

Thomas Weiss, P. E.  
P. O. Box 512  
Montpelier, Vermont 05601  
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House Committee on Environment  
State House  
Montpelier, Vermont

Subject: S.325, as passed by the Senate

Dear Committee:

Thank you for the opportunity to testify this morning. I am a civil engineer who has experience in preparing documents used for environmental permitting. And I have testified on behalf of a party with a particularized interest in an Act 250 proceeding.

My comments this morning relate to the process for transferring conditions of an Act 250 permit to a municipal permit and to the insufficiency of municipal and State permitting for evaluating the Act 250 criteria.

**LURB oversight and additional notice when transferring Act 250 conditions to municipal permits**  
**Section 9 of S.325.**

**Require the Land Use Review Board to have oversight over the transfer of conditions**

A recent decision by a District Environmental Commission illustrates why I recommend notifying all parties of transfer of conditions and requiring oversight of the Land Use Review Board when transferring conditions.

The decision relates to project number 3W0568-4, decided March 23, 2026. The decision and background were reported in the *Valley News* on March 24 and posted at [VTDigger.org](http://VTDigger.org) on March 28. The headline is "Board denies resort's request to tear down historic Woodstock homes"

The District 3 Environmental Commission denied an application by the Woodstock Inn to remove a permit condition from the previous permit (5W0568-3, 2009) in the series. The applicant wanted to remove the condition so it could demolish two houses that were protected by the condition. The condition required that the "permittee shall maintain for future use the buildings" and repair any deterioration identified during required annual inspections. The denial was based in part because retaining the two houses was essential to the previous permit, so the condition could not be removed and the houses could not be demolished.

Section 9 of S.325 proposes to amend the provisions relating to enforcement of Act 250 permits within Tier 1A areas. Section 9 also contains the existing provisions by which conditions in Act 250 permits may and may not be transferred to a municipal permit. Two of the conditions are relevant here. (24 V.S.A. § 4460 (g)(2)(D) and (E)). A municipality is not required to transfer Act 250 permit conditions to a municipal permit if the conditions pertain either to "an issue that is addressed by municipal regulation and the project will meet the municipal standards" or to "a physical . . . condition that is no longer . . . applicable . . . once the new project is approved".

The district environmental commission's decision relates to section 9 because "the Village Development Review Board approved a zoning permit allowing the Woodstock Resort Corp. to demolish the buildings. At the time, Inn representatives told town officials last fall they planned to use the land as a green space if the buildings were demolished. The houses were previously used for employee housing and have been vacant for more than 20 years", according to the *Valley News* article. Thus I can foresee that the Development Review Board would not transfer the condition to maintain the buildings for future use, because the DRB issued a permit to demolish the

buildings and because demolishing the buildings would meet the municipal standards and would no longer exist after the new project to demolish the buildings was approved.

A municipality is required only to notify the Land Use Review Board of the transfer of conditions. There is no requirement that the Land Use Review Board have a say in which conditions must be transferred. And there is no requirement that the municipality must provide notice to the Land Use Review Board of the hearing at which the conditions will be transferred.

This decision in Woodstock is an example of why the Land use Review Board needs to have oversight of the conditions being transferred. If this had occurred in a tier 1A area, it is likely that the municipality would have not transferred the condition and would have allowed the demolition of the historic structures.

### **Require notification of all parties**

The procedures for transferring conditions of Act 250 permits to municipal permits require the Development Review Board to send notices of the hearing. The DRB is not required to notify all parties to the Act 250 permit. Non-statutory parties have spent considerable time and effort achieving and maintaining party status. Those parties need to be notified of the opportunity to support transfer of the conditions they achieved through their efforts. Statute does not require the DRB to give those parties even the courtesy of a notification that some of the conditions important to them might be going away.

### **Recommendations:**

- Require the Land Use Review Board to have oversight of the transfer of conditions to a municipal permit
- Require all parties to an act 250 permit to be notified of a hearing to transfer conditions

These recommendations would amend section 9 of S.325 as follows or something similar.

24 V.S.A. 4460, Appropriate municipal panels

(g)(2)(D) Repealed.

(g)(2)(E) a physical or use condition that is no longer in effect or applicable ~~or that will no longer be in effect or applicable once the new project is approved.~~

(g) (4) The appropriate municipal panel shall comply with the notice and hearing requirements provided in subdivision 4464(a)(1) of this title and provide notice to the Land Use Review Board and the relevant District Environmental Commission. In addition, notice shall be provided to those persons requiring notice under 10 V.S.A. § 6084(b) and all those who had party status under 10 V.S.A. § 6085(c)(6), Reexamination of party status, and The notice shall explicitly reference that some conditions of the existing Act 250 permit or permit amendment will be transferred to the municipal permit and that the Act 250 permit no longer will be enforced.

### **Delegation is contrary to Act 250**

#### **Delegation vs. Exemption**

Act 250's two strongest points are the District Environmental Commissions and its comprehensiveness. The district commissions were established to prevent what happened in the Woodstock example I just summarized. The district commissions were established to keep municipal politics out of Act 250. The district commissions are outside of municipal politics and much more approachable than a centralized State agency. Act 250's broad range of criteria makes it comprehensive. One knows that there are no holes or gaps in the planning and permitting of a project when an Act 250 permit has been issued.

I find it hard to envision a successful delegation of authority to municipalities without both of those strong points: comprehensive and not subject to municipal politics.

The term "delegation" has been used in your committee as a substitute for the current term "exemption". I find nothing in the present statutes that even remotely approaches delegation. Dictionary definitions of "delegation" mean that a municipality would be entrusted with the administration of Act 250. What will happen in Tier 1A areas under the present statutes is properly called exemption. It would be a gross distortion of the meaning of delegation to call the present provisions delegation.

The Vermont League of Cities and Towns used shorelands as an example of delegation of authority to municipalities. This is delegation of the Department of Environmental Conservation permit in 10 V.S.A. chapter 49A, Lake Shoreland Protection Standards. Delegation requires the Secretary of Natural Resources to determine that the municipal bylaw or ordinance is functionally equivalent to certain requirements in Chapter 49A. The Secretary has delegated authority to only four municipalities (Burlington, Colchester, Elmore, and Greensboro) under the program that began in 2014, 12 years ago. The corresponding situation for delegation of Act 250 permitting to municipalities would be to have the five-member Land Use Review Board find that the municipal bylaw or ordinance is functionally equivalent to at least 10 V.S.A §6086(a), the Act 250 criteria. And the Land Use Review Board will need to have ongoing oversight of the delegations.

**Municipal permits are not required to address any Act 250 criteria**

Municipal permits are neither redundant nor duplicative when compared with Act 250 permits. I found in 2024 that there is no required overlap in the way the two permits look at a project. And the tier 1A statute does not require that the municipal bylaws evaluate any Act 250 criteria.

Act 250 has 37 criteria and subcriteria by my count. None are required to be evaluated by zoning or subdivision bylaws (subchapters 6 and 7 in chapter 117). Twenty-six are optional and 11 are not addressed by the chapter 117 requirements. If a municipality chooses to use some of the options, statutes give no guidance on how to incorporate the options into the bylaws. A table showing my comparison is enclosed.

The Vermont League of Cities and Towns asked you (April 9) to allow a municipality's standards and regulations to be used where they are the same or better than the State's or Act 250's. What does it mean to be the same or better? Being the same means that the municipality is using the Act 250 criteria and procedures when evaluating municipal permits. Being better means that the municipality's standards and procedures are "more stringent or restrictive". (24 V.S.A. §4413(C)). I do not see how being the same or better could mean a lessening of the Act 250 criteria or processes.

Much is lost when Act 250 jurisdiction is removed. Municipal bylaws are not required to consider any of the Act 250 criteria. Development review boards are not designed to provide the interaction available at an Act 250 hearing. In addition, municipal bylaws have limited ability to regulate projects that are: state-owned or -operated; community-owned or -operated; schools or educational institutions; for religious purposes; for regional solid waste management; or for hazardous waste management. Act 250 can have jurisdiction over all of them.

**State permits collectively are not comprehensive and have different scopes and requirements than Act 250**

The Vermont League of Cities and Towns showed you the relationship between the Act 250 criteria and municipal and State permits. (Slide 4 on April 9). The slide shows 27 criteria and subcriteria for Act 250. State permits overlap with only half the Act 250 criteria and subcriteria. Where there is overlap, the scope and requirements for the State permit differ from those for an Act 250 permit. The legislature intentionally made the differences. When the criterion and the permit are established at different times, the legislature has the opportunity to make the criterion and the permit the same or to make them different. I take that to mean that the differences are not duplicative. Rather the differences were intentionally created to serve different purposes.

The slide fails to support a claim that Act 250 is duplicative. It does show that Act 250 is comprehensive, and that the municipal and State permits collectively are not comprehensive.

One example of intentional differences is injection wells. DEC may issue a permit for an injection well. Act 250 prohibits injection wells. Permits for injection wells were created in 1973 (now 10 V.S.A. §1259(a)). The prohibition on injection wells on Act 250 projects was added into criterion 1(B) also in 1973.

Occasionally, the State, municipal, and Act 250 responsibilities are made at the same time. One example is wetlands. Act 185 (1986) added wetlands to all three. It defined wetlands differently in title 10, chapter 37 (wetland protection and water resources management) and in title 24 chapter 117 (municipal and regional planning and development). It required the Board (probably the Water Resources Board back then) to adopt rules to identify and to protect significant wetlands. It authorized the Agency of Natural Resources to enforce the board's rules. It added wetlands to the Act 250 criteria (1(G)). It gave regional planning commissions the options to include wetlands in their responsibilities and to include wetlands protection in the land use element of a regional plan. It required municipalities to include wetlands protection in their land use plans and required municipalities to co-ordinate with the Department of Environmental Conservation before issuing a zoning permit for development within or affecting wetlands. Again, the differences are intentional.

**Recommendation:**

- Retain Act 250 permitting with district environmental commissions.
- Do not create a mechanism for delegation
- Do not ask for a study of delegation.

**Other thoughts**

**Section 4 of S.325.** Thank you for recognizing that portions of section 4 are contrary to the concept of compact centers separated by rural countryside.

**Sections 5 and 6 of S.325.** Thank you for removing these sections which would have granted authority to the Land Use Review Board to evaluate fewer than all Act 250 criteria in tier 3 and in areas subject to road jurisdiction. The value of an Act 250 permit is reduced if it does not cover all the criteria.

**Recommendations:**

- Remove the contrary portions in Section 4.
- Make sure that all Act 250 applications and all municipal permits in Tier 1A areas will be reviewed using all criteria.

**Conclusion**

I have placed recommendations at three locations in these comments. I ask that you find that the recommendations have merit and that you use them to shape S.325 accordingly.

Sincerely,  
Thomas Weiss, P. E.

Encl. Act 250 Criteria as Covered by Zoning (10 pp.)

Act 250 Criteria  
As Covered by Zoning  
Prepared March 1, 2024  
Thomas Weiss

Things lost:

Meaningful participation in the development of a permit by parties with particularized interests (which Act 250 has and zoning lacks)

4413(a)

- Jurisdiction over state-owned or -operated institutions and facilities
- Jurisdiction over community-owned- or- operated institutions and facilities
- Jurisdiction over public and private schools and other educational institutions certified by the Agency of Education
- Jurisdiction over churches and other places of worship, convents, and parish houses
- Jurisdiction over regional solid waste management facilities
- Jurisdiction over hazardous waste management facilities

4420 - Local Act 250 review of municipal impacts

4412 - ability to review the increased housing densities of 4412(12) and (13) for effects on any of the Act 250 criteria, including: congestion, growth, effects on municipal facilities and services.

subject	Act 250 criterion or subcriterion (6086(a))	Coverage by Chapter 117, subchapters 6 and 7.
Water pollution	(1) Will not result in undue water . . . pollution. In making this determination it shall at least consider: the elevation of land above sea level; and in relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable Health and Environmental Conservation Department regulations.	Optional - 4411(b)((3)(C)) - steep slope Optional - 4412(2)(A) - small lots Optional - 4414(1)(D) - shorelands Optional - 4414(2) - overlay districts Optional - 4414(9) - stormwater management and control Optional - 4414(13) - wastewater and potable water supply systems  Several provisions benefit from having municipal water and sewer available. However, those provisions do not require determinations as to whether the water supply or sewer system is functioning properly or has sufficient capacity for the development.
Air pollution	(1) Will not result in undue . . . air pollution. In making this determination it shall at least consider: . . . the applicable Health and Environmental Conservation Department regulations.	Optional - 4414(5) - performance standards

subject	Act 250 criterion or subcriterion (6086(a))	Coverage by Chapter 117, subchapters 6 and 7.
Headwaters	<p>(1)(A) Headwaters. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria, the development or subdivision will meet any applicable Health and Environmental Conservation Department regulation regarding reduction of the quality of the ground or surface waters flowing through or upon lands which are not devoted to intensive development, and which lands are:</p> <ul style="list-style-type: none"> <li>(i) headwaters of watersheds characterized by steep slopes and shallow soils; or</li> <li>(ii) drainage areas of 20 square miles or less; or</li> <li>(iii) above 1,500 feet elevation; or</li> <li>(iv) watersheds of public water supplies designated by the Agency of Natural Resources; or</li> <li>(v) areas supplying significant amounts of recharge waters to aquifers.</li> </ul>	Not addressed in subchapters 6 or 7.
Waste disposal	<p>(1)(B) Waste disposal. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria, the development or subdivision will meet any applicable Health and Environmental Conservation Department regulations regarding the disposal of wastes, and will not involve the injection of waste materials or any harmful or toxic substances into ground water or wells.</p>	Optional - 4414(5) - performance standards
Water conservation	<p>(1)(C) Water conservation. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria, the design has considered water conservation, incorporates multiple use or recycling where technically and economically practical, utilizes the best available technology for such applications, and provides for continued efficient operation of these systems.</p>	Not addressed in subchapters 6 or 7.
Flood hazard areas and river corridors	<p>(1)(D) Flood hazard areas; river corridors. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria, the development or subdivision of lands within a flood hazard area or river corridor will not restrict or divert the flow of floodwaters; cause or contribute to fluvial erosion; and endanger the health, safety, and welfare of the public or of riparian owners during flooding.</p>	<p>Optional - 4411(a)(5) - regulate uses  Optional - 4411(b)((3)(G) and (H) - additional classifications in districts  Optional - 4413(a)(2) - regulate for compliance with flood insurance  Optional - 4414(1)(G) - RC's / buffers  Optional - 4414(2) - overlay districts  Optional - 4424 - shorelands; river corridor protection areas; flood or flood hazard area</p>

subject	Act 250 criterion or subcriterion (6086(a))	Coverage by Chapter 117, subchapters 6 and 7.
Streams	(1)(E) Streams. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria, the development or subdivision of lands on or adjacent to the banks of a stream will, whenever feasible, maintain the natural condition of the stream, and will not endanger the health, safety, or welfare of the public or of adjoining landowners.	Optional - 4411(b)((3)(B) - additional classifications in districts
Shorelines	(1)(F) Shorelines. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other criteria, the development or subdivision of shorelines must of necessity be located on a shoreline in order to fulfill the purpose of the development or subdivision, and the development or subdivision will, insofar as possible and reasonable in light of its purpose: (i) retain the shoreline and the waters in their natural condition; (ii) allow continued access to the waters and the recreational opportunities provided by the waters; (iii) retain or provide vegetation which will screen the development or subdivision from the waters; and (iv) stabilize the bank from erosion, as necessary, with vegetation cover.	Optional - 4411(a)(1) - uses in shorelands Optional - 4411(b)((3)(B) - additional classifications in districts Optional - 4414(1)(D) - shorelands Optional - 4414(2) - overlay districts Optional - 4424 - shorelands; river corridor protection areas; flood or flood hazard area; special or freestanding bylaws
Wetlands	(1)(G) Wetlands. A permit will be granted whenever it is demonstrated by the applicant, in addition to other criteria, that the development or subdivision will not violate the rules of the Secretary of Natural Resources, as adopted under chapter 37 of this title, relating to significant wetlands.	Optional - 4411(b)((3)(F) - additional classifications in districts Optional - 4414(1)(D) - shorelands
Available water	(2) Does have sufficient water available for the reasonably foreseeable needs of the subdivision or development.	Optional - 4414(13) - wastewater and potable water supply systems
Existing water supply	(3) Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.	Optional - 4414(13) - wastewater and potable water supply systems
Soil erosion	(4) Will not cause unreasonable soil erosion . . .	Not addressed in subchapters 6 or 7.
Water capacity	(4) Will not cause . . . reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.	Not addressed in subchapters 6 or 7.
Transportation (A)	(5)(A) Will not cause unreasonable congestion or unsafe conditions with respect to use of the highways, waterways, railways, airports and airways, and other means of transportation existing or proposed.	Optional - 4411(b)(3)(A) - additional classifications in districts Optional - 4411(b)((3)(E) - additional classifications in districts Optional - designations - 4414(1)(C) - airport hazard areas Optional - 4414(3) - conditional uses (roads and highways)

subject	Act 250 criterion or subcriterion (6086(a))	Coverage by Chapter 117, subchapters 6 and 7.
Transportation (B)	(5)(B) As appropriate, will incorporate transportation demand management strategies and provide safe access and connections to adjacent lands and facilities and to existing and planned pedestrian, bicycle, and transit networks and services. In determining appropriateness under this subdivision (B), the District Commission shall consider whether such a strategy, access, or connection constitutes a measure that a reasonable person would take given the type, scale, and transportation impacts of the proposed development or subdivision.	Optional - 4414(1)(A) - designations
Educational services	(6) Will not cause an unreasonable burden on the ability of a municipality to provide educational services.	Optional - 4414(3) - conditional uses
Municipal and governmental services	(7) Will not place an unreasonable burden on the ability of the local governments to provide municipal or governmental services.	Optional - 4414(3) - conditional uses Optional - 4414(3) - conditional uses
Scenic or natural beauty	(8) Will not have an undue adverse effect on the scenic or natural beauty of the are . . .	Optional - 4414(2) - overlay districts
Aesthetics	(8) Will not have an undue adverse effect on . . . aesthetics . . .)	Optional - 4411(b)((3)(F) - additional classifications in districts Optional - 4414(1)(E) - design review districts Optional - 4414(15) - solar plants; screening
Historic sites	(8) Will not have an undue adverse effect on . . . historic sites . . .	Optional - 4411(b)((3)(F) - additional classifications in districts Optional - 4414(1)(F) - local historic districts and landmarks Optional - 4414(11) - archaeological resources
Natural areas	(8) Will not have an undue adverse effect on . . . rare and irreplaceable natural areas.	Optional - 4411(b)((3)(F) - additional classifications in districts

subject	Act 250 criterion or subcriterion (6086(a))	Coverage by Chapter 117, subchapters 6 and 7.
Wildlife habitat and endangered species	<p>(8) (A) Necessary wildlife habitat and endangered species. A permit will not be granted if it is demonstrated by any party opposing the applicant that a development or subdivision will destroy or significantly imperil necessary wildlife habitat or any endangered species; and</p> <p>(i) the economic, social, cultural, recreational, or other benefit to the public from the development or subdivision will not outweigh the economic, environmental, or recreational loss to the public from the destruction or imperilment of the habitat or species; or</p> <p>(ii) all feasible and reasonable means of preventing or lessening the destruction, diminution, or imperilment of the habitat or species have not been or will not continue to be applied; or</p> <p>(iii) a reasonably acceptable alternative site is owned or controlled by the applicant which would allow the development or subdivision to fulfill its intended purpose.</p>	Optional - 4411(b)((3)(F) - additional classifications in districts
Capability and development plan	<p>(9) Is in conformance with a duly adopted capability and development plan, and land use plan when adopted. However, the legislative findings of subdivisions 7(a)(1) through (19) of Act 85 of 1973 shall not be used as criteria in the consideration of applications by a District Commission.</p>	[NOTE: There is no duly adopted capability and development plan.]
Growth	<p>(9)(A) Impact of growth. In considering an application, the District Commission shall take into consideration the growth in population experienced by the town and region in question and whether or not the proposed development would significantly affect their existing and potential financial capacity to reasonably accommodate both the total growth and the rate of growth otherwise expected for the town and region and the total growth and rate of growth which would result from the development if approved. After considering anticipated costs for education, highway access and maintenance, sewage disposal, water supply, police and fire services, and other factors relating to the public health, safety, and welfare, the District Commission shall impose conditions which prevent undue burden upon the town and region in accommodating growth caused by the proposed development or subdivision. Notwithstanding section 6088 of this title, the burden of proof that proposed development will significantly affect existing or potential financial capacity of the town and region to accommodate such growth is upon any party opposing an application, excepting however, where the town has a duly adopted capital improvement program the burden shall be on the applicant.</p>	Not addressed in subchapters 6 or 7.

subject	Act 250 criterion or subcriterion (6086(a))	Coverage by Chapter 117, subchapters 6 and 7.
Primary agricultural soils	<p>(9)(B) Primary agricultural soils. A permit will be granted for the development or subdivision of primary agricultural soils only when it is demonstrated by the applicant that, in addition to all other applicable criteria, either, the subdivision or development will not result in any reduction in the agricultural potential of the primary agricultural soils; or:</p> <p>(i) the development or subdivision will not significantly interfere with or jeopardize the continuation of agriculture or forestry on adjoining lands or reduce their agricultural or forestry potential;</p> <p>(ii) except in the case of an application for a project located in a designated area listed in subdivision 6093(a)(1) of this title, there are no lands other than primary agricultural soils owned or controlled by the applicant which are reasonably suited to the purpose of the development or subdivision;</p> <p>(iii) except in the case of an application for a project located in a designated area listed in subdivision 6093(a)(1) of this title, the subdivision or development has been planned to minimize the reduction of agricultural potential of the primary agricultural soils through innovative land use design resulting in compact development patterns, so that the remaining primary agricultural soils on the project tract are capable of supporting or contributing to an economic or commercial agricultural operation; and</p> <p>(iv) suitable mitigation will be provided for any reduction in the agricultural potential of the primary agricultural soils caused by the development or subdivision, in accordance with section 6093 of this title and rules adopted by the Natural Resources Board.</p>	Not addressed in subchapters 6 or 7.

subject	Act 250 criterion or subcriterion (6086(a))	Coverage by Chapter 117, subchapters 6 and 7.
Productive forest soils	<p>(9)(C) Productive forest soils. A permit will be granted for the development or subdivision of productive forest soils only when it is demonstrated by the applicant that, in addition to all other applicable criteria, either, the subdivision or development will not result in any reduction in the potential of those soils for commercial forestry; or:</p> <p>(i) the development or subdivision will not significantly interfere with or jeopardize the continuation of agriculture or forestry on adjoining lands or reduce their agricultural or forestry potential; and</p> <p>(ii) except in the case of an application for a project located in a designated growth center, there are no lands other than productive forest soils owned or controlled by the applicant which are reasonably suited to the purpose of the development or subdivision; and</p> <p>(iii) except in the case of an application for a project located in a designated growth center, the subdivision or development has been planned to minimize the reduction of the potential of those productive forest soils through innovative land use design resulting in compact development patterns, so that the remaining forest soils on the project tract may contribute to a commercial forestry operation.</p>	Not addressed in subchapters 6 or 7.
Earth resources	<p>(9)(D) Earth resources. A permit will be granted whenever it is demonstrated by the applicant, in addition to all other applicable criteria, that the development or subdivision of lands with high potential for extraction of mineral or earth resources, will not prevent or significantly interfere with the subsequent extraction or processing of the mineral or earth resources.</p>	Not addressed in subchapters 6 or 7.

subject	Act 250 criterion or subcriterion (6086(a))	Coverage by Chapter 117, subchapters 6 and 7.
Extraction of earth resources	<p>(9)(E) Extraction of earth resources. A permit will be granted for the extraction or processing of mineral and earth resources, including fissionable source material:</p> <p>(i) When it is demonstrated by the applicant that, in addition to all other applicable criteria, the extraction or processing operation and the disposal of waste will not have an unduly harmful impact upon the environment or surrounding land uses and development; and</p> <p>(ii) Upon approval by the District Commission of a site rehabilitation plan that ensures that upon completion of the extracting or processing operation the site will be left by the applicant in a condition suited for an approved alternative use or development. A permit will not be granted for the recovery or extraction of mineral or earth resources from beneath natural water bodies or impoundments within the State, except that gravel, silt, and sediment may be removed pursuant to the rules of the Agency of Natural Resources, and natural gas and oil may be removed pursuant to the rules of the Natural Gas and Oil Resources Board.</p>	Not addressed in subchapters 6 or 7.
Energy conservation	<p>(9)(F) Energy conservation. A permit will be granted when it has been demonstrated by the applicant that, in addition to all other applicable criteria, the planning and design of the subdivision or development reflect the principles of energy conservation, including reduction of greenhouse gas emissions from the use of energy, and incorporate the best available technology for efficient use or recovery of energy. An applicant seeking an affirmative finding under this criterion shall provide evidence that the subdivision or development complies with the applicable building energy standards under 30 V.S.A. § 51 or 53.</p>	<p>Optional - 4413(g) (solar collectors are not energy conservation.)</p> <p>Optional - 4413(g) clotheslines)</p> <p>Optional - 4414(6) - access to renewable energy resources</p> <p>Optional - 4414(8) - waivers</p> <p>Optional - 4418(2) - subdivisions</p>
Private utilities	<p>(9)(G) Private utility services. A permit will be granted for a development or subdivision which relies on privately owned utility services or facilities, including central sewage or water facilities and roads, whenever it is demonstrated by the applicant that, in addition to all other applicable criteria, the privately owned utility services or facilities are in conformity with a capital program or plan of the municipality involved, or adequate surety is provided to the municipality and conditioned to protect the municipality in the event that the municipality is required to assume the responsibility for the services or facilities.</p>	Optional - 4418(1) - subdivisions

subject	Act 250 criterion or subcriterion (6086(a))	Coverage by Chapter 117, subchapters 6 and 7.
Scattered development	(9)(H) Costs of scattered development. The District Commission will grant a permit for a development or subdivision which is not physically contiguous to an existing settlement whenever it is demonstrated that, in addition to all other applicable criteria, the additional costs of public services and facilities caused directly or indirectly by the proposed development or subdivision do not outweigh the tax revenue and other public benefits of the development or subdivision such as increased employment opportunities or the provision of needed and balanced housing accessible to existing or planned employment centers.	Optional - designations - 4414(1) (A)
----	(9)(I) [NOTE: There is no (I) in the statutes.]	
Public utilities	(9)(J) Public utility services. A permit will be granted for a development or subdivision whenever it is demonstrated that, in addition to all other applicable criteria, necessary supportive governmental and public utility facilities and services are available or will be available when the development is completed under a duly adopted capital program or plan, an excessive or uneconomic demand will not be placed on such facilities and services, and the provision of such facilities and services has been planned on the basis of a projection of reasonable population increase and economic growth.	Optional - 4418(1) - subdivisions
Public investments	(9)(K) Development affecting public investments. A permit will be granted for the development or subdivision of lands adjacent to governmental and public utility facilities, services, and lands, including highways, airports, waste disposal facilities, office and maintenance buildings, fire and police stations, universities, schools, hospitals, prisons, jails, electric generating and transmission facilities, oil and gas pipe lines, parks, hiking trails and forest and game lands, when it is demonstrated that, in addition to all other applicable criteria, the development or subdivision will not unnecessarily or unreasonably endanger the public or quasi-public investment in the facility, service, or lands, or materially jeopardize or interfere with the function, efficiency, or safety of, or the public's use or enjoyment of or access to the facility, service, or lands.	Not addressed in subchapters 6 or 7.

subject	Act 250 criterion or subcriterion (6086(a))	Coverage by Chapter 117, subchapters 6 and 7.
Settlement patterns	<p>(9)(L) Settlement patterns. To promote Vermont’s historic settlement pattern of compact village and urban centers separated by rural countryside, a permit will be granted for a development or subdivision outside an existing settlement when it is demonstrated by the applicant that, in addition to all other applicable criteria, the development or subdivision:</p> <ul style="list-style-type: none"> <li>(i) will make efficient use of land, energy, roads, utilities, and other supporting infrastructure; and</li> <li>(ii)(I) will not contribute to a pattern of strip development along public highways; or</li> <li>(II) if the development or subdivision will be confined to an area that already constitutes strip development, will incorporate infill as defined in 24 V.S.A. § 2791 and is designed to reasonably minimize the characteristics listed in the definition of strip development under subdivision 6001(36) of this title.</li> </ul>	<p>Optional - 4414(1)(A) - designations Optional - 4418(1) - subdivisions</p>
Local or regional plan; capital program	<p>(10) Is in conformance with any duly adopted local . . . plan . . . under 24 V.S.A. chapter 117. In making this finding, if the District Commission finds applicable provisions of the town plan to be ambiguous, the District Commission, for interpretive purposes, shall consider bylaws, but only to the extent that they implement and are consistent with those provisions, and need not consider any other evidence.</p>	<p>Not addressed in subchapters 6 or 7. [NOTE: Zoning is supposed to implement the local plan and in theory zoning bylaws are in conformance with the local plan.]</p>
Local or regional plan; capital program	<p>(10) Is in conformance with any duly adopted . . . regional plan . . . under 24 V.S.A. chapter 117. In making this finding, if the District Commission finds applicable provisions of the town plan to be ambiguous, the District Commission, for interpretive purposes, shall consider bylaws, but only to the extent that they implement and are consistent with those provisions, and need not consider any other evidence.</p>	<p>Not addressed in subchapters 6 or 7.</p>
Local or regional plan; capital program	<p>(10) Is in conformance with any duly adopted . . . capital program under 24 V.S.A. chapter 117. In making this finding, if the District Commission finds applicable provisions of the town plan to be ambiguous, the District Commission, for interpretive purposes, shall consider bylaws, but only to the extent that they implement and are consistent with those provisions, and need not consider any other evidence.</p>	<p>Optional - 4403(1) - nonregulatory implementation tools Optional - 4417(c) - PUD's Optional - 4422 - adequate public facilities; phasing</p>