14 (a) A regional plan shall be consistent with the goals established in section
15 4302 of this title and shall include the following:

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

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

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

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

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

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

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

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

16 (3) An energy element, ~~may include~~ including an analysis of resources,
17 needs, scarcities, costs, and problems within the region across all energy
18 sectors, including electric, thermal, and transportation; a statement of policy on
19 the conservation and efficient use of energy and the development and siting of
20 renewable energy resources; a statement of policy on patterns and densities of
21 land use likely to result in conservation of energy; and an identification of

1 potential areas for the development and siting of renewable energy resources
2 and areas that are unsuitable for siting those resources or particular categories
3 or sizes of those resources.

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

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

1 are the central business and civic centers within Planned Growth Areas,
2 Village Areas, or may stand alone.

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

11 (i) The municipality has a duly adopted and approved plan and a
12 planning process that is confirmed in accordance with section 4350 of this title
13 and has adopted bylaws and regulations in accordance with sections 4414,
14 4418, and 4442 of this title.

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

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

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

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

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

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

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

13 (II) development that limits transportation options, especially
14 for pedestrians;

15 (III) the fragmentation of farmland and forestland;

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

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

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

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

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

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

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

15 (H) Rural; General. These areas include areas that promote the
16 preservation of Vermont’s traditional working landscape and natural area
17 features. They allow for low-density residential and sometimes limited
18 commercial development that is compatible with productive lands and natural
19 areas. This could also include an area that a municipality is planning to make
20 more rural than it is currently.

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

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

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

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

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

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

12 § 4464. HEARING AND NOTICE REQUIREMENTS; DECISIONS AND
13 CONDITIONS; ADMINISTRATIVE REVIEW; ROLE OF
14 ADVISORY COMMISSIONS IN DEVELOPMENT REVIEW

15 (a) Notice procedures. All development review applications before an
16 appropriate municipal panel under procedures set forth in this chapter shall
17 require notice as follows:

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

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

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

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

* * *

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

(D) For an application for a project located within 500 feet of a municipal boundary, the notice shall be sent to the clerk and the chair of the

1 appropriate municipal panel of an adjacent municipality at least seven days
2 prior to the public hearing.

3 * * *

4 (e) Role of regional planning commissions and the Agency of
5 Transportation. The regional planning commissions and the Agency of
6 Transportation, identified as interested persons in section 4465 of this title,
7 may participate only in proceedings regarding applications within areas
8 exempted from Act 250 per 10 V.S.A. § 6081 that meet the definition of
9 substantial regional impact or that generate 75 or more peak hour trip ends.
10 The regional planning commissions and the Agency of Transportation shall
11 perform the following functions: review the application; inform the applicant
12 about any State permitting and any other statutory requirements, including
13 transportation impact fees as required by 10 V.S.A. § 6104, related to the
14 proposed development; and prepare recommendations on each of the review
15 standards within the commission's or agency's purview for consideration by
16 the applicant. Recommendations may be shared with the appropriate
17 municipal panel in order to coordinate municipal and State permit review. The
18 regional planning commission or the Agency of Transportation may meet with
19 the applicant or interested parties, or both; conduct site visits; and perform
20 other fact-finding that will enable the preparation of recommendations.

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

2 § 4465. APPEALS OF DECISIONS OF THE ADMINISTRATIVE OFFICER

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

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

12 * * *

13 (6) The Agency of Transportation for all development applications
14 within areas exempted from Act 250 per 10 V.S.A. § 6081 that generate 75 or
15 more peak hour trip ends.

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

17 § 6104. TRANSPORTATION IMPACT FEE; DISTRICT COMMISSION

18 * * *

19 (e) Within areas exempted from Act 250 pursuant to section 6081 of this
20 title, the Secretary of Transportation may exercise all powers of the District
21 Commission according to this chapter, including the ability to require a

1 transportation impact fee in accordance with section 6106 of this title, provided
2 the subject land development generates 75 or more peak hour trip ends on a
3 State Highway or Class 1 Town Highway or is required to obtain a permit per
4 19 V.S.A. § 1111.

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

6 §10b. STATEMENT OF POLICY; GENERAL

7 * * *

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

12 * * *

13 Sec. 34. REPEAL

14 24 V.S.A. chapter 76A is repealed.

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

16 CHAPTER 139. STATE COMMUNITY REVITALIZATION PROGRAM

17 § 5801. DEFINITIONS

18 As used in this chapter:

19 (1) “Community Revitalization Program” means the program
20 established in this chapter, as adapted from the former Designated Areas
21 Program formerly in chapter 76A of this title. Statutory references outside this

1 chapter referring to the former State Designated Village Centers, Downtown
2 Centers, and New Town Centers shall mean Designated Center, once
3 established. Statutory references outside this chapter referring to the former
4 State Designated Growth Centers and Neighborhood Development areas shall
5 mean Designated Neighborhood, once established.

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

8 (3) “Department” means the Department of Housing and Community
9 Development.

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

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

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

6 (7) “Local downtown organization” means either a nonprofit
7 corporation, or a board, council, or commission created by the legislative body
8 of the municipality, whose primary purpose is to administer and implement the
9 community reinvestment agreement and other matters regarding the
10 revitalization of the downtown.

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

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

17 (10) “Smart growth principles” means growth that:

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

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

1 (C) Enables choice in modes of transportation.

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

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

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

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

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

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

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

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

19 (iii) the fragmentation of farmland and forestland;

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

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

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

12 (13) “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 (14) “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 (15) “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 (16) “Vermont Downtown Program” means the Vermont branch of the
4 State Coordinating Program of “Main Street America” that provides technical
5 assistance, training, and funding incentives to downtown organizations.

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

11 § 5802. VERMONT COMMUNITY REVITALIZATION BOARD

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

15 (1) the Secretary of Commerce and Community Development;

16 (2) the Secretary of Transportation;

17 (3) the Secretary of Natural Resources;

18 (4) the Commissioner of Public Safety;

19 (5) the State Historic Preservation Officer;

20 (6) the Director of Racial Equity;

1 (7) a person, appointed by the Governor from a list of three names
2 submitted by the Vermont Natural Resources Council and the Preservation
3 Trust of Vermont;

4 (8) a person, appointed by the Governor from a list of three names
5 submitted by the Association of Chamber Executives;

6 (9) three public members representative of local government, one of
7 whom shall be designated by the Vermont League of Cities and Towns and
8 two of whom shall be appointed by the Governor;

9 (10) the Executive Director of the Vermont Bond Bank;

10 (11) the State Treasurer;

11 (12) a member of the Vermont Planners Association designated by the
12 Association;

13 (13) the Chair of the Environmental Review Board; and

14 (14) a representative of a Regional planning commission designated by
15 the Vermont Association of Planning and Development Agencies Region or
16 their designee.

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

19 (c) The Department shall provide legal, staff, and administrative support to
20 the State Board; shall produce guidelines to direct municipalities seeking to
21 obtain designation under this chapter and for other purposes established by this

1 chapter; and shall pay per diem compensation for board members pursuant to
2 32 V.S.A. § 1010(b).

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

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

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

8 (1) to serve as the funding and benefits coordination body for the State
9 Community Revitalization Program;

10 (2) to review and issue decisions on proposed regional plan future land
11 use maps prepared by the Regional planning commission and presented to the
12 Environmental Review Board for Designated Center and Designated
13 Neighborhood recognition under this chapter;

14 (3) to recommend conditioned designation approvals and modifications
15 to the regional plan future land use maps presented for the designated areas;

16 (4) to recommend suspension or removal of a designation approved by
17 the Environmental Review Board;

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

19 (6) to manage the Downtown Transportation and Related Capital
20 Improvement Fund Program established by section 5808 of this title;

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

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

5 § 5803. MAPPING BY REGIONAL PLANNING COMMISSIONS

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

16 (b) Exclusions. With the exception for preexisting, nonconforming
17 designations approved prior to the establishment of this program, the areas
18 eligible for designation on the regional plan future land use map for
19 designation as a Center shall not include leap-frog development that is
20 disconnected from a Center and that lacks a pedestrian connection to the

1 Center via a complete street or the following categories defined in regional
2 plan future land use maps:

3 (1) transition areas;

4 (2) unplanned expansions not served by infrastructure;

5 (3) resource-based recreation areas;

6 (4) enterprise areas not part of a regional planned growth area; and

7 (5) rural areas: hamlets, general, farms, forest, conservation areas.

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

11 (d) The Vermont Association of Planning and Development Agencies
12 (VAPDA) shall develop a standard methodology for the regional plan future
13 land use maps that shall include the areas eligible for designation under this
14 chapter which shall integrate consistent elements in the municipal and regional
15 plan.

16 (e) On or before December 31, 2024, the VAPDA shall develop standard
17 methodology and process for the mapping of areas eligible for designation
18 under this chapter in consultation with the Department and Environmental
19 Review Board that shall integrate elements in the regional plan and plan for a
20 municipality. The methodology and process shall recommend a streamlined
21 procedure for minor amendments by the State Board to the boundaries of the

1 approved designated areas upon request by member municipalities to map
2 eligible areas for designation under this chapter.

3 (f) Any regional planning commission may issue independent comments to
4 the panel or State Board on a proposed regional plan future land use map. The
5 VAPDA shall develop a pre-adoption process by which the Department and
6 Environmental Review Board can review the proposed regional plan future
7 land use maps and issue findings on conformance with this chapter and chapter
8 117 of this title.

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

13 § 5804. DESIGNATION OF DOWNTOWN AND VILLAGE CENTERS

14 (a) Designation established. A regional planning commission may apply to
15 the Environmental Review Board for designation of all Centers within the
16 regional planning commission by submitting the regional plan future land use
17 map adopted by the region. The Environmental Review Board shall seek the
18 advice and consent of the Department and State Board on areas eligible for
19 Center Designation as provided under this chapter.

20 (1) A preapplication meeting shall be held with Environmental Review
21 Board and Department staff to review the program requirements at least 60

1 days prior to submission and review of the regional planning commission
2 future land use map and adjoining regional planning commission review. The
3 meeting shall be held in the regional planning commission unless the regional
4 planning commission agrees to another location.

5 (2) An application by a regional planning commission shall contain the
6 regional plan future land use map that delineates all centers eligible for
7 designation within the municipalities throughout the regional planning
8 commission. The regional plan future land use map shall identify Downtown
9 Centers and Village Centers as the downtown and village areas eligible for
10 designation as Centers. The application shall also include evidence that the
11 municipalities have been notified of the regional planning commission's intent
12 to apply, evidence that notice of its application has been published on the
13 regional planning commission's website, and information showing that the
14 eligible regional land use areas that the standards for designation established in
15 this chapter.

16 (b) Inclusions. The areas designated by the regional planning commissions
17 as a center shall allow for the designation of preexisting, approved village
18 centers, downtown centers, and new town centers in existence on or before
19 December 25, 2025.

20 (c) Approval. The Environmental Review Board shall hold a hearing to
21 approve a regional plan future land use map within 90 days following the

1 receipt of a complete application and forward the application to the
2 Department within 15 days. The State Board shall hold a hearing on a
3 complete application to review the regional plan future land use map within
4 60 days following the receipt of a complete application. The State Board shall
5 issue a written decision that the regional plan future land use map has met the
6 requirements of at least one Step one the Benefits ladder described in
7 subsection (e) of this section and forward its decision to the Environmental
8 Review Board. The Environmental Review Board shall issue specific written
9 findings if its decision does not accept the State Board's determination for
10 community revitalization boundaries.

11 (d) Transition. All designated village centers, new town centers, or
12 downtowns existing as of July 1, 2024 will retain current benefits until July 1,
13 2029 or until approval of the regional future land use maps by the State Board,
14 whichever comes first. All existing designations in effect July 1, 2024 will
15 expire July 1, 2029 if the regional planning commission does not receive State
16 Board approval of the regional plan future land use maps under this chapter.
17 All benefits for preexisting designated village centers, downtowns, and new
18 town centers that are removed under this chapter shall remain with the prior
19 designations existing as of July 1, 2024 until July 1, 2032. During the period
20 of transition, no renewal shall be required for the preexisting designations.
21 New applications may be approved by the State Board prior to the approval of

1 a regional future land use map under former chapter 76A of this title by the
2 State Board until July 1, 2025.

3 (e) Benefits Steps. A Center may receive the benefits associated with the
4 steps in this chapter by meeting the established requirements. The Department
5 shall review applications from municipalities to advance from Step One to
6 Two and from Step Two to Three and issue written decisions. If a municipal
7 application is rejected by the Department, the municipality may appeal the
8 administrative decision to the State Board. Applications to the Department
9 will be reviewed and approved by Staff within 30 days following receipt of a
10 complete application. Appeals will be heard by the State Board within 30 days
11 following an appeal. The Department may issue guidelines to administer these
12 steps.

13 (1) Step One.

14 (A) Requirements. Step One is established to create an accessible
15 and low-barrier entry point for all villages throughout the State to access site-
16 based improvement supports and conduct initial planning. Any municipality
17 with an approved Designated Village Center as of July 1, 2024 shall
18 automatically reach Step One upon approval of the regional plan future land
19 use map by the Environmental Review Board. Regional plan future land use
20 maps supersede preexisting designated areas that may already meet the Step
21 One requirement.

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

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

7 (ii) funding for developing or amending the municipal plan,
8 visioning, and assessments.

9 (2) Step Two.

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

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

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

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

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

20 (i) general grant priority for bylaws and special-purpose plans,
21 area improvement or reinvestment plans, including the Better Connections

1 Program and other applicable programs identified by Department guidance,
2 and for capital plans.

3 (ii) funding for infrastructure project scoping, design, engineering,
4 including participation in the Downtown Transportation and Related Capital
5 Improvement Fund Program established by section 5808 of this title.

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

9 (iv) priority consideration for State and Federal affordable housing
10 funding;

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

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

15 (vii) exemption from the land gains tax under 32 V.S.A.
16 § 10002(p).

17 (3) Step Three.

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

- 1 (i) Meets the requirements of Step Two, or if it has an existing
2 designated downtown in effect as of July 1, 2024.
- 3 (ii) Is listed or eligible for listing in the National Register of
4 Historic Places.
- 5 (iii) Has a downtown improvement plan.
- 6 (iv) Has a downtown investment agreement.
- 7 (v) Has a capital plan that implements the downtown improvement
8 plan.
- 9 (vi) Has a Local Downtown Organization with an organizational
10 structure necessary to sustain a comprehensive long-term downtown
11 revitalization effort, including a local downtown organization that will
12 collaborate with municipal departments, local businesses, and local nonprofit
13 organizations. The Local Downtown Organization shall work to;
- 14 (I) enhance the physical appearance and livability of the
15 downtown district by implementing local policies that promote the use and
16 rehabilitation of historic and existing buildings, by developing pedestrian-
17 oriented design requirements, by encouraging new development and infill that
18 satisfy such design requirements, and by supporting long-term planning that is
19 consistent with the goals set forth in section 4302 of this title;

1 (II) build consensus and cooperation among the many groups
2 and individuals who have a role in the planning, development, and
3 revitalization process;

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

6 (IV) strengthen, diversify, and increase the economic activity
7 within the downtown district; and

8 (V) measure annually progress and achievements of the
9 revitalization efforts as required by Department guidelines.

10 (vii) Has available water and wastewater service and capacity.

11 (viii) Has permanent zoning and subdivision bylaws.

12 (ix) Has adopted historic preservation regulations for the district
13 with a demonstrated a commitment to protect and enhance the historic
14 character of the downtown through the adoption of bylaws that adequately
15 meet the historic preservation requirements in subdivisions 4414(1)(E) and (F)
16 of this title, unless recognized by the program as a preexisting designated new
17 town center.

18 (x) Has adopted design or form-based regulations that adequately
19 regulate the physical form and scale of development.

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

1 (i) Funding for the local downtown organization and technical
2 assistance from the Vermont Downtown Program for the Center.

3 (ii) Tax Increment Financing location pursuant to 32 V.S.A.
4 § 5404a.

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

7 (iv) A rebate of the cost of a qualified sprinkler system in an
8 amount not to exceed \$2,000.00 for building owners or lessees. Rebates shall
9 be paid by the Department of Public Safety. To be qualified, a sprinkler
10 system must be a complete automatic fire sprinkler system installed in accord
11 with Department of Public Safety rules in an older or historic building that is
12 certified for a State tax credit under 32 V.S.A. § 5930cc(a) or (b) and is located
13 in a Center. A total of not more than \$40,000.00 of rebates shall be granted in
14 any calendar year by the Department of Public Safety. If in any year
15 applications for rebates exceed this amount, the Department of Public Safety
16 shall grant rebates for qualified systems according to the date the building was
17 certified for a State tax credit under 32 V.S.A. § 5930cc(a) or (b) with the
18 earlier date receiving priority.

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

20 (vi) Certain appeal limitations pursuant to chapter 117 of this title.

1 (vii) Highest priority for locating proposed State functions by the
2 Commissioner of Buildings and General Services or other State officials, in
3 consultation with the municipality, Department, State Board, the General
4 Assembly committees of jurisdiction for the Capital Budget, the host regional
5 planning commission. When a downtown location is not suitable, the
6 Commissioner shall issue written findings to the consulted parties
7 demonstrating how the suitability of the State function to a downtown location
8 is not feasible.

9 (viii) Until 2032, regulatory benefits under 10 V.S.A. chapter 151.

10 (f) Appeal. A decision of the Environmental Review Board on regional
11 plan future land use map approval for designations under this section may be
12 appealed to the Environmental Division of the Superior Court within 15 days
13 following the issuance of the written decision.

14 § 5805. DESIGNATED NEIGHBORHOOD

15 (a) Designation established.

16 (1) A regional planning commission may apply to the Environmental
17 Review Board for designation of residential areas on the regional plan future
18 land use maps within that regional planning commission as a Designated
19 Neighborhood. Areas eligible for designation include Planned Growth Area
20 and Village Areas identified on the regional plan future land use map. This
21 designation recognizes that continued reinvestment is needed to maintain the

1 vitality of downtowns and villages and their adjacent neighborhoods, and that
2 the benefits structure must ensure that any subsidy for sprawl repair or infill
3 development locations within a Neighborhoods is secondary to a primary
4 commitment to maintain the livability and maximize the climate resilience and
5 flood-safe infill potential of these areas.

6 (2) An application for a Designated Neighborhood shall supplement the
7 original application for the associated designation and follow the same
8 application process.

9 (3) An application by a regional planning commission shall contain the
10 regional plan future land use map that accurately delineates the Planned
11 Growth Area and Village Areas as the areas eligible for designation as
12 Neighborhoods. The application shall also include evidence that the
13 municipalities have been notified of the regional planning commission's intent
14 to apply, evidence that notice of its application has been published on the
15 commission's website, and information showing that the district meets the
16 standards for designation established in subsection (d) of this section.

17 (b) Exclusions. The areas eligible for designation as a Neighborhood shall
18 not include the excluded regional areas identified on the regional plan future
19 land use map and flood hazard and fluvial erosion areas, except those areas
20 containing preexisting development in areas suitable for infill development as

1 defined in section 29-201 of the Vermont Flood Hazard Area and River
2 Corridor Rule, as determined by the Agency of Natural Resources.

3 (c) Approval. The Environmental Review Board shall hold a hearing to
4 approve a regional plan future land use map within 90 days following the
5 receipt of a complete application and forward the application to the
6 Department within 15 days. The State Board shall hold a hearing on a
7 complete application to review the regional plan future land use map within
8 60 days following the receipt of a complete application. The State Board shall
9 issue a written decision that the regional future land use map has met the
10 requirements described in subsection (d) of this section and forward its
11 decisions to the Environmental Review Board. The Environmental Review
12 Board shall issue specific written findings if its decision does not accept the
13 State Board's determination for community revitalization boundaries.

14 (d) Transition. Any municipality with an existing designated growth center
15 or neighborhood development area will retain current benefits until July 1,
16 2029 or upon approval of the regional plan future land use maps, whichever
17 comes first. All existing neighborhood development area and growth center
18 designations in effect July 1, 2024 will expire July 1, 2029 if the regional
19 planning commission does not gain approval. All benefits that are removed for
20 neighborhood development areas and growth centers under this chapter shall
21 remain active with prior designations existing as of July 1, 2024 until July 1,

1 2032. During the period of transition, no renewal shall be required for the
2 existing designations. Prior to the approval of a regional plan future land use
3 map by the State Board, only neighborhood development area designations
4 may be approved by the State Board.

5 (e) Requirements. A Designated Neighborhood shall meet the following
6 requirements:

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

10 (2) is anchored by a contiguous Center designated under this chapter,
11 unless recognized by the program as a preexisting designated neighborhood
12 development area or a growth center or otherwise separated by a river corridor
13 or flood hazard area;

14 (3) has a confirmed municipal planning process;

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

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

20 (f) Benefits. A Designated Neighborhood is eligible for the following
21 benefits:

1 (1) general grant priority for bylaws and special-purpose plans, area
2 improvement or reinvestment plans, including the Better Connections Program
3 and other programs identified in Department guidance, and for capital plans;

4 (2) funding for infrastructure project scoping, design, engineering,
5 including participation in the Downtown Transportation and Related Capital
6 Improvement Fund Program established by section 5808 of this title;

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

9 (4) priority consideration for State and federal affordable housing
10 funding;

11 (5) priority for funding for neighborhood infrastructure;

12 (6) authority for the municipal legislative body to lower speed limits to
13 20 mph within the Neighborhood;

14 (7) application fee limit for State wastewater applications stated in
15 3 V.S.A. § 2822(j)(4)(D); and

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

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

1 § 5806. DESIGNATION OF A PLANNED-GROWTH AREA

2 (a) Designation established.

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

16 (2) The municipal plan shall include the intention to apply for
17 designation as a Planned Growth Area under this section, and the plan shall
18 explain how the designation would further the municipality's goals and the
19 goals of section 4302 of this title.

20 (3) A preapplication meeting shall be held with Environmental Review
21 Board staff to review the program requirements and to preliminarily identify

1 possible designation boundaries. The meeting shall be held in the municipality
2 unless another location is agreed to by the municipality.

3 (4) An application by a municipality shall contain a map that accurately
4 delineates the proposed Designated Planned Growth Area and is consistent
5 with the eligible areas on the regional planning map for the municipality. The
6 application shall also include evidence that the regional planning commission
7 has been notified of the municipality's intent to apply, evidence that the
8 regional planning commission, through action of its board, supports the
9 boundaries of the Area, evidence that the municipality has published notice of
10 its application in a local newspaper of general circulation within the
11 municipality, and information showing that the district meets the standards for
12 designation established in subsection (b) of this section.

13 (b) Approval. The Environmental Review Board shall hold a hearing on a
14 complete application to review the regional plan future land use map within
15 60 days following the receipt of a complete application. The Environmental
16 Review Board shall designate a Planned Growth Area if the Environmental
17 Review Board finds in its written decision that the municipality has met the
18 requirements of subsection (c) of this section.

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

1 (1) land development regulations, including addressing 10 V.S.A.
2 § 6086(a)(9)(L), smart growth principles and elements in the existing
3 Neighborhood Development Area Designation;

4 (2) advanced development review administration as allowed under the
5 Environmental Review Board rules;

6 (3) an enhanced energy plan and housing mitigation plan to advance the
7 State's energy plan and climate action plan goals.

8 (4) advanced capital planning that supports the smart growth principles,
9 Complete Streets, and climate action;

10 (5) maps of water, sewer, and stormwater infrastructure and an
11 ordinance on connections to public systems; and

12 (6) area improvement plan and capital investments for settlement
13 expansion, infill development, or sprawl repair.

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

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

17 (2) Tax Increment Financing location.

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

1 § 5807. TRANSITION

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

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

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

14 § 5808. DESIGNATION DATA CENTER

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

1 § 5809. MUNICIPAL TECHNICAL ASSISTANCE

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

5 (b) The procedure shall include interagency assistance and address the
6 following:

7 (1) general project advising and scoping services;

8 (2) physical improvement design services;

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

10 (4) programmatic and project management services; and

11 (5) legislative recommendations to the General Assembly to better align
12 designation benefits with strategic priorities on or before December 15, 2026.

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

16 (1) housing development growth and equity;

17 (2) climate resilience;

18 (3) coordinated infrastructure investment;

19 (4) local administrative capacity;

20 (5) equity, diversity, and access;

21 (6) livability and social service; and

1 (7) historic preservation.

2 § 5810. DOWNTOWN TRANSPORTATION AND RELATED CAPITAL

3 IMPROVEMENT FUND

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

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

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

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

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

16 (c) Any municipality with a designated Center may apply to the Board for
17 financial assistance from the Fund for capital transportation and related
18 improvement projects within or serving the district. The Board may award to
19 any municipality grants in amounts not to exceed \$250,000.00 annually, loans,
20 or loan guarantees for financing capital transportation projects, including
21 construction or alteration of roads and highways, parking facilities, and rail or

1 bus facilities or equipment, or for the underground relocation of electric utility,
2 cable, and telecommunications lines, but shall not include assistance for
3 operating costs. Grants awarded by the Board shall not exceed 80 percent of
4 the overall cost of the project. The approval of the Board may be conditioned
5 upon the repayment to the Fund of some or all of the amount of a loan or other
6 financial benefits and such repayment may be from local taxes, fees, or other
7 local revenues sources. The Board shall consider geographical distribution in
8 awarding the resources of the Fund.

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

14 § 5811. PROPERTY ASSESSMENT FUND; BROWNFIELDS AND
15 REDEVELOPMENT; COMPETITIVE PROGRAM

16 (a) There is created a Property Assessment Fund pursuant to 32 V.S.A.
17 chapter 7, subchapter 5 to be administered by the Department of Housing and
18 Community Development for the purpose of providing financing, on a
19 competitive basis, to municipalities that demonstrate a financial need in order
20 to determine and evaluate a full assessment of the extent and the cost of
21 remediation of property, or in the case of an existing building, an assessment

1 that supports a clear plan, including the associated costs of renovation to bring
2 the building into compliance with State and local building codes. This shall be
3 the same Fund that was created under the prior section 2797 of this title.

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

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

7 (2) any gifts, grants, or other contributions to the funds; and

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

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

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

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

19 (d) The Department shall distribute funds under this section in a manner
20 that provides funding for assessment projects of various sizes in as many

1 geographical areas of the State as possible and may require matching funds
2 from the municipality in which an assessment project is conducted.

3 § 5812. BETTER PLACES PROGRAM; CROWD GRANTING

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

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

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

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

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

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

16 (3) any interest earned by the Fund.

17 (c) As used in this section, “public space” means an area or place that is
18 open and accessible to all people with no charge for admission and includes
19 village greens, squares, parks, community centers, town halls, libraries, and
20 other publicly accessible buildings and connecting spaces such as sidewalks,
21 streets, alleys, and trails.

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

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

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

10 (4) The minimum amount of a grant award is \$5,000.00, and the
11 maximum amount of a grant award is \$40,000.00.

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

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

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

18 (C) A donor may not contribute more than \$10,000.00 or 35 percent
19 of the campaign goal, whichever is less.

20 (D) An applicant shall provide matching funds raised through
21 crowdfunding of not less than 33 percent of the grant award. The Department

1 may require a higher percent of matching funds for certain project areas to
2 ensure equitable distribution of resources across Vermont.

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

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

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

12 § 5930aa. DEFINITIONS

13 As used in this subchapter:

14 * * *

15 (2) “Qualified building” means a building built at least 30 years before
16 the date of application, located within a designated ~~downtown, village center,~~
17 ~~or neighborhood development area~~ Center or Neighborhood, which, upon
18 completion of the project supported by the tax credit, will be an income-
19 producing building not used solely as a single-family residence. Churches and
20 other buildings owned by religious organization may be qualified buildings,
21 but in no event shall tax credits be used for religious worship.

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

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

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

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

15 * * *

16 (5) “Qualified façade improvement project” means the rehabilitation of
17 the façade of a qualified building that contributes to the integrity of the
18 designated ~~downtown, designated village center, or neighborhood development~~
19 ~~area~~ Center or Neighborhood. Façade improvements to qualified buildings
20 listed, or eligible for listing, in the State or National Register of Historic Places

1 must be consistent with the Secretary of the Interior Standards, as determined
2 by the Vermont Division for Historic Preservation.

3 (6) “Qualified Flood Mitigation Project” means any combination of
4 structural and nonstructural changes to a building located within ~~the flood~~
5 ~~hazard area as mapped by the Federal Emergency Management Agency a~~
6 designated downtown, designated village center, or neighborhood development
7 area that reduces or eliminates flood damage to the building or its contents.
8 This may include, but is not limited to, relocation of HVAC, electrical,
9 plumbing, and other building systems, and equipment above the flood level;
10 repairs or reinforcement of foundation walls, including flood gates; or
11 elevation of an entire eligible building above the flood level. Further eligible
12 projects may be defined via program guidance. The project shall comply with
13 the municipality’s adopted flood hazard bylaw, if applicable, and a certificate
14 of completion shall be submitted by a registered engineer, architect, qualified
15 contractor, or qualified local official to ~~the State Board~~ program staff.

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

20 * * *

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

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

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

19 § 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX

20 CREDITS

21 * * *

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

13 (d) Flood Mitigation Tax Credit. The qualified applicant of a qualified
14 flood mitigation project shall be entitled, upon the approval of the State Board,
15 to claim against the taxpayer's State individual income tax, State corporate
16 income tax, or bank franchise or insurance premiums tax liability a credit of
17 50 percent of qualified expenditures up to a maximum tax credit of ~~\$75,000.00~~
18 \$100,000.00.

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

2 § 5930ee. LIMITATIONS

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

5 (1) the total amount of tax credits awarded annually, together with sales
6 tax reallocated under section 9819 of this title, does not exceed ~~\$3,000,000.00~~
7 \$5,000,000.00;

8 * * *

9 Sec. 41. REVISION AUTHORITY

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

13 * * * Effective Dates * * *

14 Sec. 42. EFFECTIVE DATES

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

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

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