



# CHITTENDEN COUNTY RPC

*Communities Planning Together*

## ***Planning Advisory Committee***

**Wednesday, February 12, 2020**

**2:30pm to 4:30pm**

**CCRPC Main Conference Room, 110 West Canal Street, Winooski**

WIFI Info: Network = CCRPC-Guest; Password = ccrpc\$guest

## **Agenda**

**2:30 Welcome and Introductions, Joss Besse**

**2:35 Approval of December 11, 2019 Minutes\***

**2:40 Act 250 comments\*, Regina Mahony**

CCRPC's ad hoc Act 250 Committee met to review the VNRC-Administration joint Act 250 proposed bill and have prepared comments. Regina will review these draft comments with the PAC and ask for a recommendation to the Board. There may also be a discussion on possible comments on the housing bills (S.237 and H.782); attached is a document from Chris Cochran, DHCD that describes these bills.

**3:05 Electric Vehicle Charging Permit Process Review, Dave Roberts**

Drive Electric Vermont conducted a review of municipal bylaws to see how electric vehicle charging is permitted. Dave Roberts will present his findings.

**3:25 Shared Parking Model, Matt Boulanger and David Grover, RSG**

RSG and the Town of Williston will provide a presentation on the shared parking tool prepared for Williston. This GIS/Excel tool models parking demand in mixed-use developments and may help other municipalities with land use and parking planning.

**3:55 Bolton Energy Plan\*, Melanie Needle**

This is a plan amendment to include a new enhanced energy plan, and the town is seeking a Determination of Energy Compliance.

- a. *Open the Hearing*
- b. *Accept Public Comment*
- c. *Close the Hearing*
- d. *Review Staff Summary*
- e. *Questions and Comments*
- f. *Recommendation to the CCRPC Board*

**4:15 Regional Act 250/Section 248 Projects on the Horizon, Committee Members**

**4:25 Other Business**

- a. Annual housing, commercial & industrial, and walking/biking infrastructure data development request was sent to you on Jan. 16<sup>th</sup>. Please submit this data as soon as possible if you haven't done so already.
- b. CENSUS - PSAP Update

**4:30 Adjourn**

\* = Attachment

**NEXT MEETING: March 11, 2020**

In accordance with provisions of the Americans with Disabilities Act (ADA) of 1990, the CCRPC will ensure public meeting sites are accessible to all people. Requests for free interpretive or translation services, assistive devices, or other requested accommodations, should be made to Emma Vaughn, CCRPC Title VI Coordinator, at 802-846-4490 ext \*21 or [evaughn@ccrpcvt.org](mailto:evaughn@ccrpcvt.org), no later than 3 business days prior to the meeting for which services are requested.

CHITTENDEN COUNTY REGIONAL PLANNING COMMISSION  
PLANNING ADVISORY COMMITTEE - MINUTES

DATE: Wednesday, December 11, 2019  
TIME: 2:30 p.m. to 4:30 p.m.  
PLACE: CCRPC Offices, 110 West Canal Street, Suite 202, Winooski, VT

**Members Present:**

Joss Besse, Bolton  
Eric Vorwald, Winooski  
Matt Boulanger, Williston  
Andrew Strniste, Underhill  
Larry Lewack, Bolton  
Paul Conner, South Burlington  
Darren Schibler, Essex  
Meagan Tuttle, Burlington  
Sarah Hadd, Colchester

**Staff:**

Regina Mahony, Planning Program Manager  
Emily Nosse-Leirer, Senior Planner  
Melanie Needle, Senior Planner  
Jason Charest, Transportation Planner Engineer  
Eleni Churchill, Transportation Program Manager

**1. Welcome and Introductions**

Joss Besse called the meeting to order at 2:36 p.m. Joss Besse thanked Emily Nosse-Leirer for her work in the County and wished her well in her new job with Senator Leahy in Washington D.C.

**2. Approval of October 9, 2019 Minutes**

Eric Vorwald made a motion, seconded by Paul Conner, to approve the October 9, 2019 minutes. Alex Weinhausen was there and should be added. No further discussion. MOTION PASSED.

**3. FY21 UPWP Solicitation**

Regina Mahony stated that the FY21 Unified Planning Work Program (UPWP) solicitation has been sent out to the municipalities. Regina explained the land use projects: municipalities can apply for transportation funding for furthering walkability (increasing land use density is eligible). Those projects can be free to the municipalities if CCRPC staff do the work, or a 20% match if consultant is used. Or, if a land use project is not transportation related, municipalities should still apply for it. It is a fee for service at \$50 per hour. However, Regina reiterated that municipalities should not hesitate to apply if you need some help and don't have any funds. Just apply anyway and we will figure out if we can fit it in. Regina Mahony listed a number of projects that CCRPC has worked on: assistance in writing Town Plans (municipalities don't need to apply for a project for CCRPC review and approval of Plans), zoning regulations, administer CDBG grant, inclusionary zoning, audit of zoning regulations for housing barriers, etc. The application can be found on this page: <https://www.ccrpcvt.org/about-us/commission/annual-work-plan-budget-finances/> and is due on Friday, January 17th.

**4. Energy Planning Best Practices Presentation**

Emily Nosse-Leirer provided the Act 174 presentation on the purpose of the energy planning and information on implementation of the energy plans. This presentation is attached to these minutes.

Melanie Needle provided an overview of implementation programs including: assistance from Drive Electric VT; the potential [Transportation Climate Initiative](#); the Efficiency Vermont grant CCRPC now has to help with implementation (for example a button up workshops). Drive Electric Vermont has support from CCRPC to work with a few towns on zoning regulation amendments to streamline the process for EV charging and encouraging more EV charging in new developments.

Emily provided an overview of the PUC process and participation. Paul Conner added that in addition to holding local hearings municipalities can provide space for more direct communication between applicants and neighbors.

**5. Chittenden County I-89 2050 Study**

Eleni Churchill provided an overview of this project; and requested feedback on the draft vision, goals and objectives for the study (essentially the purpose and need). The presentation is attached for more detail.

The PAC had the following comments/questions:

1. What is the difference between the TIP and MTP model scenarios? The difference is: TIP projects are committed and have funding v. MTP projects are projects where not all funding has been established.
2. Question the growth assumptions assume 35% employment growth (50,000 employees) v. 12% (20,000 people) population growth – assumes employees are coming in from out of the County so are we looking at Franklin County and Washington County? Is it our objective that we will have this many commuters coming in? There was discussion that it isn't a goal of the ECOS Plan to have more commuters; the goal is to have more employees live where they work. However, the model is based on the forecasts which are based on current and historic commute patterns. The scenarios also include investments of non-SOV and other ways for the commuters to commute, but we can't change the forecasts in this project. Eleni Churchill will come back to the PAC when the draft metrics and targets are established. [Post meeting note - this document will shed some light on the difference between employment and population in the forecast:  
<https://www.ccrpcvt.org/wp-content/uploads/2016/01/Forecast-Questions-Comments-Responses.pdf>.]
3. Draft vision statement – suggestion to add energy savings, climate change, and alignment with the state energy plan.
4. Draft goals – There was a comment that the interstate serves the needs of the community, and transportation is intended to serve other things: land use, economic development, sustainability goals, etc. The goals of this study should recognize and support these other community goals that we have.
5. Draft objectives – these provide much more detail; and get at some of the questions/comments the PAC was expressing. Eleni Churchill explained that they are trying to figure out metrics for all of the objectives, because these objectives will be measured under each scenario. There is no land use model to show how these scenarios are going to play out.
6. The PAC likes “maintain reliable transportation times” because this doesn't mean fast, it just means reliable.
7. There was a comment that the objectives under #5 are all negative. And uses “discourage” rather than just say what you want: “Investments support land use patterns that are consistent with regional and municipal plans”.
8. There was a comment on the vision statement to “encourage reduction in vehicle miles travelled” or “decrease vehicle miles travelled.” The statement should be much more clear on just stating what the land use goal is “compact/concentrated settlement patterns surrounded by rural areas.”
9. There was a question about whether rail is considered in the study. Is there an objective about moving more freight by rail than road? Currently reads as a business as usual objective as opposed to a goal for a change in the future. But if there are other state-wide objectives then we should try to accommodate that in this planning. Can we test it in the scenarios? If there was a goal to shift some freight to rail it might make sense to test it.

#### **6. High Impact Economic Development Project List**

Regina Mahony provided a quick introduction to an effort to create a methodology/process through which critical and high impact economic development projects may be vetted and chosen. The overall goal is to have a statewide list of projects that are already identified, can attract resources, and be meaningful to communities. This is being done throughout the state at the request of Department of Economic Development. GBIC is working on this, and we will likely start with the CEDS list for this effort. This list will likely be different than project lists created for opportunity zones, because the opportunity zone projects need to be profitable. This list will likely be more capital project based.

#### **7. Regional Act 250/Section 248 Projects on the Horizon**

Underhill: nothing.

Winooski: nothing to report.

Williston: 130 housing units on old Catamount golf course at corner of Mtn. View and CIRC ROW.

Burlington: nothing

Colchester: SW Corner at Severance Corners – 57 units

So. Burlington: Tilley Drive and Hinesburg Road. Hampton Inn. 4 story-ish Hotel on Shelburne Road next to Larkin

Terrace and locally have seen a master plan (only one building going to Act 250). 133 DU in City Center (probably

1 meeting priority housing through earlier buildings.). Airport – terminal expansion. School Board likely \$209 million  
2 improvement for HS and Middle School.

3 Essex: Leo building, RPC already deferred to Ag soils. Bank with drive through in Town Center.

4 Bolton: Encore Renewables working with Deslauriers family along Rte.2 at old driving range (toward Waterbury).

5 They are smaller panels that are movable, and in a floodplain.  
6

7 **8. Other Business - none**

8  
9 **8. Adjourn**

10 Darren Schibler made a motion, seconded by Meagan Tuttle, to adjourn at 4:32p.m. MOTION PASSED

11  
12 Respectfully submitted, Regina Mahony

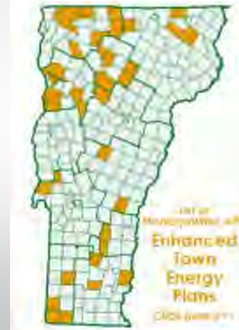


# MUNICIPAL ENHANCED ENERGY PLANNING IN VERMONT

Best Practices and Resources  
Chittenden County Regional Planning Commission  
December 12, 2019

1

## Writing Effective Enhanced Energy Plans For Use in Section 248



2

## Effective Energy Plans

- Meet the Department of Public Service's standards for enhanced energy planning
- Set clear standards for "orderly development" that follows policies in the plan
- "Substantial deference" instead of "due consideration" for land conservation measures and specific policies
  - Lack of Case Law
- Define preferred sites

3

## Preferred Sites

- Municipal Plan
  - Specific Sites Identified in Plan
  - Creating Process/Criteria
- Via Net-Metering Application
  - 9 Categories
    - Joint Letter
- [Net-Metering Rules](#)

4

## Plan Monitoring

- On-going process
- Community Progress Maps through the Vermont Energy Dashboard: <https://www.vtenergydashboard.org/statistics>
- Annual Efficiency Vermont energy data workbook given to RPCs

5

## Other Plan Implementation

- Efficiency Vermont RPC Contract
- Drive Electric Vermont
- Transportation Climate Initiative
- Incentives from utilities like Green Mountain Power, Vermont Electric Coop and Vermont Gas
- Municipal work by energy committees

6

## Municipal Plans in the Section 248 Process

## Section 248

- Outlines Process
- Defines Parties
- Provides Criteria

7

8

## Types of Applications

- Net-Metering
  - Classes
  - Categories
- Utility Scale Projects
  - [Standard Offer Program](#)
  - Power Purchase Agreements with Electric Utilities
  - Public Utility Regulatory Policies Act (PURPA) process

**Net-Metering and Net-Metering Categories**

"Category I Net-Metering System" means a net-metering system that is not a hydroelectric facility and that has a capacity of 15 kW or less.

"Category II Net-Metering System" means a net-metering system that is not a hydroelectric facility that has a capacity of more than 15 kW and less than or equal to 150 kW, and that is sited on a preferred site.

"Category III Net-Metering System" means a net-metering system that is not a hydroelectric facility, that has a capacity of greater than 150 kW and less than or equal to 500 kW, and that is sited on a preferred site.

"Category IV Net-Metering System" means a net-metering system that is not a hydroelectric facility, that has a capacity of greater than 15 kW and less than or equal to 150 kW, and that is not located on a preferred site.

## Who Can Participate and How?

- "Automatic" Formal Parties
  - Applicant
  - Department of Public Service
  - ANR
  - RPCs
  - Municipality
- Types of Involvement:
  - Formal Party to a Case "Intervenors"
  - Interested Persons
  - Members of the Public



Vermont's Public Utility Commission

9

10

## What are the steps in the process?

- Net-Metering
  - Small (under 15 kW)
  - Large
- Utility-Scale Projects



## 45 Days Notice

- It is best for a municipality to get involved in a case at 45-day notice!
- Notice of no less than 45 days prior to the application is required (30 V.S.A. 248(f))
- Public Utility Commission Action
- Municipal Action
  - Organize, gather information, and ask questions
  - Seek community input/hold "public hearing"
  - Submit comments to Applicant and PUC
  - Option to waive 45 days notice

11

12

### Pre-hearing Conference

- Will identify parties, issues, schedule
  - Includes intervention and filing deadlines
  - May set date for a public hearing and site visit
- PUC Action
  - Prehearing Conference Memorandum with "service list"
- Participate (if you can)!

### Ex. Scheduling Order

March 7, 2014	Deadline for filing motions to intervene
March 14, 2014	Deadline to file responses to motions to intervene
March 20, 2014	First round of discovery requests due to be filed on VGS
April 4, 2014	VGS due to file responses to first round of discovery requests
April 18, 2014	Second round of discovery requests to be filed on VGS
May 7, 2014	Site Visit and Public Hearing
May 16, 2014	Non-petitioners due to file direct testimony
May 23, 2014	Discovery requests due to be served on non-petitioners prefiled testimony

13

14

### Intervention vs. Public Comment

- Level of Investment
  - Timing of involvement
  - Cost
  - Local staff capacity
- Legal Counsel or Pro Se?

### Site Visit and Public Hearing

- Site Visit
  - Not part of evidentiary record
- Public Hearing
  - Held in affected community
  - Public can make comments about the project (Cannot ask question like a DRB hearing)

15

16

### Discovery and Pre-filed Testimony

- Used by parties to ask each other questions about their testimony and exhibits – "Interrogatories"
- Multi-step process
- Recommend focusing on:
  - Orderly Development of the Region - Criteria 248 (b)(1)
  - Criteria 248(b)(5)
    - Includes Act 250, Criteria 1-8 and 9(K)

### Technical Hearings and Briefs

- Like a trial
  - Except testimony is pre-filed before the hearing
  - No new testimony unless authorized
  - PUC may ask questions that have not been raised in pre-filed testimony
- Highly Structured
- Briefs
  - Filed by parties after technical hearings
    - Two rounds: initial and reply
    - Not evidence - no new issues may be raised

17

18

## Decision

- Based on evidentiary record
  - Includes findings of fact from 248 criteria and conclusions of law
  - If issued by hearing officer, parties may ask for oral argument before full Board
- May be reconsidered or appealed

19

## Criteria

- Criterion 248(b)(1) Orderly Development
  - "Land conservation measures"
  - "Regional" impacts
- Criterion 248(b)(5) Natural Resources, Aesthetics, Historic Sites
- Other Criteria

20

## Contact Information

Melanie Needle, Senior Planner  
[mneedle@ccrpevt.org](mailto:mneedle@ccrpevt.org)  
 802-846-4490 x.\*27

21

## DELETED SIDES

22

## Overview

- Developing a Municipal Enhanced Energy Plan
  - Plan Preparation and Practical Advice
  - Plan Requirements
  - Plan Adoption
  - Plan Monitoring
- Municipal Plans in the Section 248 Process
  - Process Overview
  - Effective Town Plans

23

## Developing a Municipal Enhanced Energy Plan

24

## Plan Preparation

- Local Capacity and Interest
  - Contact your RPC
  - Build Local Consensus
- Understand the Requirements
- Review Existing Municipal Plan
- Review Enhanced Energy Plans in the neighboring municipalities



## Plan Preparation

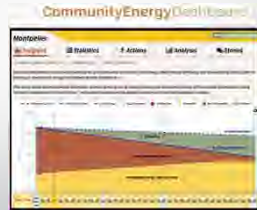
- Stand Alone Plan or Integrated Plan
- Determine Responsibilities
- Develop Schedule

25

26

## Plan Requirements – Analysis and Targets

- Data
  - Review RPC Data
  - Community Energy Dashboard
  - Additional Data?
- Add Graphics
- Remember: Estimates are OK!



27

## Plan Requirements – Pathways

- Existing Policies
  - In your municipality
  - Or in other municipalities....contact your RPC
- Municipal Capacity and Jurisdiction
- Delegate Responsibility
- Integrate Into Capital Budgeting



28

## Plan Requirements – Mapping

- Review RPC Maps
- Municipal Decisions
  - Preferred Sites
  - Local Constraints
  - Unsuitable Areas
- Clear Policy Statements



29

## Plan Adoption

- Consistency with Municipal Plan
- Build Local Support
- RPC Review
  - Preliminary Review
  - Determination of Energy Compliance

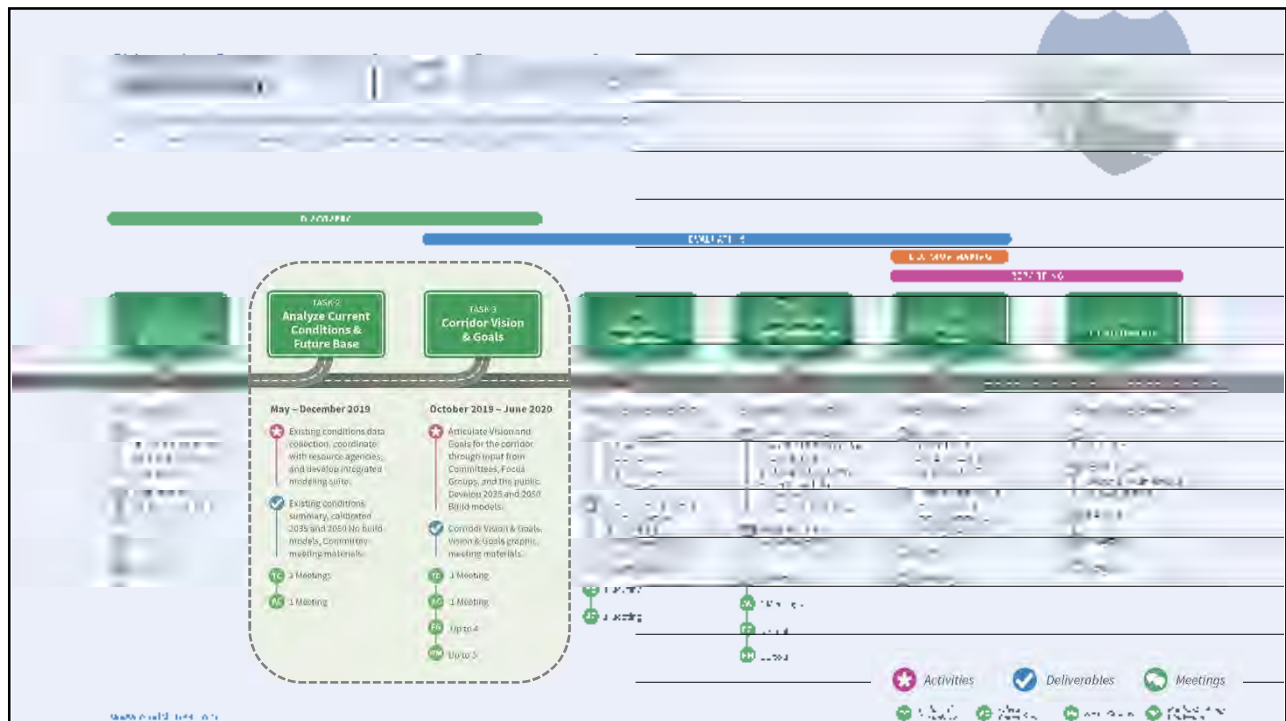


30





1

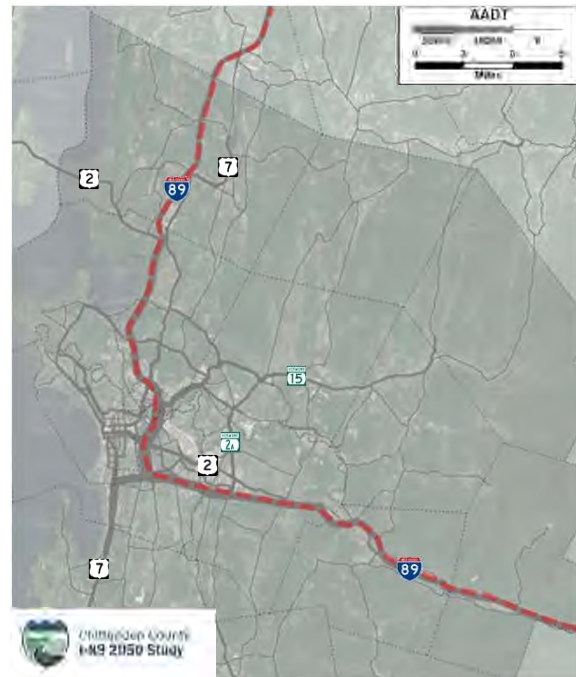


2



## Project Updates

- **Existing Conditions Assessment** - Complete
- **Technical Committee** – Met three times
- **Advisory Committee** – Met once
- **Stakeholder Group Meetings**
  - Asset Management (7/9/19)
    - VTrans, CCRPC
  - Emergency Management (9/4/19)
    - VT Emergency Management, Milton, Richmond & Williston Fire, VTrans, CCRPC
  - Environmental (9/5/19)
    - US ACOE, EPA, AACD Historic Preservation, DEC Rivers, DEC Wetlands, Fish & Wildlife, DEC Stormwater, VTrans, CCRPC
  - TSMO/ITS (9/10/19)
    - VTrans, CCRPC



3

## Project Updates

- **Transportation Model**
  - Regional Model: Complete
  - Microsimulation Model: Built; Finalizing calibration
- **Model Development**
  - Calibrated base microsimulation model – final review underway
  - Model scenarios:
    1. 2020 Base No Build (AM & PM)
    2. 2035 Future Committed (TIP) Build (AM & PM) - with TIP/Front of Book projects
    3. 2050 Future Committed (TIP) (AM & PM) - with TIP/Front of Book projects
    4. 2035 Future MTP Build (AM & PM) - with TIP/Front of Book & MTP projects
    5. 2050 Future MTP Build (AM & PM) - with TIP/Front of Book & MTP projects



4



5

## Developing the I-89 Corridor Vision, Goals, Objectives

### ■ Planning Framework

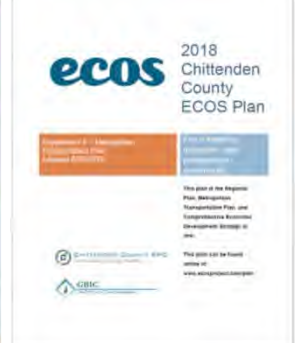
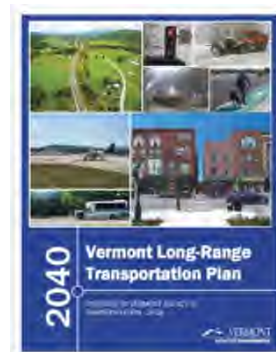
#### — Guiding Documents

- **CCRPC 2018 Metropolitan Transportation Plan**

- **Goal:** Provide accessible, safe, efficient, interconnected, secure, equitable and sustainable mobility choices for our region's businesses, residents and visitors.

- **VTrans 2040 Long Range Transportation Plan**

- **Vision:** A safe, reliable and multimodal transportation system that grows the economy, is affordable to use and operate, and serves vulnerable populations.



#### Other Guiding Plans

- Vermont Transportation Asset Management Plan, 2018
- VTrans On-Road Bicycle Plan, 2018
- Strategic Highway Safety Plan, 2017
- Vermont Intelligent Transportation Systems Architecture, 2017
- Vermont State Rail Plan, 2016
- Vermont Freight Plan, 2015
- Vermont Statewide Intercity Bus Study Update, 2013
- Public Transit Policy Plan, 2012
- Pedestrian and Bicycle Policy Plan, 2008



6

## Developing the I-89 Corridor Vision, Goals, Objectives

### ■ Planning Framework

#### — Summary of Future Conditions (2050)

##### • Land Use & Demographics

- **Population**: Projected to grow by over 20,000 people (14% increase)
- **Employment**: Projected to grow by nearly 50,000 jobs (35% increase)
- **Growth in Existing Centers**: 90% of future household growth in Chittenden County to occur in areas planned for growth

**90%**  
of new construction to  
take place in areas  
planned for growth \*

**10%**  
in other areas



7

## Developing the I-89 Corridor Vision, Goals, Objectives

### ■ Planning Framework

#### — Summary of Future Conditions (2050)

##### • Transportation System Investments

- **Major Transportation Projects**: Champlain Parkway, Exit 12, Exit 16, Exit 17 Improvements.
- **Enhanced Transit Service**: 15-minute headways for all trunk routes and 20 to 30-minute headways on all other routes.
- **Other Enhancements**: Major Bike/Ped system expansion, ITS investments, TDM programs, Safety enhancements, Partial fleet electrification, System maintenance
- Approximately **\$450 million** through 2050



8

## Developing the I-89 Corridor Vision, Goals, Objectives

- Development of the **Vision, Goals, and Objectives for the I-89 Corridor** is one of the *most important* elements of this study as it will guide decisions related to screening of alternatives
- Process Overview:
  - ✓ **TC Meeting#2 (October 8):** Develop Draft Vision, Goals, and Objectives
  - ✓ **TC Meeting #3 (November 22):** Refine Draft Vision, Goals and Objectives and discuss evaluation metrics
  - **AC Meeting #2 (December):** Review Completed Tasks & Review Draft Vision, Goals, Objectives
  - **Public Meetings & Focus Groups (January – March):** Review and refine Vision, Goals & Objectives
  - **TC Meeting #4 (April/May):** Finalize Vision, Goals, Objectives, and Metrics

9

## Developing the I-89 Corridor Vision, Goals, Objectives

### DRAFT Vision Statement

- The 2050 Vision for the I-89 Corridor through Chittenden County is an interstate system (mainline and interchanges) that is safe and resilient and provides for reliable and efficient movement of people and goods in alignment with municipal and regional plans.



10



## Developing the I-89 Corridor Vision, Goals, Objectives

### DRAFT Goals

1. **Safety:** Improve safety along the I-89 Study Corridor and Adjacent Interchanges for all users.
2. **Mobility & Efficiency:** Improve the efficiency and reliability of the I-89 Corridor for all users.
3. **Environmental Stewardship & Resilience:** Establish a resilient I-89 Corridor that minimizes environmental impacts associated with the transportation system.
4. **Economic Access & Vitality:** Improve economic access and vitality in Chittenden County.
5. **Livable, Sustainable and Healthy Communities:** Promote livable, vibrant, and healthy communities.
6. **System Preservation:** Preserve and improve the condition and performance of the I-89 Corridor.



11

## Developing the I-89 Corridor Vision, Goals, Objectives

1. **Safety:** Enhance safety along the I-89 Study Corridor and Adjacent Interchanges for all users.
  - Reduce the number, frequency, and severity of crashes along the I-89 Corridor and adjacent interchanges.
  - Enhance safety of bicyclists and pedestrians at interchanges.
  - Improve incident response.
2. **Mobility & Efficiency:** Improve the efficiency and reliability of the I-89 Corridor for all users.
  - Accommodate current and anticipated future traffic demand.
  - Maintain reliable travel times for passengers and freight along the corridor.
  - Improve network connectivity to enhance walking and bicycling through the study area interchanges.
  - Accommodate current and future public transportation services.
3. **Environmental Stewardship & Resilience:** Establish a resilient I-89 Corridor that minimizes environmental impacts associated with the transportation system.
  - Improve water quality and stormwater treatment.
  - Improve the resilience of the I-89 Corridor.
  - Reduce greenhouse gas emissions associated with fossil fuels used in transportation.
  - Improve wildlife and habitat connectivity.



12

## Developing the I-89 Corridor Vision, Goals, Objectives

### 4. **Economic Access & Vitality:** Improve economic access and vitality in Chittenden County

- Support anticipated economic growth in the region.
- Accommodate freight and goods movement served by the I-89 Corridor.



13

## Developing the Study Vision, Goals, Objectives

### 4. **Economic Access & Vitality:** Improve economic access and vitality in Chittenden County

- Support anticipated economic growth in the region.
- Accommodate freight and goods movement served by the I-89 Corridor.

### 5. **Livable, Sustainable and Healthy Communities:** Promote livable, vibrant, and healthy communities.

- Discourage transportation investments that result in land use patterns that are not consistent with state, regional and local goals and plans.
- Ensure that transportation improvements do not disproportionately impact underserved populations.



14



## Developing the Study Vision, Goals, Objectives

4. **Economic Access & Vitality:** Improve economic access and vitality in Chittenden County
  - Support anticipated economic growth in the region.
  - Accommodate freight and goods movement served by the I-89 Corridor.
5. **Livable, Sustainable and Healthy Communities:** Promote livable, vibrant, and healthy communities.
  - Discourage transportation investments that result in land use patterns that are not consistent with state, regional and local goals and plans.
  - Ensure that transportation improvements do not disproportionately impact underserved populations.
6. **System Preservation:** Preserve and improve the condition and performance of the I-89 Corridor.
  - Provide for sound and effective maintenance and preservation activities to achieve a State of Good Repair of the I-89 Corridor.



15

## Next Steps

- **Advisory Committee Meeting #2 – December 16th**
  - Review and comment on draft Vision, Goals, and Objectives
  - Prepare for first round of public engagement
- **Complete Modeling of Future (2035 & 2050) Build Scenario - December**
- **First Round of Public Meetings & Focus Groups**
  - January 30th – South Burlington City Hall
  - February 13th – Williston Town Office
  - March 11th – Winooski City Hall
- **Technical Committee Meeting #4 – April/May 2020**
- **Advisory Committee Meeting #3 – May/June 2020**
- **Begin Interchange Evaluation – Early Spring 2020**



16



17

# CCRPC Comments on VNRC/Administration proposed Act 250 Bill

**DRAFT – 1/29/2020**

Note: The comments herein include references to the “Discussion Document, Last Modified 1/14/2020, Version 1.1”

Here are a few broad thoughts for consideration before getting into specific provisions.

1. The substantive proposals in this draft bill have the potential of getting to a workable place much more so than the Enhanced Natural Resources Board concept and associated process. Therefore, CCRPC recommends that this Section be split from the rest of this proposal and be considered separately.
2. CCRPC believes that the state permit process should encourage development in appropriately planned places and discourage development in vulnerable and valued resource areas. Therefore, CCRPC strongly supports the concept that Act 250 should not have jurisdiction in areas planned for growth to encourage affordable housing and economic investment in our smart growth areas: walkable, transit-friendly, water and sewer-served areas. CCRPC appreciates the exemption for Designated Downtowns and Neighborhood Development Areas, but recommends further expansion of this exemption (see comment 7 below).
3. CCRPC supports the concept of relying on separate state permits to satisfy specific criteria as appropriate.
4. A general comment is to use existing definitions from other sections of statute wherever possible.

## **I. Act 250 Jurisdiction**

5. Section A, pg. 6 – This section proposes to include construction of improvements for commercial, industrial or residential use on ridgelines of at least 1,500’ elevation and within 200 feet below the ridgeline.  
*Comment:* CCRPC generally agrees with expanding protection of ridgelines, however the purpose of this jurisdictional expansion should be expressly stated (i.e. scenic viewshed or wildlife habitat). Further, if the land area for a proposed development project does not functionally serve the stated purpose, there should be a process for proving so and Act 250 review and a permit should not be needed (such as wetland re-classification from Class III to Class II). Otherwise, this is a blunt tool that will result in avoidance of Act 250 review and associated unintended consequences. Lastly, it would be best to include a specific map of the area regulated (<http://anrmaps.vermont.gov/websites/ridges/index.html>) and a process for how that map will be updated.
6. Section B, pg. 6 to 7 – This section proposes to include new road/driveway construction of 2,000 feet in length as development subject to Act 250.  
*Comment:* CCRPC is supportive of the goal of preventing forest fragmentation but believes that this is too blunt of a tool. Similar to the comment above, CCRPC recommends a connection between the 2,000’ road distance and the intended purpose of this jurisdictional trigger (habitat protection? Forest fragmentation?) and allowing an applicant to indicate if the stated purpose is being achieved with the proposed development.
7. Section C, pg. 7 to 21 – This section proposes to exclude development in designated Downtowns and Neighborhood Development Areas from Act 250 jurisdiction. **The proposal also includes underlying changes to the mixed income housing definitions.**  
*Comment:* CCRPC agrees with and appreciates this approach. However, development in both Growth Centers and New Town Center designations should also be excluded. These are also state approved growth areas and there is no need for additional Act 250 review. Further, if the conditions from previous Act 250 permits are going to be a responsibility of the municipalities, it is critically important that the municipalities have the authority to re-evaluate a previous condition already addressed by a municipal regulation and municipal standards (as stated on pg. 17 line 17 – 18). **Changes to the mixed income housing definitions including specification of unit**

types/bedrooms have been added which can be much more difficult to address and administer. It is unclear why these changes are being proposed.

8. Section D, pg. 21 – This section allows for a reduction in the project area for certain transportation projects for previously disturbed area. The idea is that these projects could then fall under the 10-acre jurisdictional trigger.  
*Comment:* CCRPC agrees with and supports this adjustment.
9. Section E, pg. 23 to 24 – This section proposes to expand Act 250 jurisdiction to commercial and industrial developments within 2,000 feet of interstate interchanges.  
*Comment:* CCRPC feels that this is not necessary. Further, it is unclear if the Regional Planning Commission role in the exemption is a one-time exemption for the whole area or needs to be done on a case-by-case basis. If this is to be put in place, the process for exemption should be one-time for the whole area. We would also suggest that interchanges in a Census-defined urbanized area (Interstate 89 Exits 12 to 16) be excluded from jurisdiction since these areas are already developed and will only be infilling over time.

## **II. Changes to Act 250 Criteria**

10. Section A & B, pg. 26 to 29 – These two sections propose changes to standardize regulation of river corridors in Act 250.  
*Comment:* CCRPC does not agree with this approach. The proposed language does not adequately address new and infill development in historic village areas that overlap with river corridor areas. CCRPC recommends that this issue be studied rather than changed this year, and/or ANR regulate these areas through a state permit program with appropriate infill in our already developed downtowns and villages (with the presumption provided in IV. Act 250 Permit Conditions and Permit Process, Section C, pg. 40 of this proposed bill).
11. Section E, pg. 30 to 32 – This section proposes to expand the Act 250 wildlife criteria to consider impacts to forest blocks and connecting habitat.  
*Comment:* CCRPC agrees with protection of these resources, however, there needs to be clarity on how these resources will be defined. The recommendation from CCRPC is to refer to the local and regional plan maps for how these resources are defined, rather than the current broad definitions in the proposed bill.
12. Section G, pg. 33 to 34 – This section proposes modification to better address climate change.  
*Comment:* CCRPC feels that there should be one consistent energy code applied throughout the state, not a higher standard in Act 250 (the stretch energy code is proposed). Further, the proposed climate adaptation amendment is broad and unspecific. It will require guidance on how to meet this standard.
13. Section H, pg. 34 – This section proposes that a municipal plan must be approved by the Regional Planning Commission for consideration under Act 250 criteria.  
*Comment:* CCRPC agrees with this approach.

## **IV. Act 250 Permit Conditions and Permit Process [should be III]**

14. Section A, pg. 36 – This section proposes a 30-day pre-application notice requirement to the public and affected agencies for larger Act 250 cases. The proposed bill contemplates rulemaking to determine when a pre-application process would be needed.  
*Comment:* CCRPC agrees with this approach; however, there are some process heavy components that may not be appropriate in Act 250, such as formal scheduling (pg. 37, lines 3 to 5). Also, CCRPC recommends that projects should be vested at time of submittal of the pre-application materials.
15. Section C, pg. 40 – This section proposes to make all ANR permits, and municipal permits, have a presumption automatically.  
*Comment:* CCRPC agrees with and appreciates this approach, especially the addition of municipal permits being considered.

#### IV. Enhanced Natural Resources Board

16. Section A. Creation of an Enhanced Natural Resources Board, starts on pg. 44 - This proposal recommends a professional three-person board to review major Act 250 applications instead of the current District Commissions. The three-person board would be joined by two regional commissioners who would hear applications and help decide on findings of fact, but would not participate in drafting conclusions of law, and not vote or help decide the case. Appeals of the Act 250 permits would go directly to the Supreme Court, rather than the Environmental Board.

*Comments:* CCRPC appreciates what this proposal is trying to do regarding consistency throughout the state. However, there are a number of challenges with this proposal, and overall CCRPC recommends that this section of the proposal be studied further and considered in a separate bill.

#### V. Reports and Miscellaneous Changes

17. Section A. Municipal and Regional Planning Review, pg. 71, line 15 to 17 – Overall this section requires ACCD to develop a report and recommendations with respect to the capabilities and development plan requirements under Act 250. *Comment:* CCRPC agrees that this issue should be further studied. However, this report will also include recommendations for “how regional plans are reviewed and approved...”  
*Comment:* CCRPC agrees with this general concept and asks that this bill require consultation with VAPDA and VLCT on development of the recommendations and report.
18. Section A. Municipal and Regional Planning Review, pg. 71, line 18 to 19 - This report will also include “whether designations of growth centers and new town centers should be appealable.” *Comment:* CCRPC feels that this is out of place, and not necessary for consideration of capability and development plan requirements. CCRPC recommends that this be removed from the proposed bill or if it remains that VAPDA and VLCT be consulted in the preparation of the report.

1	Table of Contents	
---	-------------------	--

2	<b><u>I. ACT 250 JURISDICTION .....</u></b>	<b>6</b>
---	---	----------

3	<b>A. CRITICAL RESOURCE PROTECTION; ACT 250 JURISDICTION OVER RIDGELINE</b>	
4	<b>DEVELOPMENT .....</b>	<b>6</b>

5 THIS SECTION PROPOSES TO AMEND EXISTING ACT 250 JURISDICTION TO INCLUDE THE  
6 CONSTRUCTION OF IMPROVEMENTS FOR COMMERCIAL, INDUSTRIAL OR RESIDENTIAL USE ON  
7 RIDGELINES BETWEEN 1,500' AND 2500', EXCLUDING IMPROVEMENTS FOR FORESTRY AND  
8 AGRICULTURE. CONSTRUCTION OF IMPROVEMENTS ABOVE 2500' IS ALREADY SUBJECT TO ACT 250  
9 JURISDICTION AND WILL REMAIN SO. THIS PROPOSAL DEFINES THE PHYSICAL CHARACTERISTICS OF  
10 A 'RIDGELINE' AND STATEWIDE GIS MAPPING WILL DEPICT THOSE DEFINED AREAS ACROSS THE  
11 LANDSCAPE. .... 6

12	<b>B. CRITICAL RESOURCE PROTECTION; ACT 250 JURISDICTION OVER FRAGMENTATION .....</b>	<b>6</b>
----	---	----------

13 THIS SECTION PROPOSES TO AMEND EXISTING ACT 250 JURISDICTION TO INCLUDE NEW ROAD  
14 CONSTRUCTION OF A CERTAIN LENGTH. SMALL-SCALE DEVELOPMENT HAS THE POTENTIAL TO  
15 FRAGMENT INTACT FOREST BLOCKS OR CONNECTING HABITAT IF THAT DEVELOPMENT ENCROACHES  
16 FAR FROM EXISTING ROADS INTO UNDEVELOPED AREAS; HOWEVER, ACT 250'S CURRENT  
17 JURISDICTIONAL TRIGGERS MAY NOT CAPTURE THIS TYPE OF DEVELOPMENT. THIS PROPOSAL  
18 REQUIRES AN ACT 250 PERMIT FOR ANY NEW ROAD AND ASSOCIATED DRIVEWAY THAT EXCEEDS  
19 2000' IN LENGTH AND PROVIDES ACCESS TO A PARCEL GREATER THAN 1 ACRE. .... 6

20	<b>C. EXEMPTION FOR DEVELOPMENT IN DOWNTOWNS .....</b>	<b>7</b>
----	--	----------

21 THIS SECTION PROPOSES TO AMEND EXISTING ACT 250 JURISDICTION TO EXCLUDE DEVELOPMENT  
22 IN STATE DESIGNATED DOWNTOWNS AND NEIGHBORHOOD DEVELOPMENT AREAS (NDA'S).  
23 DESIGNATED DOWNTOWNS AND NDA'S ARE COMPACT, PREVIOUSLY DEVELOPED AREAS WITH  
24 LIMITED NATURAL RESOURCE VALUES. THEY ARE SERVED BY MUNICIPAL SEWER AND WATER AND  
25 GOVERNED BY LOCAL ZONING BYLAWS THAT ARE ROBUST AND PROMOTE SMART GROWTH. THESE  
26 AREAS SUPPORT DENSITY, TRANSIT AND OTHER LAND USE FORMS THAT MITIGATE CLIMATE  
27 CHANGE. EXISTING ACT 250 PERMITS IN DOWNTOWNS AND NDA'S WOULD REMAIN IN EFFECT  
28 UNTIL A MATERIAL CHANGE IS PROPOSED, AT WHICH TIME THE APPROPRIATE MUNICIPAL PANEL  
29 WOULD CONSIDER THE CHANGE AND RENDER A DECISION BASED ON MUNICIPAL BYLAWS; ANY NEW  
30 MUNICIPAL PERMIT WOULD ADDRESS AND/OR INCORPORATE ALL RELEVANT CONDITIONS FROM THE  
31 PRIOR ACT 250 PERMIT. .... 7

32	<b>D. EXEMPTION FOR CERTAIN TRANSPORTATION PROJECTS .....</b>	<b>21</b>
----	---	-----------

33 THIS SECTION PROPOSES TO AMEND THE EXISTING DEFINITION OF DEVELOPMENT WITH RESPECT TO  
34 CERTAIN TRANSPORTATION PROJECTS. CURRENTLY, A TRANSPORTATION PROJECT IS SUBJECT TO  
35 ACT 250 IF THE PROJECT IS GREATER THAN 10 ACRES. THIS PROPOSAL AUTHORIZES A REDUCTION  
36 IN THE PROJECT AREA BY THE AREA THAT IS PREVIOUSLY DISTURBED FOR FEDERALLY FUNDED  
37 PROJECTS THAT ALSO MEET SEVERAL OTHER LIMITATIONS. PREVIOUSLY DISTURBED IS DEFINED TO  
38 INCLUDE SEVERAL ENGINEERED FEATURES THAT ARE A PART OF TRANSPORTATION  
39 INFRASTRUCTURE. THIS SECTION ALSO REQUIRES CHANGES TO MEMORANDA OF UNDERSTANDING  
40 TO PROTECT PRIMARY AGRICULTURAL SOILS AND POTENTIAL FISHERY IMPACTS. .... 21



<b>E. EXPANDED JURISDICTION TO DEVELOPMENT NEAR INTERSTATE INTERCHANGES .....</b>	<b>23</b>
THIS SECTION PROPOSES TO AMEND ACT 250 JURISDICTION TO REQUIRE PERMITS FOR COMMERCIAL AND INDUSTRIAL DEVELOPMENTS NEAR POINTS OF ACCESS OR EXIT FROM THE INTERSTATE HIGHWAY SYSTEM. THE JURISDICTIONAL RADIUS CAN BE MODIFIED BY DEMONSTRATED THAT LOCAL PLANNING PROCESSES ADDRESS ISSUES OF CONCERN WITH DEVELOPMENT IN INTERSTATE EXITS.....	23

## **II. CHANGES TO ACT 250 CRITERIA .....** **24**

<b>A. FLOODWAYS AND FLOOD HAZARD AREAS .....</b>	<b>24</b>
THIS SECTION PROPOSES TO AMEND ACT 250 MODERNIZING THE DEFINITIONS OF “FLOODWAY” AND “FLOODWAY FRINGE” TO “FLOOD HAZARD AREA” AND “RIVER CORRIDOR.” THESE TERMS, AND THE CORRESPONDING CHANGES TO THE ACT 250 CRITERIA, ARE CONSISTENT WITH THE WAY THE AGENCY OF NATURAL RESOURCES PERMITS AND REGULATES RIVER CORRIDORS. IT ALSO BRINGS THE LANGUAGE OF THE ACT INTO GREATER ALIGNMENT WITH HISTORIC PRECEDENT OF THE ENVIRONMENTAL BOARD AND COURTS WITH RESPECT TO THESE CRITERIA. ....	25

<b>B. CHANGES TO THE PERMIT PROGRAM FOR RIVERS.....</b>	<b>26</b>
THIS SECTION PROPOSES TO CHANGE THE SCOPE OF THE RIVERS PERMIT PROGRAM. THIS SECTION PROPOSES THAT IN NOVEMBER 2021, THE RIVERS PROGRAM MATCHES ACT 250 JURISDICTION AND IN NOVEMBER 2023 THAT THE PERMIT PROGRAM EXPANDS TO HIGHEST PRIORITY RIVER CORRIDORS THAT ARE MAPPED AND ESTABLISHED BY RULE. ....	26

<b>C. TRANSPORTATION .....</b>	<b>29</b>
THIS SECTION IS CONSISTENT WITH THE 2019 COMMITTEE BILL AND PROPOSES TO MODIFY THE ACT 250 TRANSPORTATION CRITERIA TO EXPAND CONSIDERATION OF IMPACTS TO LOW-CARBON FORMS OF TRANSPORTATION, SUCH AS BICYCLE, PEDESTRIAN AND TRANSIT INFRASTRUCTURE. ....	29

<b>D. DEVELOPMENT AFFECTING MUNICIPAL AND EDUCATIONAL SERVICES .....</b>	<b>30</b>
THIS SECTION PROPOSES TO REQUIRE THAT A MUNICIPALITY PROVIDE THE BOARD WITH IMPACTS TO EDUCATIONAL, MUNICIPAL, AND GOVERNMENTAL SERVICES WITHIN 90 DAYS OF RECEIVING NOTICE. IF THE MUNICIPALITY FAILS TO RESPOND, IT CREATES A PRESUMPTION OF COMPLIANCE WITH THE CRITERIA. ....	30

<b>E. PROTECTION OF FOREST BLOCKS AND CONNECTING HABITAT.....</b>	<b>30</b>
THIS SECTION PROPOSES TO EXPAND THE ACT 250 WILDLIFE CRITERIA TO CONSIDER IMPACTS TO FOREST BLOCKS AND CONNECTING HABITAT. MAINTAINING INTACT FOREST BLOCKS AND THE NETWORK OF HABITAT THAT CONNECTS THEM IS A CRITICAL CLIMATE CHANGE ADAPTATION STRATEGY. FRAGMENTATION OF THESE LANDSCAPE FEATURES IS AN EMERGING ISSUE IN VERMONT AND THIS CHANGE TO CRITERIA, ALONG WITH THE EXPANDED JURISDICTION OVER NEW, LONG ROADS PROPOSED IN SEC. 1.B, ABOVE, WILL PROVIDE ACT 250 WITH EFFECTIVE TOOLS TO ADDRESS THIS ISSUE. ....	30

<b>F. DEVELOPMENT AFFECTING PUBLIC INVESTMENTS .....</b>	<b>32</b>
THIS SECTION PROPOSES TO ADD CONSERVED LAND AND LAND RECEIVING BENEFITS FROM THE VERMONT HOUSING CONSERVATION BOARD. THIS PROPOSAL DOES NOT INCLUDE ALL THE VARIOUS STATE PROGRAMS BEING CONSIDERED BY THE COMMITTEE IN ITS DELIBERATIONS LAST SESSION, AND FOCUSES ON MORE TANGIBLE AND DEFINED STATE BENEFIT PROGRAMS. THE	

1	OMISSION OF OTHER BENEFIT PROGRAMS IS NOT INTENDED TO FORECLOSE THE BOARD FROM	
2	CONSIDERING THEM UNDER THIS CRITERIA IN FUTURE CASES. ....	32
3	<b>G. CLIMATE CHANGE.....</b>	<b>33</b>
4	THIS SECTION PROPOSES TO MODIFY ACT 250 CRITERIA TO BETTER ADDRESS CLIMATE CHANGE	
5	FROM BOTH A MITIGATION AND ADAPTATION PERSPECTIVE BY REQUIRING COMPLIANCE WITH THE	
6	RESIDENTIAL STRETCH CODE AND BY REQUIRING PROJECT DESIGN, LAYOUT, AND MATERIALS	
7	ADEQUATE TO WITHSTAND THE EFFECTS OF CLIMATE CHANGE NOW AND INTO THE FUTURE.....	33
8	<b>H. CONSISTENCY WITH LOCAL AND REGIONAL PLANS.....</b>	<b>34</b>
9	THIS TOPIC LARGELY FOLLOWS THE COMMISSION AND COMMITTEE’S RECOMMENDATIONS WITH	
10	RESPECT TO CHANGES TO CRITERION 10 UNDER ACT 250. IT PROPOSES THAT A MUNICIPAL PLAN	
11	MUST BE APPROVED UNDER 24 V.S.A. § 4350 FOR CONSIDERATION UNDER THE CRITERIA. IT ALSO	
12	CLARIFIES THAT CONSIDERATION INCLUDES LAND USE MAPS THAT ARE A PART OF LOCAL AND	
13	REGIONAL PLANS. IT FURTHER REQUIRES THAT A MUNICIPAL PLAN MEET THE PLANNING GOALS OF	
14	24 V.S.A. CHAPTER 117. THERE WERE MANY OTHER PLANNING CONSIDERATIONS THAT	
15	WARRANTED ADDITIONAL DIALOGUE BUT THE STAKEHOLDERS WERE UNABLE TO REACH	
16	CONSENSUS ON THEIR SCOPE. IN RESPONSE TO THIS, A REPORT AND STAKEHOLDER PROCESS HAS	
17	BEEN PROPOSED IN SEC. 11 OF THE BILL (PAGE 84). ....	34
18	<b><u>IV. ACT 250 PERMIT CONDITIONS AND PERMIT PROCESS.....</u></b>	<b>36</b>
19	<b>A. ENHANCED PARTICIPATION / 30 DAY NOTICE REQUIREMENT .....</b>	<b>36</b>
20	THIS SECTION PROPOSES A NEW ADVANCE NOTICE REQUIREMENT FOR ACT 250 PERMIT	
21	APPLICATIONS. THE PURPOSE OF THIS SECTION IS TO GIVE THE PUBLIC, AFFECTED AGENCIES, AND	
22	THE BOARD AN OPPORTUNITY TO REVIEW THE PROJECT BEFORE FILING AN APPLICATION WITH THE	
23	BOARD. IT ALSO GIVES THE APPLICANT THE BENEFIT OF RECEIVING COMMENTS ON AN	
24	APPLICATION PRIOR TO FILING, ENABLING THE APPLICANT TO ADDRESS ISSUES BEFORE FILING AN	
25	APPLICATION. THE NOTICE PERIOD IS 30 DAYS. IT DOES NOT APPLY TO ADMINISTRATIVE	
26	AMENDMENTS. THE BOARD IS AUTHORIZED TO ADOPT RULES TO IDENTIFY CLASSES OF PROJECTS	
27	THAT ARE NORMALLY REVIEWED AS MINOR PROJECTS AND NOT SUBJECT TO THE ADVANCE NOTICE	
28	REQUIREMENT. ....	36
29	<b>B. CONDITIONS ON FOREST PROCESSING.....</b>	<b>37</b>
30	THIS IS THE ONE AREA WHERE THE ADMINISTRATION AND VNRC WERE UNABLE TO REACH	
31	CONSENSUS. THERE IS AGREEMENT WITH RESPECT TO THE PROPOSED CHANGES IN 6086(C)(2)(A)	
32	AND (B) RELATED TO CONDITIONS ON PERMITTED HOURS OF OPERATION AT FOREST PROCESSING	
33	FACILITIES. THE PARTIES ARE NEAR AGREEMENT WITH RESPECT TO THE PROPOSED CHANGES IN	
34	6086(C)(3) RELATED TO PERMITTED HOURS FOR DELIVERY OF WOOD THAT IS USED FOR HEAT.	
35	WITH RESPECT TO HOW FOREST PROCESSING FACILITIES MITIGATE PRIMARY AGRICULTURAL SOILS,	
36	VNRC AND THE ADMINISTRATION COULD NOT REACH AGREEMENT AND HAVE PROPOSED TWO	
37	ALTERNATIVES FOR THE COMMITTEE. ....	37
38	<b>C. PRESUMPTIONS FOR ANR PERMITS IN ACT 250 PROCEEDINGS .....</b>	<b>40</b>
39	CURRENTLY, STATE PERMITS RECEIVE A PRESUMPTION IN ACT 250 IF THE NATURAL RESOURCES	
40	BOARD ADOPTS THOSE PERMIT PROGRAMS IN A RULE AS HAVING A PRESUMPTION. THIS SECTION	
41	PROPOSES TO MAKE ALL PERMITS HAVE A PRESUMPTION AUTOMATICALLY WITHOUT ADOPTION IN A	

1	RULE. THIS DOES NOT AFFECT THE TREATMENT OF MUNICIPAL PERMITS BEFORE THE BOARD. IT	
2	ALSO DOES NOT ALTER THE WEIGHT OF THE PRESUMPTION GIVEN TO STATE PERMITS. ....	40
3	<b>D. ACT 250 PERMIT FEES; INDUSTRIAL PARKS .....</b>	<b>42</b>
4	THIS SECTION CLARIFIES THE EXISTING PROCESS TO WAIVE OR REDUCE ACT 250 APPLICATION FEES	
5	FOR DEVELOPMENT IN INDUSTRIAL PARKS WHERE A MASTER PLAN HAS BEEN COMPLETED. MASTER	
6	PLANNING AT INDUSTRIAL PARKS ALLOWS FOR AN UP FRONT AND COMPREHENSIVE REVIEW OF ALL	
7	POTENTIAL SITE CONSTRAINTS AND IMPACTS, WHICH MAKES THE REVIEW OF INDIVIDUAL	
8	CONSTRUCTION PERMIT APPLICATIONS SIMPLER, FASTER AND MORE PREDICTABLE. CLARIFYING	
9	THAT A FEE WAIVER IS AVAILABLE FOR CONSTRUCTION PERMITS IN INDUSTRIAL PARKS WHERE	
10	MASTER PLANNING HAS OCCURRED, WILL ENCOURAGE MASTER PLANNING AT THESE SITES. ....	42
11	<b><u>IV. ENHANCED NATURAL RESOURCES BOARD.....</u></b>	<b>44</b>
12	<b>A. ENHANCED NATURAL RESOURCES BOARD.....</b>	<b>44</b>
13	THIS SECTION PROPOSES: .....	44
14	A. THE CREATION OF A PROFESSIONAL NATURAL RESOURCES BOARD (BOARD) CONSISTING OF A	
15	CHAIR, TWO PERMANENT MEMBERS, AND TWO REGIONAL COMMISSIONERS. THE TWO REGIONAL	
16	COMMISSIONERS ARE FROM THE AREA WHERE THE PROJECT IS LOCATED AND SIT ON THE BOARD TO	
17	MAKE FACTUAL FINDINGS WITH RESPECT TO A CASE. THE BILL PROPOSES THAT THE BOARD	
18	MEMBERS HAVE EXPERIENCE IN LAND USE, NATURAL RESOURCES, ECONOMIC DEVELOPMENT, OR	
19	ENVIRONMENTAL JUSTICE AREAS. THE BILL ALSO DIRECTS THE GOVERNOR WHEN MAKING	
20	SELECTIONS TO THE BOARD TO CONSIDER GENDER, RACIAL, AND ECONOMIC DIVERSITY IN THE	
21	APPOINTMENT PROCESS.....	45
22	B. THE CHAIR AND TWO PERMANENT BOARD MEMBERS ARE INDEPENDENT AND THE STRUCTURE IS	
23	DESIGNED TO BE INSULATED FROM POLITICAL INTERFERENCE. THE CHAIR AND TWO MEMBERS ARE	
24	SELECTED USING THE JUDICIAL NOMINATING COMMITTEE. ALL BOARD MEMBERS, INCLUDING	
25	REGIONAL COMMISSIONERS, SERVE SIX YEAR TERMS AND ARE REMOVABLE ONLY FOR CAUSE AND	
26	ARE SUBJECT TO INCREASED ETHICAL STANDARDS. ....	45
27	C. ALL ACT 250 APPLICATIONS WOULD BE FILED WITH ADMINISTRATIVE DISTRICTS.	
28	ADMINISTRATIVE DISTRICTS WOULD MAKE JURISDICTIONAL OPINIONS; MAKE DETERMINATIONS AS	
29	TO WHETHER AN APPLICATION WAS A MAJOR, MINOR, OR ADMINISTRATIVE AMENDMENT; AND ISSUE	
30	PERMIT DECISIONS (AND AMENDMENTS) FOR ADMINISTRATIVE AMENDMENTS AND MINOR PERMITS.	
31	DECISIONS BY THE ADMINISTRATIVE DISTRICT WOULD BE MADE BY THE DISTRICT COORDINATOR.	45
32	D. THE BOARD WOULD HAVE ORIGINAL JURISDICTION OVER CONTESTED CASES FOR MAJOR PERMIT	
33	APPLICATION REVIEW. HEARINGS FOR MAJOR APPLICATIONS WOULD NEED TO BE HELD IN THE	
34	LOCATION WHERE THE PROJECT IS LOCATED UNLESS THE PARTIES AGREE TO AN ALTERNATE	
35	LOCATION. HEARINGS WOULD NEED TO BE OPEN AND ACCESSIBLE TO THE PUBLIC. THE BOARD	
36	WOULD ALSO HAVE ORIGINAL JURISDICTION OVER ALL FOR CAUSE PERMIT AMENDMENTS OR	
37	PERMIT REVOCATIONS. THE BOARD WOULD HAVE APPELLATE JURISDICTION OVER JURISDICTIONAL	
38	OPINIONS; DOWNTOWN BOARD DESIGNATIONS OF DESIGNATED DOWNTOWNS AND NEW	
39	NEIGHBORHOOD AREAS; AND REGIONAL PLANNING COMMISSION APPROVALS OF MUNICIPAL PLANS	
40	AND REVIEW OF MUNICIPAL ZONING ORDINANCES FOR PURPOSES OF INTERSTATE EXIT	
41	JURISDICTION. WHEN RENDERING A DECISION, THE REGIONAL COMMISSIONERS WOULD BE VOTING	

1	MEMBERS ON FACTUAL ISSUES BUT NOT ON ACT 250 POLICY OR LEGAL INTERPRETATIONS. THIS IS	
2	TO PROVIDE A REGIONAL PERSPECTIVE AS TO THE PROJECT BUT ALSO CONSISTENCY TO ACT 250	
3	POLICY REGARDLESS OF WHERE THE PROJECT IS LOCATED.....	45
4	E. APPEALS FROM THE BOARD ARE DIRECTLY TO THE SUPREME COURT, IN THE SAME MANNER	
5	THAT THE PREVIOUS ENVIRONMENTAL BOARD DECISIONS WERE DIRECTLY APPEALED. ....	45
6	<b>B. CONFORMING CHANGES TO THE ENVIRONMENTAL DIVISION .....</b>	<b>60</b>
7	THIS SECTION MAKES CONFORMING CHANGES TO 10 V.S.A. CHAPTER 220 (CONSOLIDATED	
8	APPEALS) TO REMOVE ACT 250 PERMITS FROM THE JURISDICTION OF THE ENVIRONMENTAL	
9	DIVISION. ....	61
10	<b><u>V. REPORTS AND MISCELLANEOUS CHANGES .....</u></b>	<b>70</b>
11	<b>A. MUNICIPAL AND REGIONAL PLANNING REVIEW. ....</b>	<b>70</b>
12	THIS SECTION REQUIRES THAT THE AGENCY OF COMMERCE AND COMMUNITY DEVELOPMENT	
13	DEVELOP A REPORT AND RECOMMENDATIONS WITH RESPECT TO THE CAPABILITIES AND	
14	DEVELOPMENT PLAN REQUIREMENTS UNDER ACT 250 AND REPORT TO THE GENERAL ASSEMBLY	
15	BY JANUARY 15, 2021.....	70
16	<b>B. REVIEW OF ENVIRONMENTAL PERMIT APPEALS .....</b>	<b>72</b>
17	THIS SECTION REQUIRES THAT THE AGENCY OF NATURAL RESOURCES REVIEW AND MAKE	
18	RECOMMENDATIONS ON WHETHER APPEALS OF AGENCY PERMITS SHOULD BE ON THE RECORD. THE	
19	AGENCY IS REQUIRED TO CONDUCT A STAKEHOLDER PROCESS IN MAKING THESE	
20	RECOMMENDATIONS. ....	72
21	<b>C. TRANSITION AND EFFECTIVE DATES .....</b>	<b>73</b>
22	THIS SECTION MAKES ESTABLISHES THE EFFECTIVE DATES AND TRANSITION TO THE NEW	
23	ENHANCED NATURAL RESOURCES BOARD. ....	73
24		
25		

## **I. Act 250 Jurisdiction**

### **A. Critical resource protection; Act 250 jurisdiction over ridgeline development**

#### *1. Topic summary.*

This section proposes to amend existing Act 250 jurisdiction to include the construction of improvements for commercial, industrial or residential use on ridgelines between 1,500' and 2500', excluding improvements for forestry and agriculture. Construction of improvements above 2500' is already subject to Act 250 jurisdiction and will remain so. This proposal defines the physical characteristics of a 'ridgeline' and statewide GIS mapping will depict those defined areas across the landscape.

#### *2. Bill citation.*

Sec. 1 adding 10 V.S.A. 6001(3)(A)(xi) (see page 2).

#### *3. Proposed language.*

(xi) The construction of improvements for commercial, industrial or residential use at an elevation of at least 1,500 feet and within 200 feet below the elevation of any portion of a ridgeline. For purposes of this subdivision, "ridgeline" means the elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a mountain and includes all land. This subdivision shall not apply to the construction of improvements for agricultural or forestry uses.

### **B. Critical resource protection; Act 250 Jurisdiction over fragmentation**

#### *1. Topic summary.*

This section proposes to amend existing Act 250 jurisdiction to include new road construction of a certain length. Small-scale development has the potential to fragment intact forest blocks or connecting habitat if that development encroaches far from existing roads into undeveloped areas; however, Act 250's current jurisdictional triggers may not capture this type of development. This proposal requires an Act 250 permit for any new road and associated driveway that exceeds 2000' in length and provides access to a parcel greater than 1 acre.

#### *2. Bill citation.*

Sec. 1 adding 10 V.S.A. § 6001(3)(A)(xii) (see page 2).

*3. Proposed language.*

(xii) The construction of a road or roads and any associated driveways to provide access to or within a tract of land of more than one acre owned or controlled by a person. For the purposes of determining jurisdiction under this subdivision, any new development or subdivision on parcel of land that will be provided access by the road and associated driveways is land involved in the construction of the road. Jurisdiction under this subdivision shall not apply unless the length of road and any associated driveways, in combination, is greater than 2,000 feet. As used in this subdivision, “roads” shall include any new road or improvement to a Class IV road by a private person for the purpose of accessing a development or subdivision, including roads that will be transferred to or maintained by a municipality after their construction or improvement. For the purpose of determining the length of any road and associated driveways, the length of all other roads and driveways within the tract of land constructed within any continuous period of ten years commencing after July 1, 2020 shall be included. This subdivision shall not apply to a state or municipal road or a road used exclusively for agricultural or forestry purposes.

**C. Exemption for Development in Downtowns**

*1. Topic summary.*

This section proposes to amend existing Act 250 jurisdiction to exclude development in state designated Downtowns and Neighborhood Development Areas (NDA’s). Designated Downtowns and NDA’s are compact, previously developed areas with limited natural resource values. They are served by municipal sewer and water and governed by local zoning bylaws that are robust and promote smart growth. These areas support density, transit and other land use forms that mitigate climate change. Existing Act 250 permits in Downtowns and NDA’s would remain in effect until a material change is proposed, at which time the appropriate municipal panel would consider the change and render a decision based on municipal bylaws; any new municipal permit would address and/or incorporate all relevant conditions from the prior Act 250 permit.



2 *2. Bill citation.*

3 Sec. 1 adding 10 V.S.A. § 6001(3)(C)(v) (see page 4); Sec. 1 amending 10 V.S.A. § 6081(p) and  
4 (o) (see p. 25); Sec. 1 amending 10 V.S.A. § 6083a(d) (see page 29); Sec. 1 amending 10 V.S.A.  
5 § 6086b (see p. 53); Sec. 1. amending 10 V.S.A. § 6093(a)(1)(B)(ii) (see page 60); Sec. 9  
6 amending 24 V.S.A. § 4460 (see p. 82); Sec. 6. amending 24 V.S.A. § 2793 (see page 79); and  
7 Sec. 7. amending 24 V.S.A. § 2793e (see p. 80).

8 *3. Proposed language.*

9 Sec. 1. 10 V.S.A. § 6001 is amended to read:

10 \* \* \*

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

12 \* \* \*

13 (C) For the purposes of determining jurisdiction under subdivision (3)(A) of this section, the  
14 following shall apply:

15 \* \* \*

16 (v) Repealed. ~~Permanently affordable housing. Notwithstanding subdivisions (3)(A)(iv) and (19)~~  
17 ~~of this section, jurisdiction shall be determined exclusively by counting affordable housing units,~~  
18 ~~as defined by this section, that are subject to housing subsidy covenants as defined in 27 V.S.A.~~  
19 ~~§ 610 that preserve their affordability for a period of 99 years or longer, provided the affordable~~  
20 ~~housing units are located in a discrete project on a single tract or multiple contiguous tracts of~~  
21 ~~land, regardless of whether located within an area designated under 24 V.S.A. chapter 76A.~~

22 \* \* \*

23 (27) "Mixed income housing" means a housing project in which the following apply:

(A) Owner-occupied housing. For not less than 15 years, at ~~At the option of the applicant,~~  
~~owner-occupied housing may be characterized by either of the following:~~  
(i) ~~at least 15 percent of the housing units have a purchase price that at the time of first sale does~~  
~~not exceed 85 percent of the new construction, targeted area purchase price limits established~~  
~~and published annually by the Vermont Housing Finance Agency; or~~  
(ii) ~~at least 20 percent of each type of the housing units, where the type is determined by the total~~  
~~number of bedrooms in the unit, have~~ has a purchase price that ~~at the time of first sale~~ does not  
exceed ~~90 percent of the new construction, targeted area purchase price limits~~ for that same type  
of housing unit for households earning 85 percent of the area median income as established and  
published annually by the Vermont Housing Finance Agency.

(B) Rental housing. For not less than 15 years, at ~~At least 20 percent of each type of the housing~~  
~~units, where the type is determined by the total number of bedrooms in the unit, that is~~ are rented  
has a total annual cost of renting, including rent, utilities, parking fees, and any association fees,  
that does not exceed the max gross rent for that same type of housing unit for households earning  
80 percent of the area median income as established and published annually by the Vermont  
Housing Finance Agency. ~~constitute affordable housing and have a duration of affordability of~~  
~~not less than 15 years.~~

(C) When calculating the percentage of housing units that must meet the applicable purchase  
price limits and total annual cost thresholds of subsections (A) and (B) of this section, the  
percentage shall be rounded up to the nearest whole number to avoid parts of units needing to be  
affordable and when there is only one unit within a unit type that unit shall be excluded from the  
percentage calculation.

\* \* \*

(29) “Permanently affordable housing” means a housing project in which the following apply:

(A) Owner occupied housing. At least 20 percent of each type of housing unit is subject to housing subsidy covenants as defined in 27 V.S.A. § 610 that require the subject housing units to meet the affordability thresholds set forth in subsection 27 of this section each time the unit is sold for not less than 99 years.

(B) Rental housing. At least 20 percent of each type of housing unit meets the affordability thresholds in subsection 27 of this section for not less than 99 years.

~~"Affordable housing" means either of the following:~~

~~(A) Owner occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:~~

~~(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;~~

~~(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or~~

~~(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.~~

~~(B) Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:~~

(i) ~~the county median income, as defined by the U.S. Department of Housing and Urban Development;~~  
(ii) ~~the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or~~  
(iii) ~~the statewide median income, as defined by the U.S. Department of Housing and Urban Development.~~

\* \* \*

(35) "Priority housing project" means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of:  
(A) ~~mixed income housing or mixed use, or any combination thereof, and is located entirely within a designated downtown development district, designated new town center or, designated growth center, or designated village center that is also a designated neighborhood development area under 24 V.S.A. chapter 76A; or~~  
(B) ~~mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.~~

\* \* \*

Sec. 1. 10 V.S.A. § 6081(p) and (o) are amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

\* \* \*

(o) If a designation pursuant to 24 V.S.A. chapter 76A is removed, subsection (a) of this section shall apply to any subsequent substantial change to a development or subdivision ~~priority~~

1 ~~housing project~~ that was originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title  
2 or subsection (p) of this section on the basis of that designation.

3 (p)(1) No permit or permit amendment is required for any subdivision, development, or change  
4 to a project that is located entirely within a downtown development district designated pursuant  
5 to 24 V.S.A. § 2793 or a neighborhood development area designated pursuant to 24 V.S.A. §  
6 2793e. Upon receiving notice and a copy of the permit issued by the appropriate municipal  
7 panel pursuant to 24 V.S.A. § 4460(f) a previously issued permit for a development or  
8 subdivision located in a downtown development area or a new neighborhood area shall be  
9 extinguished.., ~~if the change consists exclusively of any combination of mixed use and mixed~~  
10 ~~income housing, and the cumulative changes within any continuous period of five years,~~  
11 ~~commencing on or after the effective date of this subsection, remain below any applicable~~  
12 ~~jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title.~~

13 \* \* \*

14 (v) ~~[Repealed]~~ A permit or permit amendment shall not be required for a development or  
15 subdivision in a designated downtown development district for which the District Commission  
16 has issued positive findings and conclusions under section 6086b of this title on all the criteria  
17 listed in that section. A person shall obtain new or amended findings and conclusions from the  
18 District Commission under section 6086b of this title prior to commencement of a material  
19 change, as defined in the rules of the Board, to a development or subdivision for which the  
20 District Commission has issued such findings and conclusions. A person may seek a  
21 jurisdictional opinion under section 6007 of this title concerning whether such a change is a  
22 material change.

\* \* \*

Sec. 1. 10 V.S.A. § 6083a(d) is amended to read:

~~(d) Neighborhood development area fees. Fees for residential development in a Vermont neighborhood or neighborhood development area designated according to 24 V.S.A. § 2793e shall be no more than 50 percent of the fee otherwise charged under this section. The fee shall be paid within 30 days after the permit is issued or denied~~[Repealed].

Sec. 1. 10 V.S.A. § 6086b is amended to read:

§ 6086b. [Repealed] DOWNTOWN DEVELOPMENT; FINDINGS

~~Notwithstanding any provision of this chapter to the contrary, each of the following shall apply to a development or subdivision that is completely within a downtown development district designated under 24 V.S.A. chapter 76A and for which a permit or permit amendment would otherwise be required under this chapter:~~

~~(1) In lieu of obtaining a permit or permit amendment, a person may request findings and conclusions from the District Commission, which shall approve the request if it finds that the development or subdivision will meet subdivisions 6086(a)(1) (air and water pollution), (2) (sufficient water available), (3) (burden on existing water supply), (4) (soil erosion), (5) (traffic), (8) (aesthetics, historic sites, rare and irreplaceable natural areas), (8)(A) (endangered species; necessary wildlife habitat), (9)(B) (primary agricultural soils), (9)(C) (productive forest soils), (9)(F) (energy conservation), and (9)(K) (public facilities, services, and lands) of this title.~~

~~(2) The request shall be complete as to the criteria listed in subdivision (1) of this subsection and need not address other criteria of subsection 6086(a) of this title.~~

1 (A) The requestor shall file the request in accordance with the requirements of subsection  
2 6084(a) of this title and the requestor shall provide a copy of the request to each agency and  
3 department listed in subdivision (3) of this section.

4 (B) Within five days of the request's filing, the District Coordinator shall determine whether the  
5 request is complete. Within five days of the date the District Coordinator determines the request  
6 to be complete, the District Commission shall provide notice of the complete request to each  
7 person required to receive a copy of the filing under subdivision (2)(A) of this section and to  
8 each adjoining property owner and shall post the notice and a copy of the request on the Board's  
9 web page. The computation of time under this subdivision (2)(B) shall exclude Saturdays,  
10 Sundays, and State legal holidays.

11 (3) Within 30 days of receiving notice of a complete request:

12 (A) The State Historic Preservation Officer or designee shall submit a written recommendation  
13 on whether the improvements will have an undue adverse effect on any historic site.

14 (B) The Commissioner of Public Service or designee shall submit a written recommendation on  
15 whether the improvements will meet or exceed the applicable energy conservation and building  
16 energy standards under subdivision 6086(a)(9)(F) of this title.

17 (C) The Secretary of Transportation or designee shall submit a written recommendation on  
18 whether the improvements will have a significant impact on any highway, transportation facility,  
19 or other land or structure under the Secretary's jurisdiction.

20 (D) The Commissioner of Buildings and General Services or designee shall submit a written  
21 recommendation on whether the improvements will have a significant impact on any adjacent  
22 land or facilities under the Commissioner's jurisdiction.



~~(E) The Secretary of Natural Resources or designee shall submit a written recommendation on whether the improvements will have a significant impact on any land or facilities under its jurisdiction or on any important natural resources, other than primary agricultural soils. In this subdivision (E), "important natural resources" shall have the same meaning as under 24 V.S.A. § 2791.~~

~~(F) The Secretary of Agriculture, Food and Markets or designee shall submit a written recommendation on whether the improvements will reduce or convert primary agricultural soils and on whether there will be appropriate mitigation for any reduction in or conversion of those soils.~~

~~(4) Any person may submit written comments or ask for a hearing within 30 days of the date on which the District Commission issues notice of a complete request. If the person asks for a hearing, the person shall include a petition for party status in the submission. The petition for party status shall meet the requirements of subdivision 6085(c)(2) of this title.~~

~~(5) The District Commission shall not hold a hearing on the request unless it determines that there is a substantial issue under one or more applicable criteria that requires a hearing. The District Commission shall hold any hearing within 20 days of the end of the comment period specified in subdivisions (3) and (4) of this section. Subdivisions 6085(c)(1) (5) of this title shall govern participation in a hearing under this section.~~

~~(6) The District Commission shall issue a decision within 60 days of issuing notice of a complete request under this section or, if it holds a hearing, within 15 days of adjourning the hearing. The District Commission shall send a copy of the decision to each State agency listed in subdivision (3) of this section, to the municipality, to the municipal and regional planning commissions for~~

1 the municipality, and to each person that submitted a comment, requested a hearing, or  
2 participated in the hearing, if any. The decision may include conditions that meet the standards  
3 of subsection 6086(e) of this title.

4 (7) The requestor may waive the time periods required under subdivisions (3), (4), and (6) of this  
5 section as to one or more agencies, departments, the District Commission, the District  
6 Coordinator, or other persons. Such a waiver shall extend the applicable and subsequent time  
7 periods by the amount of time waived. In the absence of a waiver under this subdivision, the  
8 failure of a State agency to file a written determination or a person to submit a comment or ask  
9 for a hearing within the time periods specified in subdivisions (3) and (4) of this section shall not  
10 delay the District Commission's issuance of a decision on a complete request.

11 Sec. 1. 10 V.S.A. § 6093(a)(1)(B)(ii) is amended to read:

12 (ii) For residential construction that has a density of at least eight units of housing per acre, of  
13 which at least eight units per acre or at least 40 percent of the units, on average, in the entire  
14 development or subdivision, whichever is greater, meets the definition of permanently affordable  
15 housing established in this chapter, no mitigation shall be required, regardless of location in or  
16 outside a designated area described in this subdivision (a)(1). However, all affordable housing  
17 units shall be subject to housing subsidy covenants, as defined in 27 V.S.A. § 610, that preserve  
18 their affordability for a period of 99 years or longer. As used in this section, housing that is  
19 rented shall be considered affordable housing when its inhabitants have a gross annual household  
20 income that does not exceed 60 percent of the county median income or 60 percent of the  
21 standard metropolitan statistical area income if the municipality is located in such an area.

22 Sec. 10. 24 V.S.A. § 4460 is amended to read:

§ 4460. APPROPRIATE MUNICIPAL PANELS

\* \* \*

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

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

(B) is located in a downtown development district or neighborhood development area designated pursuant to chapter 76A of this title; and

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

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

(A) the construction phase of the project that has already been constructed.

(B) compliance with another state permit that has independent jurisdiction that addresses the condition in the previously issued permit.

(C) federal or state law that is no longer in effect or applicable.

(D) an issue that is addressed by municipal regulation and the project will meet the municipal standards.

(E) 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.

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

4 (3) The appropriate municipal panel's determinations shall be made following notice and  
5 hearing as provided in section 4464(a)(1) of this title and to those persons requiring notice  
6 pursuant to 10 V.S.A. § 6084(b). The notice shall explicitly reference the existing Act 250  
7 permit.

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

11 (5) Any final action by the Appropriate Municipal Panel affecting a condition of a permit  
12 previously issued pursuant to 10 V.S.A. chapter 151 shall be recorded in the municipal land  
13 records.

14 Sec. 6. 24 V.S.A. § 2793 is amended to read:

15 § 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

16 \* \* \*

17 (b) Within 45 days of receipt of a completed application, the State Board shall designate a  
18 downtown development district if the State Board finds in its written decision that the  
19 municipality has:

20 (1) Demonstrated a commitment to protect and enhance the historic character of the downtown  
21 through the adoption of a design review district, through the adoption of an historic district, or  
22 through the adoption of regulations that adequately regulate the physical form and scale of

development that the State Board determines substantially meet the historic preservation requirements in subdivisions 4414(1)(E) and (F) of this title, ~~or through the creation of a development review board authorized to undertake local Act 250 reviews of municipal impacts pursuant to section 4420 of this title.~~

\* \* \*

Sec. 7. 24 V.S.A. § 2793e is amended to read:

§ 2793e. NEIGHBORHOOD PLANNING AREAS; DESIGNATION OF NEIGHBORHOOD DEVELOPMENT AREAS

\* \* \*

(c) Application for designation of a neighborhood development area. The State Board shall approve a neighborhood development area if the application demonstrates and includes all of the following elements:

\* \* \*

(7) The municipal bylaws allow minimum net residential densities within the neighborhood development area greater than or equal to four single-family detached dwelling units per acre, exclusive of accessory dwelling units, or no fewer than the average existing density of the surrounding neighborhood, whichever is greater. The methodology for calculating density shall be established in the guidelines developed by the Department pursuant to subsection 2792(d) of this title.

(A) Regulations that adequately regulate the physical form and scale of development may be used to demonstrate compliance with this requirement.

(B) Development in the neighborhood development areas that is lower than the minimum net residential density required by this subdivision (7) shall not qualify for the benefits stated in subsections (f) and (g) of this section. ~~The district coordinator shall determine whether development meets this minimum net residential density requirement in accordance with subsection (f) of this section.~~

\* \* \*

(f) Neighborhood development area incentives for developers. Once a municipality has a designated neighborhood development area or has a Vermont neighborhood designation pursuant to section 2793d of this title, ~~any~~ a proposed development within that area shall be eligible for each of the benefits listed in this subsection. ~~These benefits shall accrue upon approval by the district coordinator, who shall review~~ provided that the project meets the density requirements set forth in subdivision (c)(7) of this section ~~to determine benefit eligibility and issue a jurisdictional opinion under 10 V.S.A. chapter 151 on whether the density requirements are met,~~ as determined by the administrative officer, as that term is defined in 24 V.S.A. chapter 117.

These benefits are:

- (1) The application fee limit for wastewater applications stated in 3 V.S.A. § 2822(j)(4)(D).
- ~~(2) The application fee reduction for residential development stated in 10 V.S.A. § 6083a(d).~~
- ~~(3) The exclusion from the land gains tax provided by 32 V.S.A. § 10002(p).~~

\* \* \*

(h) Alternative designation. If a municipality has completed all of the planning and assessment steps of this section but has not requested designation of a neighborhood development area, an owner of land within a neighborhood planning area may apply to the State Board for



neighborhood development area designation status for a portion of land within the neighborhood planning area. The applicant shall have the responsibility to demonstrate that all of the requirements for a neighborhood development area designation have been satisfied and to notify the municipality that the applicant is seeking the designation. The State Board shall provide the municipality with at least 14 days' prior written notice of the Board's meeting to consider the application, and the municipality shall submit to the State Board the municipality's response, if any, to the application before or during that meeting. On approval of a neighborhood development area designation under this subsection, the applicant ~~may proceed to obtain a jurisdictional opinion from the district coordinator under subsection (f) of this section in order to obtain~~ shall be eligible for the benefits granted to neighborhood development areas, subject to approval by the Administrative Officer as set forth in subsection (f) of this section.

#### **D. Exemption for Certain Transportation Projects**

##### *1. Topic summary.*

This section proposes to amend the existing definition of development with respect to certain transportation projects. Currently, a transportation project is subject to Act 250 if the project is greater than 10 acres. This proposal authorizes a reduction in the project area by the area that is previously disturbed for federally funded projects that also meet several other limitations. Previously disturbed is defined to include several engineered features that are a part of transportation infrastructure. This section also requires changes to memoranda of understanding to protect primary agricultural soils and potential fishery impacts.

##### *2. Bill citation.*

Sec. 1 amending 10 V.S.A. § 6001(3)(A)(v) (see page 1); Sec. 4. adding 19 V.S.A. § 7(l) (see page 78); and Sec. 5 (see page 79).

##### *3. Proposed language.*

Sec. 1. 10 V.S.A. § 6001(3)(A)(v) is amended to read:

(v) The construction of improvements on a tract of land involving more than 10 acres that is to be used for municipal, county, or State purposes. In computing the amount of land involved: (I) land shall be included that is incident to the use such as lawns, parking areas, roadways, leaching fields and accessory buildings. (II) land that was previously disturbed as the result of construction of a transportation facility shall be excluded provided that the facility subject to this exclusion is a transportation facility, the project is funded in whole or in part by federal aid, and the project complies with the terms of the memorandum of understanding required by 19 V.S.A. § 7(l). This exclusion shall not apply to the creation of new or additional points of access to, or exit from, the interstate highway systems. For purposes of this subdivision, “previously disturbed” land that has been changed by previous installation of transportation facilities including roads, railroads, runways, trails, sidewalks, ditching, drainage features, ledge removal, utility work, clear zones or other similar features associated with such facilities.

\* \* \*

Sec. 4. 19 V.S.A. § 7(l) is added to read:

(l) The Secretary of Transportation and the Secretary of Agriculture, Food, and Markets shall enter a memorandum of understanding to ensure that any transportation project subject to the exclusion under 10 V.S.A. § 6001(3)(A)(v)(II) on a tract of land involving more than 10 acres meets the requirements to protect primary agricultural soils consistent with 10 V.S.A. § 6086(a)(9)(B).

Sec. 5. REVISION OF STREAM CONSULTATION MEMORANDUM OF UNDERSTANDING

On or before July 1, 2021, the Secretary of Natural Resources and Secretary of Transportation shall revise the memorandum of understanding implementing the consultation process pursuant to 19 V.S.A. § 10(12) to require that a project's proposed impact on fisheries is considered in the consultation process.

**E. Expanded Jurisdiction to Development Near Interstate Interchanges**

*1. Topic summary.*

This section proposes to amend Act 250 jurisdiction to require permits for commercial and industrial developments near points of access or exit from the interstate highway system. The jurisdictional radius can be modified by demonstrated that local planning processes address issues of concern with development in interstate exits.

*2. Bill citation.* Sec. 1 adding 10 V.S.A. § 6001(3)(A)(xiii) (see p. 2).

*3. Proposed language.*

Sec. 1. 10 V.S.A. § 6001(3)(A)(xiii) is added to read:

(xiii) The construction of improvements for commercial or industrial use within 2000 feet of a point of access to or exit from the interstate highway system as measured from the midpoint of the interconnecting roadways, unless a regional planning commission has determined, at the request of the municipality where the interchange is located or any municipality with land in the 2,000ft radius, that municipal ordinances or bylaws applicable to properties around the interchange:

(I) Ensure that planned development patterns will maintain the safety and function of the interchange area for all road users, including non-motorized, for example, by limiting curb cuts, and by sharing parking and access points and parcels will be interconnected to adjoining parcels wherever physically possible.

(II) Ensure that development will be undertaken in a way that preserves scenic characteristics both at and beyond the project site. This shall include a determination that site and building design fit the context of the area.

(III) Ensure that development does not destroy or compromise necessary wildlife habitat or endangered species.

(IV) The uses allowed in the area will not impose a burden on the financial capacity of a town or the state.

(V) Allowed land uses must be of a type, scale, and design that complement rather than compete with uses that exist in designated downtowns, village centers, growth centers, or other regional growth areas. Principle retail should be discouraged or prohibited in highway interchange areas.

(VII) Development in this area may not establish or contribute to a pattern of strip development. Where strip development already exists, development in this area must be infill that minimizes the characteristics of strip development.

(VIII) Site design must use space efficiently by siting buildings close together, minimizing paved services, locating parking to the side and rear, and minimizing the use of one story buildings.

(IX) The allowed uses, patterns of development, and aesthetics of development in these areas must conform with the regional plan.

(X) The allowed uses, patterns of development, and aesthetics of development in these areas must be consistent with the goals of 24 V.S.A. §4302.

\* \* \*

## **II. Changes to Act 250 Criteria**

### **A. Floodways and Flood Hazard Areas**

1. *Topic summary.*

This section proposes to amend Act 250 modernizing the definitions of “floodway” and “floodway fringe” to “flood hazard area” and “river corridor.” These terms, and the corresponding changes to the Act 250 criteria, are consistent with the way the Agency of Natural Resources permits and regulates river corridors. It also brings the language of the Act into greater alignment with historic precedent of the Environmental Board and Courts with respect to these criteria.

2. *Bill citation.*

Sec. 1 amending 10 V.S.A. § 6001(6) and (7) (see p. 4); and Sec. 1 amending 10 V.S.A. § 6086(a)(1)(D) (see p. 42).

3. *Proposed language.*

Sec. 1. 10 V.S.A. § 6001(6) and (7) are amended to read:

(6) “Flood Hazard Area” has the same meaning as in section 752 of this title~~“Floodway” means the channel of a watercourse which is expected to flood on an average of at least once every 100 years and the adjacent land areas which are required to carry and discharge the flood of the watercourse, as determined by the Secretary of Natural Resources with full consideration given to upstream impoundments and flood control projects.~~

(7) “River Corridor” has the same meaning as in section 752 of this title~~“Floodway fringe” means an area which is outside a floodway and is flooded with an average frequency of once or more in each 100 years as determined by the Secretary of Natural Resources with full consideration given to upstream impoundments and flood control projects.~~

Sec. 1. 10 V.S.A. § 6086(a)(1)(D) is amended to read:

§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

\* \* \*

(a) Before granting a permit, the ~~District Commission~~ Board, shall find that the subdivision or development:

(1) Will not result in undue water or air 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.

\* \* \*

(D) ~~Floodways~~ 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:

~~(i) the development or subdivision of lands within a floodway~~ flood hazard area or river corridor will not restrict or divert the flow of flood waters, cause or contribute to fluvial erosion, and will not endanger the health, safety and welfare of the public or of riparian owners during flooding; and

~~(ii) the development or subdivision of lands within a floodway fringe will not significantly increase the peak discharge of the river or stream within or downstream from the area of development and endanger the health, safety, or welfare of the public or riparian owners during flooding.~~

## **B. Changes to the Permit program for Rivers**

### *1. Topic summary.*

This section proposes to change the scope of the rivers permit program. This section proposes that in November 2021, the Rivers program matches Act 250 jurisdiction and in November 2023 that the permit program expands to highest priority river corridors that are mapped and established by rule.



2. *Bill citation.*

Sec. 1 amending 10 V.S.A. § 754 (see p. 76)

3. *Proposed language.*

Sec. 3. 10 V.S.A. § 754 is amended to read:

§ 754. FLOOD HAZARD AREA RULES; USES EXEMPT FROM MUNICIPAL  
REGULATION

(a) Rulemaking authority.

(1) On or before November 1, 2014, the Secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that establish requirements for the issuance and enforcement of permits applicable to:

(i) uses exempt from municipal regulation that are located within a flood hazard area or river corridor of a municipality that has adopted a flood hazard bylaw or ordinance under 24 V.S.A. chapter 117; and

(ii) State-owned and -operated institutions and facilities that are located within a flood hazard area or river corridor.

(2) On or before November 1, 2022, the Secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that designate highest priority river corridors and establish requirements for the issuance and enforcement of permits applicable to uses located in highest priority river corridors. Highest priority river corridors are those that provide critical floodwater storage or are highly vulnerable to flood related erosion.

(3) The Secretary shall not adopt rules under this subsection that regulate agricultural activities without the consent of the Secretary of Agriculture, Food and Markets, provided that the Secretary of Agriculture, Food and Markets shall not withhold consent under this subdivision

when lack of such consent would result in the State's noncompliance with the National Flood Insurance Program.

~~(4)~~ ~~(3)~~ The Secretary shall seek the guidance of the Federal Emergency Management Agency in developing and drafting the rules required by this section in order to ensure that the rules are sufficient to meet eligibility requirements for the National Flood Insurance Program.

\* \* \*

(d) General permit. The rules authorized by this section may establish requirements for a general permit to implement the requirements of this section, including authorization under the general permit to conduct a specified use subject to regulation under this section ~~exempt from municipal regulation~~ without notifying or reporting to the Secretary or an agency delegated under subsection (g) of this section.

\* \* \*

~~(f)(1)~~ Permit requirement.

(A) Beginning November 1, 2014, a A person shall not commence or conduct a use exempt from municipal regulation in a flood hazard area or river corridor in a municipality that has adopted a flood hazard area bylaw or ordinance under 24 V.S.A. chapter 117 or commence construction of a State-owned and -operated institution or facility located within a flood hazard area or river corridor, without a permit issued under the rules required under subsection (a) of this section by the Secretary or by a State agency delegated permitting authority under subsection (g) of this section. When an application is filed under this section, the Secretary or delegated State agency shall proceed in accordance with chapter 170 of this title;

(B) Beginning November 1, 2021, a person shall not commence construction on a development or subdivision that is subject to a permit under 10 V.S.A. chapter 151 without a permit issued pursuant under the rules required under subsection (a) of this section by the Secretary or by a State agency delegated permitting authority under subsection (g) of this section;

(C) Beginning November 1, 2023, a person shall not commence or conduct a use that is located in a highest priority river corridor without a permit issued pursuant under the rules required under subsection (a) of this section by the Secretary or by a State agency delegated permitting authority under subsection (g) of this section.

\* \* \*

## C. Transportation

### 1. *Topic summary.*

This section is consistent with the 2019 Committee Bill and proposes to modify the Act 250 Transportation criteria to expand consideration of impacts to low-carbon forms of transportation, such as bicycle, pedestrian and transit infrastructure.

2. *Bill citation.* Sec. 1 amending 10 V.S.A. § 6086(a)(5) (see p. 43).

3. *Proposed language.*

Sec. 1. 10 V.S.A. § 6086(a)(5) is amended to read:

(5)(A) Transportation. Will not cause unreasonable congestion or unsafe conditions with respect to use of the highways; waterways; railways; airports and airways; bicycle, pedestrian and transit infrastructure; and other means of transportation existing or proposed.

(B) ~~As appropriate, will~~ 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 However, such a strategy, access, or connection ~~constitutes a measure~~ may be declined upon a finding that a reasonable person would ~~take~~ not undertake the measure given the type, scale, and transportation impacts of the proposed development or subdivision.

#### **D. Development Affecting Municipal and Educational Services**

##### *1. Topic summary.*

This section proposes to require that a municipality provide the Board with impacts to educational, municipal, and governmental services within 90 days of receiving notice. If the municipality fails to respond, it creates a presumption of compliance with the criteria.

##### *2. Bill citation.* Sec. 1 amending 10 V.S.A. § 6086(a)(6) and (7) (see p. 44).

##### *3. Proposed language.*

Sec. 1. 10 V.S.A. § 6086(a)(6) and (7) are amended to read:

(6) Will not cause an unreasonable burden on the ability of a municipality to provide educational services. If a municipality fails to respond to a request by the Board within 90 days as to the impacts, they will be presumed not to have an unreasonable burden on educational services.

(7) Will not place an unreasonable burden on the ability of the local governments to provide municipal or governmental services. If a municipality fails to respond to a request by the Board within 90 days as to the impacts, they will be presumed not to have an unreasonable burden on municipal or governmental services.

#### **E. Protection of Forest Blocks and Connecting Habitat**

##### *1. Topic summary.*

This section proposes to expand the Act 250 Wildlife criteria to consider impacts to forest blocks and connecting habitat. Maintaining intact forest blocks and the network of habitat that connects them is a critical climate change adaptation strategy. Fragmentation of these landscape features is an emerging issue in Vermont and this change to criteria, along with the expanded jurisdiction

over new, long roads proposed in Sec. 1.B, above, will provide Act 250 with effective tools to address this issue.

*2. Bill citation.*

Sec. 1 adding 10 V.S.A. § 6001(38) and (39) (see p. 9); Sec. 1 amending 10 V.S.A. § 6086(a)(8) (see page 44); and Sec 1 amending 10 V.S.A. § 6088 (see p. 56).

*3. Proposed language.*

Sec. 1. 10 V.S.A. § 6001(38) and (39) are added to read:

(38) “Connecting habitat” refers to land or water, or both, that links patches of habitat within a landscape, allowing the movement, migration, and dispersal of animals and plants and the functioning of ecological processes. A connecting habitat may include recreational trails and improvements constructed for farming, logging, or forestry purposes.

(39) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include recreational trails, wetlands, or other natural features that do not themselves possess tree cover and improvements constructed for farming, logging, or forestry purposes.

Sec. 1. 10 V.S.A. § 6086(a)(8) is amended to read:

(8) Ecosystem protection; scenic beauty; historic sites.

(A) Will not have an undue adverse effect on the scenic or natural beauty of the area; aesthetics; or historic sites; or rare and irreplaceable natural areas.

(B)(A) Necessary wildlife habitat and endangered species. A permit will not be granted unless if it is demonstrated by any party opposing the applicant that a development or subdivision will not destroy or significantly imperil necessary wildlife habitat or any endangered species; and or, if such destruction or imperilment will occur:

(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~~

(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

(iii) a reasonably acceptable alternative site is not owned or controlled by the applicant that ~~which~~ would allow the development or subdivision to fulfill its intended purpose.

(C) Will not result in an undue adverse impact on forest blocks, connecting habitat, or rare and irreplaceable natural areas. If a project as proposed would result in an undue adverse impact a permit may only be granted if effects are avoided, minimized, and mitigated in accordance with rules adopted by the Board.

Sec. 1. 10 V.S.A. § 6088 is amended to read

§ 6088. BURDEN OF PROOF

(a) The burden shall be on the applicant with respect to subdivisions 6086(a)(1), (2), (3), (4), ~~(8)(B)~~ and ~~(C)~~, (9), and (10) of this title.

(b) The burden shall be on any party opposing the applicant with respect to subdivisions 6086(a)(5) through (8) ~~(A)~~ of this title to show an unreasonable or adverse effect.

## **F. Development Affecting Public Investments**

### *1. Topic summary.*

This section proposes to add conserved land and land receiving benefits from the Vermont Housing Conservation Board. This proposal does not include all the various state programs being considered by the Committee in its deliberations last session, and focuses on more tangible and defined state benefit programs. The omission of other benefit programs is not intended to foreclose the Board from considering them under this criteria in future cases.

*2. Bill citation.* Sec. 1 amending 10 V.S.A. § 6086(a)(9)(K) (see p. 47).



1    3. *Proposed language.*

2    Sec. 1. 10 V.S.A. § 6086(a)(9)(K) is amended to read:

3    (K) Development affecting public investments. A permit will be granted for the development or  
4    subdivision of lands adjacent to governmental and public utility facilities, services, and lands,  
5    including highways, airports, waste disposal facilities, office and maintenance buildings, fire and  
6    police stations, universities, schools, hospitals, prisons, jails, electric generating and transmission  
7    facilities, oil and gas pipe lines, parks, hiking trails, ~~and~~ forest and game lands, lands conserved  
8    under chapter 155 of this title, and facilities or lands receiving benefits through the Vermont  
9    Housing Conservation Board under chapter 15 of this title, when it is demonstrated that, in  
10   addition to all other applicable criteria, the development or subdivision will not unnecessarily or  
11   unreasonably endanger the public or quasi-public investment in the facility, service, or lands, or  
12   materially jeopardize or interfere with the function, efficiency, or safety of, or the public's use or  
13   enjoyment of or access to the facility, service, or lands.

14   **G. Climate Change**

15    1. *Topic summary.*

16   This section proposes to modify Act 250 criteria to better address climate change from both a  
17   mitigation and adaptation perspective by requiring compliance with the residential stretch code  
18   and by requiring project design, layout, and materials adequate to withstand the effects of climate  
19   change now and into the future.

20  
21    2. *Bill citation.*

22   Sec. 1 amending 10 V.S.A. § 6086(a)(9)(F) (see page 47); and Sec. 1 adding 10 V.S.A. §  
23   6086(a)(9)(M) (see page 48).

24    3. *Proposed language.*

25   Sec. X. 10 V.S.A. § 6086(a)(9)(F) is added to read:

(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, including the stretch code for residential buildings adopted pursuant to 30 V.S.A. §51(d).

Sec. 1. 10 V.S.A. § 6086(a)(9)(M) is added to read:

(M) Climate adaptation. The development or subdivision will employ building orientation, site and landscape design, and building design that are sufficient to enable the improvements to be sited and constructed, including buildings, roads, and other infrastructure, to withstand and adapt to the effects of climate change, including extreme temperature events, wind, and precipitation reasonably projected at the time of application.

#### **H. Consistency with Local and Regional Plans**

##### *1. Topic summary.*

This topic largely follows the Commission and Committee's recommendations with respect to changes to criterion 10 under Act 250. It proposes that a municipal plan must be approved under 24 V.S.A. § 4350 for consideration under the criteria. It also clarifies that consideration includes land use maps that are a part of local and regional plans. It further requires that a municipal plan meet the planning goals of 24 V.S.A. chapter 117. There were many other planning considerations that warranted additional dialogue but the stakeholders were unable to reach consensus on their scope. In response to this, a report and stakeholder process has been proposed in Sec. 11 of the bill (page 84).

##### *2. Bill citation.*

Sec. 1 amending 10 V.S.A. § 6086(a)(10) (see page 48); and Sec. 8 amending 24 V.S.A. § 4382 (see page 82).

*3. Proposed language.*

Sec. 1. 10 V.S.A. § 6086(a)(10) is amended to read:

(10) Local plans. Is in conformance with any duly adopted local ~~or~~ plan that has been approved under 24 V.S.A. § 4350, regional plan, or capital program under 24 V.S.A. ~~chapter 117~~ § 4430.

In making this finding, ~~if~~:

(A) The Board shall require conformance with the land use maps contained in the local and regional plans and with the written provisions of those plans.

(B) The Board shall decline to apply a provision of a local or regional plan only if the Board determines that the provision does not afford a person of ordinary intelligence with a reasonable opportunity to understand what the provision directs, requires, or proscribes.

(C) If the District Commission Board finds applicable provisions of the town plan to be ambiguous, the ~~District Commission Board~~, 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.

Sec. 8. 24 V.S.A. § 4382 is amended to read:

§ 4382. THE PLAN FOR A MUNICIPALITY

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

\* \* \*

**IV. Act 250 Permit Conditions and Permit Process**

**A. Enhanced Participation / 30 day Notice Requirement**

*1. Topic summary.*

This section proposes a new advance notice requirement for Act 250 permit applications. The purpose of this section is to give the public, affected agencies, and the Board an opportunity to review the project before filing an application with the Board. It also gives the applicant the benefit of receiving comments on an application prior to filing, enabling the applicant to address issues before filing an application. The notice period is 30 days. It does not apply to administrative amendments. The Board is authorized to adopt rules to identify classes of projects that are normally reviewed as minor projects and not subject to the advance notice requirement.

*2. Bill citation.*

Sec. 1 amending 10 V.S.A. § 6084 (see page 32).

*3. Proposed language.*

Sec. 1. 10 V.S.A. § 6084 is amended to read:

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

(a) The plans for the construction of any development or subdivision subject to the permitting requirements of this subchapter must be submitted by the petitioner to the municipal and regional planning commissions, affected state agencies, and adjoining landowners no less than 30 days prior to filing an application under this chapter, unless the municipal and regional planning commissions and affected state agencies waive such requirement.

(1) The municipal or regional planning commission may take one or more of the following actions:

(A) Hold a public hearing on the proposed plans. The planning commission may request that the applicant attend the hearing. The applicant shall have an obligation to comply with such a request.

(B) Make recommendations to the applicant within 30 days of the petitioner's submittal to the planning commission under this subsection.

(C) Once the application is filed with the Board, make recommendations to the Board by the deadline for submitting comments or testimony set forth in the applicable provision of this section, Board rule, or scheduling order issued by the Board.

(2) The application shall address the substantive written comments related to the criteria of subsection 6086(a) of this title received by the petitioner within 30 days of the submittal made under this subsection and the substantive oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

(3) This subsection shall not apply to projects that have been designated as using simplified procedures pursuant to 6025(b)(1) or which are administrative amendments.

\* \* \*

## **B. Conditions on Forest Processing**

### *1. Topic summary.*

This is the one area where the Administration and VNRC were unable to reach consensus. There is agreement with respect to the proposed changes in 6086(c)(2)(A) and (B) related to conditions on permitted hours of operation at forest processing facilities. The parties are near agreement with respect to the proposed changes in 6086(c)(3) related to permitted hours for delivery of wood that is used for heat. With respect to how forest processing facilities mitigate primary agricultural soils, VNRC and the Administration could not reach agreement and have proposed two alternatives for the committee.

*2. Bill citation.* Sec. 1 adding 10 V.S.A. § 6001(40) and (41) (see page 9); Sec. 1 amending 10 V.S.A. § 6086(c) (see page 49); and Sec. 1 adding 10 V.S.A. § 6093(c) (see page 63).

### *3. Proposed language.*

Sec. X. 10 V.S.A. § 6001(39) and (40) are added to read:

(40) “Forest-based enterprise” means an enterprise that aggregates forest products from forestry operations and adds value through processing or marketing in the forest products supply chain or directly to consumers through retail sales. “Forest-based enterprise” includes sawmills; veneer mills; pulp mills; pellet mills; producers of firewood, woodchips, mulch and fuel wood; and log and pulp concentration yards. “Forest-based enterprise” does not include facilities that purchase, market, and resell finished goods, such as wood furniture, wood pellets, and milled lumber, without first receiving forest products from forestry operations.

(41) “Forest product” means logs, pulpwood, veneer wood, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, maple sap, and bark.

Sec. 1. 10 V.S.A. § 6086(c) is amended to read:

(c) Permit conditions.

(1) A permit may contain such requirements and conditions as are allowable proper exercise of the police power and ~~which~~ that are appropriate within the respect to subdivisions (a)(1) through (10) of this section, including those set forth in 24 V.S.A. §§ 4414(4), 4424(a)(2), 4414(1)(D)(i), 4463(b), and 4464, the dedication of lands for public use, and the filing of bonds to ~~insure~~ ensure compliance. The requirements and conditions incorporated from Title 24 may be applied whether or not a local plan has been adopted. General requirements and conditions may be established by rule of the ~~Natural Resources~~ Board.

(2) Permit conditions on a forest-based enterprise.

(A) A permit condition restricting a forest-based enterprise’s hours of operation shall only be imposed when the absence the condition would result in an impact under the criteria pursuant to subdivision (a)(1), (5), or (8) of this section.

1 (B) Permits issued for a forest-based enterprise shall allow the enterprise to ship and receive  
2 forest products, including delivery from the forestry operation to the enterprise, during hours  
3 outside permitted hours of operation, including nights, weekends, and holidays, for a minimum  
4 of 60 days per year unless there would be an impact under the criteria pursuant to subdivision  
5 (a)(1) or (5) of this section.

6 (C) In making a determination for conditions under this subdivision (2) as to whether an impact  
7 exists, the Board shall consider the benefits to forests, forest resources resulting from the forest-  
8 based enterprise, and the impact to the operation of the forest-based enterprise that would result  
9 from a condition and conditions shall impose the minimum restriction necessary to address the  
10 undue adverse impact.

11 (3) Permit conditions on the delivery of wood fuels used for heat. Permits issued for a forest-  
12 based enterprise that produces wood chips, pellets, cord wood, and other fuel wood used for heat  
13 shall authorize the shipment from the enterprise of wood heat fuels to the end user during hours  
14 outside permitted hours of operation, including nights, weekends, and holidays from October 1  
15 through April 30 of each year.

16 (4) Forest-based enterprises holding a permit may request an amendment to existing permit  
17 conditions related to hours of operation and seasonal restrictions to be consistent with  
18 subdivisions (2) and (3) of this subsection. Requests for condition amendments under this  
19 subsection shall not be subject to Act 250 Rule 34E.

20 Sec. 1. 10 V.S.A. § 6093 amended to read:

21 § 6093. MITIGATION OF PRIMARY AGRICULTURAL SOILS

22 \* \* \* Alternative 1 \* \* \*

(c) Mitigation and offsets for forest-based enterprises. Notwithstanding any provision of this chapter to the contrary, a conversion of primary agricultural soils by a forest-based enterprise permitted under this chapter shall:

(1) entitled to a ratio of 1:1 protected acres to acres of affected primary agricultural soil; and

(2) be allowed to mitigate impacts to primary agricultural soil by:

(A) paying a mitigation fee computed according to the provisions of subdivision (1) of this subsection (a); or

(B) in accordance with a methodology developed by the Commissioner of Forests, Parks, and Recreation, show that the forest based enterprise will offset the impacts to primary agricultural soils through conservation of an equivalent or greater acreage of forested area.

\* \* \* Alternative 2 \* \* \*

(c) Mitigation and offsets for forest-based enterprises. Notwithstanding any provision of this chapter to the contrary, a conversion of primary agricultural soils by a forest-based enterprise permitted under this chapter shall be entitled to a ratio of 1:1 protected acres to acres of affected primary agricultural soil.

### **C. Presumptions for ANR permits in Act 250 Proceedings**

#### *1. Topic summary.*

Currently, State permits receive a presumption in Act 250 if the Natural Resources Board adopts those permit programs in a rule as having a presumption. This section proposes to make all permits have a presumption automatically without adoption in a rule. This does not affect the treatment of municipal permits before the Board. It also does not alter the weight of the presumption given to State permits.

#### *2. Bill citation.*

Sec. 1 amending 10 V.S.A. § 6086(d) (see page 50).



3. *Proposed language.*

Sec. 1. 10 V.S.A. § 6086(d) is amended to read:

(d) State and local permits; presumptions.

(1) State permits.

(A) ~~The Natural Resources Board may by rule~~ shall allow the acceptance of a permit or permits ~~or approval~~ of any State agency with respect to subdivisions (a)(1) through (5) of this section ~~or~~ in lieu of evidence by the applicant. The presumption established by this subdivision (1) shall only apply to the issues addressed as a part of the terms of the permit.

(B) In the case of permits issued by the Agency of Natural Resources, technical determinations of the Agency shall be accorded substantial deference by the Board.

(C) The acceptance of such permit or permits shall create a presumption that the application is not detrimental to the public health and welfare with respect to the specific requirement for which it is accepted.

(2) Municipal permits.

(A) The Board may by rule allow a permit or permits of a specified municipal government with respect to subdivisions (a)(1) through (7) and (9) and (10) of this section, or a combination of such permits or approvals, in lieu of evidence by the applicant. The presumption established by this subdivision shall only apply to the issues addressed as a part of the terms of the permit.

(B) A District Commission, in accordance with rules adopted by the Board, shall accept determinations issued by a development review board under the provisions of 24 V.S.A. § 4420, with respect to local Act 250 review of municipal impacts.

(C) The acceptance of such approval, positive determinations, permit, or permits shall create a presumption that the application is not detrimental to the public health and welfare with respect to the specific requirement for which it is accepted. ~~In the case of approvals and permits issued by the Agency of Natural Resources, technical determinations of the Agency shall be accorded substantial deference by the Commissions.~~ The acceptance of negative determinations issued by a development review board under the provisions of 24 V.S.A. § 4420, with respect to local Act 250 review of municipal impacts shall create a presumption that the application is detrimental to the public health and welfare with respect to the specific requirement for which it is accepted. Any determinations, positive or negative, under the provisions of 24 V.S.A. § 4420 shall create presumptions only to the extent that the impacts under the criteria are limited to the municipality issuing the decision. ~~Such a rule may be revoked or amended pursuant to the procedures set forth in 3 V.S.A., chapter 25, the Vermont Administrative Procedure Act.~~

(3) Rulemaking. The Board shall adopt rules to administer the requirements of this subsection.

The rules adopted by the Board shall not approve the acceptance of a permit or approval of such an agency or a permit of a municipal government unless it satisfies the appropriate requirements of 14 subsection (a) of this section.

\* \* \*

**D. Act 250 Permit Fees; Industrial Parks**

*1. Topic summary.*

This section clarifies the existing process to waive or reduce Act 250 application fees for development in Industrial Parks where a master plan has been completed. Master planning at industrial parks allows for an up front and comprehensive review of all potential site constraints and impacts, which makes the review of individual construction permit applications simpler,

1 faster and more predictable. Clarifying that a fee waiver is available for construction permits in  
2 Industrial Parks where master planning has occurred, will encourage master planning at these  
3 sites.

4  
5 *2. Bill citation.*

6 Sec. 1 amending 10 V.S.A. § 6083a(a)(5) and (f) (see page 29 and 31).

7 *3. Proposed language.*

8 Sec. 1. 10 V.S.A. § 6083a(a)(5) and (f) are amended to read:

9 (5) For projects involving the review of a master plan, the fee established in subdivision (1) of

10 this section shall be due for any portion of the proposed project for which construction approval

11 is sought and a fee equivalent to \$0.10 per \$1,000.00 of total estimated construction costs in

12 current dollars ~~in addition to the fee established in subdivision (1) of this subsection for any~~

13 ~~portion of the project seeking construction approval~~ shall be due for all other portions of the

14 proposed project. If construction approval is sought in future permit applications, the fee

15 established in subdivision (1) of this subsection shall be due, except to the extent that it is waived

16 pursuant to subsection (f) of this section.

17 amended to read:

18 (f) ~~In the event that an application involves a project or project impacts that previously have been~~

19 ~~reviewed, the~~ An applicant may petition in writing the Chair of the Board District Commission to

20 waive all or part of the application fee. If an application fee was paid previously in accordance

21 with subdivisions (a)(1) through (4) of this section, the Chair may waive all or part of the fee for

22 a new or revised project if the Chair finds that the impacts of the project have been reviewed in

23 an applicable master permit application, or that the project is not significantly altered from a

24 project previously reviewed, or that there will be substantial savings in the review process due to

~~the scope of review of the previous applications.~~ In reviewing this petition, the Board shall consider the following:

(A) Whether a portion of the project's impacts have been reviewed by the Board in a previous permit.

(B) Whether the project is being reviewed as a major application, minor application, or administrative amendment.

(C) Whether the applicant relies on any presumptions permitted under subsection 6086(d) of this title and has, at the time of the permit application, already obtained the permits necessary to trigger such presumptions. If a presumption is rebutted, the Board may require the applicant to pay the previously waived fee.

(D) Whether the applicant has engaged in any preapplication planning with the district coordinator that will result in a decrease in the amount of time the Board will have to consider the application.

(2) The Board shall issue a written decision in response to any application for a fee waiver. The written decision shall address each of the factors in subdivision (1) of this subsection.

(3) If the classification of an application is changed from an administrative amendment or minor application to a major application, the Board may require the applicant to pay the previously waived fee.

#### **IV. Enhanced Natural Resources Board**

##### **A. Enhanced Natural Resources Board**

1. *Topic summary.*

This section proposes:

- 1 a. The creation of a professional natural resources board (Board) consisting of a chair, two  
2 permanent members, and two regional commissioners. The two regional commissioners are  
3 from the area where the project is located and sit on the Board to make factual findings with  
4 respect to a case. The bill proposes that the Board members have experience in land use, natural  
5 resources, economic development, or environmental justice areas. The bill also directs the  
6 Governor when making selections to the Board to consider gender, racial, and economic  
7 diversity in the appointment process.
- 8 b. The chair and two permanent board members are independent and the structure is designed to  
9 be insulated from political interference. The chair and two members are selected using the  
10 judicial nominating committee. All board members, including regional commissioners, serve six  
11 year terms and are removable only for cause and are subject to increased ethical standards.
- 12 c. All Act 250 applications would be filed with administrative districts. Administrative districts  
13 would make jurisdictional opinions; make determinations as to whether an application was a  
14 major, minor, or administrative amendment; and issue permit decisions (and amendments) for  
15 administrative amendments and minor permits. Decisions by the administrative district would be  
16 made by the district coordinator.
- 17 d. The Board would have original jurisdiction over contested cases for major permit application  
18 review. Hearings for major applications would need to be held in the location where the project  
19 is located unless the parties agree to an alternate location. Hearings would need to be open and  
20 accessible to the public. The Board would also have original jurisdiction over all for cause permit  
21 amendments or permit revocations. The Board would have appellate jurisdiction over  
22 jurisdictional opinions; downtown board designations of designated downtowns and new  
23 neighborhood areas; and regional planning commission approvals of municipal plans and review  
24 of municipal zoning ordinances for purposes of interstate exit jurisdiction. When rendering a  
25 decision, the regional commissioners would be voting members on factual issues but not on Act  
26 250 policy or legal interpretations. This is to provide a regional perspective as to the project but  
27 also consistency to Act 250 policy regardless of where the project is located.
- 28 e. Appeals from the Board are directly to the Supreme Court, in the same manner that the  
29 previous environmental board decisions were directly appealed.

30  
31 *2. Bill citation.*

32 Sec. 1 amending 10 V.S.A. §§ 6021 (see p.12), 6025, (see p. 15), 6026 (see p. 16), 6027 (see p.  
33 18), 6084 (see p. 32), 6087 (see p. 56) and 6089 (see p. 57).

34 *3. Proposed language.*

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

36 § 6021. BOARD; VACANCY, REMOVAL

37 (a) A Natural Resources Board is created.

1 (1) The Board shall consist of a Chair, two members, and two regional commissioners. Members  
2 of the Board and regional commissioners shall not be required to be admitted to the practice of  
3 law in this State. ~~five members appointed by the Governor, with the advice and consent of the~~  
4 Senate, so that one appointment expires in each year. In making these appointments, Governor  
5 and the Senate shall give consideration to experience, expertise, or skills relating to the  
6 environment or land use the

7 (A) The Chair of the Board shall be nominated, appointed, and confirmed in the manner of a  
8 Superior judge.

9 (B) With respect to the two permanent members of the board, whenever a vacancy occurs, public  
10 announcement of the vacancy shall be made. The Governor shall submit at least five names of  
11 potential nominees to the Judicial Nominating Board for review. The Judicial Nominating Board  
12 shall review the candidates in respect to judicial criteria and standards only and shall recommend  
13 to the Governor those candidates the Board considers qualified. The Governor shall make the  
14 appointment from the list of qualified candidates. The appointment shall be subject to the  
15 consent of the Senate.

16 (C) With respect to a regional commissioner, the Governor shall appoint two commissioners and  
17 one alternate for each administrative district established under section 6026 of this title. When  
18 making these selections, the Governor shall give preference to former Environmental Board,  
19 Natural Resources Board, or District Commission members.

20 (D) A member wishing to succeed himself or herself in office may seek reappointment under the  
21 terms of this section.

1 (E) When making and confirming appointments under this section the Governor and the Senate  
2 shall give consideration to:

3 (i) experience, expertise, or skills relating to the environmental science, natural resources law  
4 and policy, land use planning, community development, racial equity, or environmental justice.

5 (ii) the overall membership of the Board to ensure that it includes racial, ethnic, gender, and  
6 economic diversity.

7 ~~(A)~~ (F) The Governor shall appoint a chair and two permanent members of the Board, a position  
8 that shall be a full-time position positions.

9 ~~(B)~~ (G) Following initial appointments, the chair, the members, and regional commissioners;  
10 except for the Chair, shall be appointed for terms of four six years.

11 (H) Notwithstanding 3 V.S.A. § 2004, or any other provision of law, the Chair, two members of  
12 the Board, and regional commissioners may be removed only for cause.

13 (I) When the chair, a board member or a regional commissioner who hears all or a substantial  
14 part of a case retires from office before such case is completed, he or she shall remain a member  
15 of the Board for the purpose of concluding and deciding such case, and signing the findings,  
16 orders, decrees, and judgments therein. A retiring chair shall also remain a member for the  
17 purpose of certifying questions of law if appeal is taken. For such service, he or she shall receive  
18 a reasonable compensation to be fixed by the remaining members of the Board and necessary  
19 expenses while on official business.

20 (J) A case shall be deemed completed when the Board enters a final order therein even though  
21 such order is appealed to the Supreme Court and the case remanded by that Court to the Board.

1 Upon remand the Board then in office may in its discretion consider relevant evidence including  
2 any part of the transcript of testimony in the proceedings prior to appeal.

3 (K) The Chair shall have general charge of the offices and employees of the Board.

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

7 ~~(A) Alternates shall be appointed for terms of four years, with initial appointments being~~  
8 ~~staggered.~~

9 ~~(B) The Chair of the Board may assign alternates to sit on specific matters before the Board, in~~  
10 ~~situations where fewer than five members are available to serve.~~

11 (b) Any vacancy occurring in the membership of the Board shall be filled by the Governor for  
12 the unexpired portion of the term.

13 (c) Hearing officers. One Board member or any officer or employee of the Board duly appointed  
14 by the Chair of the Board may inquire into and examine any matter within the jurisdiction of the  
15 Board.

16 (1) A hearing officer may hold any hearing on any matter within the jurisdiction of the Board.

17 (2) Hearings conducted by a hearing officer shall be in accordance with 3 V.S.A. §§ 809–814. A  
18 hearing officer may administer oaths and exercise the powers of the Board necessary to hear and  
19 determine a matter for which the officer was appointed. A hearing officer shall report his or her  
20 findings of fact in writing to the Board in the form of a proposal for decision. A copy shall be  
21 served upon the parties pursuant to 3 V.S.A. § 811. However, judgment on those findings shall  
22 be rendered only by a majority of the Board.



\* \* \*

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

§ 6025. RULES

(a) The Board may adopt rules of procedure for the administration of this chapter itself and the District Commissions. When adopting rules of procedure under this subsection, the Board shall make reasonable efforts that the processes maximize pro se participation.

\* \* \*

Sec. 1. 10 V.S.A. § 6026 is amended to read:

§ 6026. ~~DISTRICT COMMISSIONERS~~ ADMINISTRATIVE DISTRICTS

(a) For the purposes of the administration of this chapter, the State is divided into five ~~nine~~ administrative districts.

(1) District No. 1, comprising Bennington and Rutland Counties ~~administrative district 1 as provided in 3 V.S.A. § 4001.~~

(2) District No. 2, comprising Orange, Windsor, and Windham Counties ~~administrative district 2 as provided in 3 V.S.A. § 4001.~~

(3) District No. 3, comprising Caledonia, Essex, and Orleans Counties ~~administrative district 3 as provided in 3 V.S.A. § 4001.~~

(4) District No. 4, comprising Addison and Chittenden Counties ~~administrative district 4 as provided in 3 V.S.A. § 4001, excluding the towns of Addison, Bridport, Bristol, Cornwall, Ferrisburgh, Goshen, Leicester, Lincoln, Middlebury, Monkton, New Haven, Orwell, Panton, Ripton, Salisbury, Shoreham, Starksboro, Vergennes, Waltham, Weybridge, and Whiting.~~

(5) District No. 5, comprising Lamoille and Washington Counties ~~administrative district 5 as provided in 3 V.S.A. § 4001.~~

(6) District No. 6, comprising Franklin and Grand Isle Counties ~~administrative district 6 as provided in 3 V.S.A. § 4001.~~

~~(7) District No. 7, comprising administrative district 7 as provided in 3 V.S.A. § 4001.~~

~~(8) District No. 8, comprising administrative district 8 as provided in 3 V.S.A. § 4001.~~

~~(9) District No. 9, comprising the towns of Addison, Bridport, Bristol, Cornwall, Ferrisburg, Goshen, Leicester, Lincoln, Middlebury, Monkton, New Haven, Orwell, Panton, Ripton, Salisbury, Shoreham, Starksboro, Vergennes, Waltham, Weybridge, and Whiting.~~

~~(b) A District Environmental Commission is created for each district. Each District Commission shall consist of three members from that district appointed in the month of February by the Governor so that two appointments expire in each odd-numbered year. Two of the members shall be appointed for a term of four years, and the Chair (third member) of each District shall be appointed for a two-year term. In any district, the Governor may appoint not more than four alternate members from that district whose terms shall not exceed two years, who may hear any case when a regular member is disqualified or otherwise unable to serve.~~

~~(c) Members shall be removable for cause only, except the Chair who shall serve at the pleasure of the Governor.~~

~~(d) Any vacancy shall be filled by the Governor for the unexpired period of the term.~~

Sec. 1. 10 V.S.A. § 6027 is amended to read:

§ 6027. POWERS

(a) The Board ~~and District Commissions each~~ shall have the power, with respect to any matter within its jurisdiction, to:

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

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

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

(4)(A) authorize itself or the Agency of Agriculture, Food, and Markets, Agency of Commerce and Community Development, Agency of Natural Resources or Agency of Transportation to retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research, scientific, or engineering services in addition to its regular personnel for a specific proceeding. With respect to the Agencies, additional personal may be retained only after approval of the Governor and after notice to the applicant. The Agency retaining the additional personnel shall fix the amount of compensation and expenses to be paid to the personnel retained under this subdivision. Costs of additional personnel obtained under this subdivision may be allocated to the applicant by the Agency or the Board.

(B) authorize the Agency of Agriculture, Food, and Markets, Agency of Commerce and Community Development, Agency of Natural Resources or Agency of Transportation to allocate the portion of its costs and expenses to the applicant of the costs of regular employees

1 participating in the proceeding. The costs of regular employees shall be computed on the basis of  
2 working days within the salary period.

3 (C) with respect to costs and expenses allocated to an applicant under subdivisions (A) and (B)  
4 of this subdivision, the Board shall, upon petition of an applicant to which costs are proposed to  
5 be allocated, review and determine, after opportunity for hearing, having due regard for the size  
6 and complexity of the project, the necessity and reasonableness of such costs, and may amend or  
7 revise such allocations. Nothing in this section shall confer authority on the Board to select or  
8 decide the personnel, the expenses of whom are being allocated, unless such personnel are  
9 retained by the Board. Prior to allocating costs, the Board shall make a determination of the  
10 purpose and use of the funds to be raised hereunder, identify the recipient of the funds, provide  
11 for allocation of costs to the applicant, indicate an estimated duration of the retention of  
12 personnel whose costs are being allocated, and estimate the total costs to be imposed. With the  
13 approval of the Board, such estimates may be revised as necessary. From time to time during the  
14 progress of the work of such additional personnel, the agency retaining the personnel shall render  
15 to the applicant detailed statements showing the amount of money expended or contracted for in  
16 the work of such personnel, which statements shall be paid by the applicant into the State  
17 Treasury at such time and in such manner as the agency may reasonably direct; and  
18 (5) apply for and receive grants from the federal government and from other sources.

19 (b) The Board shall have the powers of a court of record in the determination and adjudication of  
20 all matters over which it is given jurisdiction. It may render judgments, make orders and decrees,  
21 and enforce the same by any suitable process issuable by courts in this State. The Board shall

1 have an official seal on which shall be the words, "State of Vermont. Natural Resources Board.  
2 Official Seal."

3 (c) The Board shall allow all members of the public to attend each of its hearings unless the  
4 hearing is for the sole purpose of considering information to be treated as confidential pursuant  
5 to a protective order duly adopted by the Board.

6 (1) The Board shall make all reasonable efforts to ensure that the location of each hearing is  
7 sufficient to accommodate all members of the public seeking to attend.

8 (2) The Board shall ensure that the public may safely attend the hearing, including obtaining  
9 such resources as may be necessary to fulfill this obligation.

10 (d) The Board shall hear all matters within its jurisdiction and make its findings of fact. It shall  
11 state its rulings of law when they are excepted to. Upon appeal to the Supreme Court, its findings  
12 of fact shall be accepted unless clearly erroneous. In all proceedings, questions of law shall be  
13 decided by the Chair and the two members. Questions of fact shall be decided by the Board,  
14 including the regional commissioners. Mixed questions of law and fact shall be deemed to be  
15 questions of law. The Chair alone shall decide which are questions of law, questions of fact, and  
16 mixed questions of law and fact. Written or oral stipulations of fact submitted by the parties shall  
17 establish the facts related therein, except that the Chair, in his or her discretion, may order a  
18 hearing on any such stipulated fact. Neither the decision of the Chair under this subsection nor  
19 participation by a regional commissioner in a ruling of law shall be grounds for reversal unless a  
20 party makes a timely objection and raises the issue on appeal.

21 ~~(e)~~ (e) ~~The Natural Resources~~ Board may designate or establish such regional offices as it deems  
22 necessary to implement the provisions of this chapter and the rules adopted hereunder. The

1 Natural Resources Board may designate or require a regional planning commission to receive  
2 applications, provide administrative assistance, perform investigations, and make  
3 recommendations.

4 ~~(d) At the request of a District Commission, if~~ (f) If the Board Chair determines that the  
5 workload in ~~the requesting~~ an administrative district is likely to result in unreasonable delays ~~or~~  
6 ~~that the requesting District Commission is disqualified to hear a case,~~ the Chair may authorize  
7 ~~the District Commission of another district to sit in the requesting district to~~ consider one or  
8 more applications.

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

11 ~~(f) (h)~~ The Board may publish or contract to publish annotations and indices of ~~the decisions of~~  
12 ~~the Environmental Division~~ its decisions, and the text of those decisions. The published product  
13 shall be available at a reasonable rate to the general public and at a reduced rate to libraries and  
14 governmental bodies within the State.

15 ~~(g) (i)~~ The Natural Resources Board shall manage the process by which land use permits are  
16 issued under section 6086 of this title, may initiate enforcement on related matters, under the  
17 provisions of chapters 201 and 211 of this title, and may ~~petition the Environmental Division for~~  
18 , consistent with rules adopted by the Board, hear petitions for revocation of land use permits  
19 issued under this chapter. Grounds for revocation are:

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

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

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

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

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

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

~~(h) The Natural Resources Board may hear appeals of fee refund requests under section 6083a of this title.~~

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

~~(j) The Natural Resources Board may participate as a party in all matters before the Environmental Division that relate to land use permits issued under this chapter.~~

~~(k) [Repealed.]~~

~~(j)(1) A District Commission~~ The Board may reject an application under this chapter that misrepresents any material fact and may after notice and opportunity for hearing award reasonable attorney's fees and costs to any party or person who may have become a party but for the false or misleading information or who has incurred attorney's fees or costs in connection with the application.

~~(m)~~ (k) After notice and opportunity for hearing, ~~a District Commission~~ the Board may withhold a permit or suspend the processing of a permit application for failure of the applicant to pay costs

assessed under 3 V.S.A. § 2809 related to the participation of the Agency of Natural Resources in the review of the permit or permit application.

(l) The Board may delegate authority to district coordinators determinations as to whether applications are minor or major permits, minor permit and minor amendment decisions, administrative amendments, and any additional authority to district coordinators necessary for the effective administration of this chapter.

Sec. 1. 10 V.S.A. § 6084 is amended to read:

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

\* \* \*

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



1 ~~(b)(c)~~ Upon an application being ruled complete, the ~~District Commission~~ Board shall determine  
2 whether to process the application as a major application ~~with a required public hearing and~~  
3 transferred to the Board for review or process the application as a minor application ~~with the~~  
4 ~~potential for a public hearing in accordance with Board rules.~~

5 (1) For major applications, the ~~District Commission~~ Board shall provide notice not less than 10  
6 days prior to any scheduled hearing or prehearing conference to: the applicant; the owner of the  
7 land if the applicant is not the owner; the municipality in which the land is located; the municipal  
8 and regional planning commissions for the municipality in which the land is located; any  
9 adjacent Vermont municipality and municipal and regional planning commission if the land is  
10 located on a municipal or regional boundary; adjoining landowners as deemed appropriate by the  
11 ~~District Commission~~ Board pursuant to ~~the its rules of the Board~~, and any other person the  
12 ~~District Commission~~ Board deems appropriate.

13 (2) For minor applications, the ~~District Commission~~ administrative district shall provide notice  
14 of the commencement of application review to the persons listed in subdivision (1) of this  
15 subsection.

16 (3) For both major and minor applications, ~~the District Commission shall also provide such~~  
17 notice and a copy of the application shall be provided to: ~~the Board and~~ any affected State  
18 agency, and with respect to minor applications the Board; the solid waste management district in  
19 which the land is located, if the development or subdivision constitutes a facility pursuant to  
20 subdivision 6602(10) of this title; and any other municipality, State agency, or person the ~~District~~  
21 ~~Commission~~ reviewing entity deems appropriate.

(d) Anyone required to receive notice of commencement of minor application review pursuant to subsection (c) of this section may request that an application be treated as a major application by filing a request within the public comment period specified in the notice pursuant to Board rules. The ~~District Commission~~ Board, on its own motion, may order ~~a hearing~~ that an application be treated as a major and transferred to it within 20 days of notice of commencement of minor application review.

(e) Any hearing or prehearing conference for a major application shall be held within 40 days of receipt of a complete application; or within 20 days of the end of the public comment period specified in the notice of minor application review if the ~~District Commission~~ Board determines that it is appropriate to treat the application as a major application ~~hold a hearing for a minor application~~. Any hearing required shall be held in the municipality where the project is located unless the parties agree to an alternate location. When conducting hearings and prehearing conferences, the Board shall exercise reasonable flexibility with its rules of procedure and of evidence to maximize pro se participation while ensuring the fairness of the proceeding.

\* \* \*

Sec. 1. 10 V.S.A. § 6087 is amended to read:

§ 6087. ~~DENIAL OF APPLICATION~~ FINAL DECISION ON PERMITS

(a) No application shall be denied by the ~~District Commission~~ Board unless it finds the proposed subdivision or development detrimental to the public health, safety, or general welfare.

(b) A permit may not be denied solely for the reasons set forth in subdivisions 6086(a)(5), (6), and (7) of this title. However, reasonable conditions and requirements allowable in subsection 6086(c) of this title may be attached to alleviate the burdens created.

(c) A denial of a permit shall contain the specific reasons for denial. A person may, within six months, apply for reconsideration of his or her permit which application shall include an affidavit to the Board ~~District Commission~~ and all parties of record that the deficiencies have been corrected. The Board ~~District Commission~~ shall hold a new hearing upon 25 days notice to the parties. The hearing shall be held within 40 days of receipt of the request for reconsideration.

(d) The Board may deny an application without prejudice if the applicant fails to respond to an incomplete determination or recess order within six months of its issuance.

(e) When making a final determination with respect to a minor application, an administrative district shall apply precedent from the Board when rendering its final decision.

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

§ 6089. APPEALS

(a) Appeals of certain actions to the Natural Resources Board.

(1) Applicability. The following acts or decisions are appealable de novo to the Board:

(A) A jurisdictional opinion issued by a district coordinator;

(B) A determination that an application is a minor application or administrative amendment by a district coordinator;

(C) A determination by a regional planning commission with respect to the scope of Act 250 jurisdiction pursuant to subdivision 6001(3)(A)(xiii);

(D) A determination by a regional planning commission that a municipal plan is consistent with the regional plan pursuant to 24 V.S.A. § 4350;

(E) A determination by the downtown development board designating a downtown development district or neighborhood development district pursuant to 24 V.S.A. chapter 76A.

1 (2) Procedure.

2 (A) An appeal under this subsection may be brought by any person aggrieved as defined in 10  
3 V.S.A. § 8502(7).

4 (B) A notice of appeal must be filed within 30 days of the act or decision.

5 (C) The Board shall conduct all appeals under this section as contested cases pursuant to 3  
6 V.S.A. chapter 25 and procedural rules adopted by the Board.

7 (b) Appeals of decisions of the Board. A party to a cause who feels aggrieved by the final order,  
8 judgment, or decree of the Board may appeal to the Supreme Court. However, the Board, in its  
9 discretion and before final judgment, may permit an appeal to be taken by any party to the  
10 Supreme Court for determination of questions of law in such manner as the Supreme Court may  
11 by rule provide for appeals before final judgment from a Superior Court. Notwithstanding the  
12 provisions of the Vermont Rules of Civil Procedure or the Vermont Rules of Appellate  
13 Procedure, neither the time for filing a notice of appeal nor the filing of a notice of appeal, as  
14 provided herein, shall operate as a stay of enforcement of an order of the Board unless the Board  
15 or the Supreme Court grants a stay under the provisions of section 14 of this title.

16 ~~Appeals of any act or decision of a District Commission under this chapter or a district~~  
17 ~~coordinator under subsection 6007(c) of this title shall be made to the Environmental Division in~~  
18 ~~accordance with chapter 220 of this title. For the purpose of this section, a decision of the Chair~~  
19 ~~of a District Commission under section 6001e of this title on whether action has been taken to~~  
20 ~~circumvent the requirements of this chapter shall be considered an act or decision of the District~~  
21 ~~Commission.~~

22 **B. Conforming changes to the Environmental Division**

1. *Topic summary.*

This section makes conforming changes to 10 V.S.A. chapter 220 (consolidated appeals) to remove Act 250 permits from the jurisdiction of the environmental division.

2. *Bill citation.*

Sec. 1 amending 10 V.S.A. §§ 8502 (see p. 68), 8503 (see p. 69), and 8504 (see p. 70).

3. *Proposed language.*

Sec. 30. 10 V.S.A. chapter 220 is amended to read:

Chapter 220: Consolidated Environmental Appeals

\* \* \*

§ 8502. DEFINITIONS

As used in this chapter:

~~(1) "District Commission" means a District Environmental Commission established under chapter 151 of this title.~~

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

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

~~(4) "Natural Resources Board" or "Board" means the Board established under chapter 151 of this title.~~

~~(5)~~ (2) "Party by right" means the following:

(A) the applicant;

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

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

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

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

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

~~(6)~~ (3) "Person" means any individual; partnership; company; corporation; association; joint venture; trust; municipality; the State of Vermont or any agency, department, or subdivision of the State, any federal agency, or any other legal or commercial entity.

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

~~(8)~~ (5) "Secretary" means the Secretary of Natural Resources or the Secretary's duly authorized representative. As used in this chapter, "Secretary" shall also mean the Commissioner of Environmental Conservation, the Commissioner of Forests, Parks and Recreation, and the Commissioner of Fish and Wildlife, with respect to those statutes that refer to the authority of that commissioner or department.

## § 8503. APPLICABILITY

\* \* \*

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

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

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

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

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

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

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

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

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

§ 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

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

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

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

13 (2) Upon the filing of an appeal from the act or decision of the Secretary under the provisions of  
14 law listed in section 8503 of this title, the appellant shall provide notice of the filing of an appeal  
15 to the following persons: the applicant before the Agency of Natural Resources, if other than the  
16 appellant; the owner of the land where the project is located if the applicant is not the owner; the  
17 municipality in which the project is located; the municipal and regional planning commissions  
18 for the municipality in which the project is located; if the project site is located on a boundary,  
19 any adjacent Vermont municipality and the municipal and regional planning commissions for  
20 that municipality; any State agency affected; the solid waste management district in which the  
21 project is located, if the project constitutes a facility pursuant to subdivision 6602(10) of this  
22 title; all persons required to receive notice of receipt of an application or notice of the issuance of



1 a draft permit; and all persons on any mailing list for the decision involved. In addition, the  
2 appellant shall publish notice not more than 10 days after providing notice as required under this  
3 subsection, at the appellant's expense, in a newspaper of general circulation in the area of the  
4 project which is the subject of the decision.

5 (3) In the case of appeals under 24 V.S.A. chapter 117, notice shall be as required under 24  
6 V.S.A. § 4471.

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

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

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

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

19 ~~(C) some other condition exists which would result in manifest injustice if the person's right to~~  
20 ~~appeal was disallowed.~~

21 ~~(2) Participation before the Secretary.~~

~~(A)~~ An aggrieved person shall not appeal an act or decision of the Secretary unless the person submitted to the Secretary a written comment during the comment period or an oral comment at the public meeting conducted by the Secretary. In addition, the person may only appeal issues related to the person's comment to the Secretary.

~~(A)(i)~~ To be sufficient for the purpose of appeal, a comment to the Secretary shall identify each reasonably ascertainable issue with enough particularity so that a meaningful response can be provided.

~~(B)(ii)~~ The appellant shall identify each comment that the appellant submitted to the Secretary that identifies or relates to an issue raised in his or her appeal.

~~(C)(iii)~~ A person moving to dismiss an appeal or an issue raised by an appeal pursuant to this subdivision (1) ~~(A)~~ shall have the burden to prove that the requirements of this subdivision (1) ~~(A)~~ are not satisfied.

(2)~~(B)~~ Notwithstanding the limitations of subdivision (1) ~~(2)(A)~~ of this subsection, an aggrieved person may appeal an act or decision of the Secretary if the Environmental judge determines that:

~~(A)(i)~~ there was a procedural defect that prevented the person from commenting during the comment period or at the public meeting or otherwise participating in the proceeding;

~~(B)(ii)~~ the Secretary did not conduct a comment period and did not hold a public meeting;

~~(C)(iii)~~ the person demonstrates that an issue was not reasonably ascertainable during the review of an application or other request that led to the Secretary's act or decision; or

~~(D)(iv)~~ some other condition exists which would result in manifest injustice if the person's right to appeal was disallowed.

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

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

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

~~(f)~~ Stays.

(1) The filing of an appeal shall automatically stay the act or decision in the following situations:

(A) acts or decisions involving stream alteration permits or shoreline encroachment permits issued by the Secretary;

(B) the denial of interested person status by a board of adjustment, planning commission, or development review board.

(2) Upon petition by a party or upon its own motion for a stay of an act or decision, the Environmental Division shall perform the initial review of the request and may grant a stay. Any decision under this subsection to issue a stay shall be subject to appeal to the Supreme Court according to the Rules of Appellate Procedure.

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

1 ~~(h)~~ (g) De novo hearing. The Environmental Division, applying the substantive standards that  
2 were applicable before the tribunal appealed from, shall hold a de novo hearing on those issues  
3 which have been appealed, except in the case of:

4 (1) a decision being appealed on the record pursuant to 24 V.S.A. chapter 117;

5 (2) a decision of the Commissioner of Forests, Parks and Recreation under section 2625 of this  
6 title being appealed on the record, in which case the court shall affirm the decision, unless it  
7 finds that the Commissioner did not have reasonable grounds on which to base the decision.

8 ~~(i) Deference to Agency technical determinations. In the adjudication of appeals relating to land~~  
9 ~~use permits under chapter 151 of this title, technical determinations of the Secretary shall be~~  
10 ~~accorded the same deference as they are accorded by a District Commission under subsection~~  
11 ~~6086(d) of this title.~~

12 ~~(j)~~ (h) Appeals of authorizations or coverage under a general permit. Any appeal of an  
13 authorization or coverage under the terms of a general permit shall be limited in scope to whether  
14 the permitted activity complies with the terms and conditions of the general permit.

15 ~~(k)~~ (i) Limitations on appeals. Notwithstanding any other provision of this section:

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

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

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

1 ~~(j)(4)~~ Representation. The Secretary may represent the Agency of Natural Resources in all  
2 appeals under this section. ~~The Chair of the Natural Resources Board may represent the Board in~~  
3 ~~any appeal under this section, unless the Board directs otherwise.~~ If more than one State agency,  
4 ~~other than the Board,~~ either appeals or seeks to intervene in an appeal under this section, only the  
5 Attorney General may represent the interests of those agencies of the State in the appeal.

6 ~~(k)(m)~~ Precedent. Prior decisions of the Environmental Board, Water Resources Board, and  
7 Waste Facilities Panel shall be given the same weight and consideration as prior decisions of the  
8 Environmental Division.

9 ~~(l)(n)~~ Intervention. Any person may intervene in a pending appeal if that person:

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

11 (2) is a party by right;

12 ~~(3) is the Natural Resources Board;~~

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

14 ~~(4) (5)~~ qualifies as an "interested person," as established in 24 V.S.A. § 4465, with respect to  
15 appeals under 24 V.S.A. chapter 117; or

16 ~~(5) (6)~~ meets the standard for intervention established in the Vermont Rules of Civil Procedure.

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

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

- (1) there is an appeal of an act or decision of the Secretary that is based on that record; or
- (2) there is an appeal of a decision of a District Commission and the applicant used a decision of the Secretary based on that record to create a presumption under a criterion of subsection 6086(a) of this title that is at issue in the appeal.

\* \* \*

## **V. Reports and Miscellaneous Changes**

### **A. Municipal and regional planning review.**

#### *1. Topic summary.*

This section requires that the Agency of Commerce and Community Development develop a report and recommendations with respect to the capabilities and development plan requirements under Act 250 and report to the General Assembly by January 15, 2021.

#### *2. Bill citation.*

Sec. 11 (see p. 83)

#### *3. Proposed language.*

Sec. 11. VERMONT REGIONAL AND MUNICIPAL PLANNING REVIEW

(a) On or before December 15, 2020, the Natural Resources Board, in consultation with the Agency of Commerce and Community Development, shall develop shall publish a draft report, with recommendations, that addresses:

1 (1) whether Sec. 7 of No. 85 of the Acts and Resolves of 1973 (capability and development  
2 findings) should be incorporated into 10 V.S.A. chapter 151 and what changes should be made,  
3 if any, to the capability and development findings.

4 (2) whether the State should update the capability and development plan authorized by 10 V.S.A.  
5 chapter 151, subchapter 3. If the recommendation is to update the capabilities and development  
6 plan, the Agency shall provide a schedule and budget for the proposed update.

7 (3) whether 10 V.S.A. chapter 151 should require the creation of capability and development  
8 maps. If the recommendation is to require the creation of capability and development maps, the  
9 Agency shall identify the resources and land uses to be mapped and provide a schedule and  
10 budget for the proposed update.

11 (4) makes recommendations on how capability and development findings, the capability and  
12 development plan, and capability and development maps would be used in permitting under 10  
13 V.S.A. chapter 151 and how these would relate to the criteria considered under 10 V.S.A. §  
14 6086(a).

15 (5) how regional plans are reviewed and approved, including any existing or new administrative  
16 body to conduct that review; If a review is recommended, what State Agency should perform  
17 that review.

18 (6) whether designations of growth centers and new town centers should be appealable. If these  
19 designations are appealable, what tribunal should hear the appeal.

20 (b) The Natural Resources Board shall have a public comment period of at least 30 days on the  
21 draft report required by subsection (a) of this section. The Board shall hold at least one public  
22 informational meeting on the draft report. Notice provided by the Board shall include affected

state agencies, municipalities, regional planning commissions, the Vermont Planners Association, the Vermont Planning and Development Association, and other interested persons.  
(c) On or before March 1, 2021, the Natural Resources Board shall provide a final report to the House Committee on Natural Resources and Energy and Senate Committee on Natural Resources and Energy. The final report shall incorporate recommendations from the public engagement process under subsection (b) of this section and shall contain a response to stakeholder comments as a part of the final report.

## **B. Review of Environmental Permit Appeals**

### *1. Topic summary.*

This section requires that the Agency of Natural Resources review and make recommendations on whether appeals of Agency permits should be on the record. The Agency is required to conduct a stakeholder process in making these recommendations.

### *2. Bill citation.*

Sec. 12 (see p. 84)

### *3. Proposed language.*

## **Sec. 11. VERMONT ENVIRONMENTAL APPEALS REVIEW**

On or before January 15, 2021, the Secretary of Natural Resources shall make recommendations to the House Committees on Natural Resources, Fish, and Wildlife and Judiciary and the Senate Committees on Natural Resources and Energy and Judiciary as to whether permits issued by the Secretary should be reviewed on the administrative record developed by the Secretary and the presumptions provided to the Agency permits before the Natural Resources Board. In making these recommendations, the Secretary shall consult with lawyers and other interested persons who participate in Agency of Natural Resources Permitting processes.



**C. Transition and Effective Dates**

*1. Topic summary.*

This section makes establishes the effective dates and transition to the new enhanced natural resources board.

*2. Bill citation.*

Sec. 13 (see p. 86)

*3. Proposed language.*

Sec. 12. EFFECTIVE DATES; TRANSITION

(a) Secs. 3, 11, 12, and this section shall take effect on July 1, 2020.

(b) The remainder of this Act shall take effect on November 1, 2022, except that:

(1) The authority to make appointments to the Enhanced Natural Resources Board shall take effect on passage and all appointments shall be made on or before December 15, 2020.

(2) The authority for municipalities to request modifications to the area established pursuant to 10 V.S.A. § 6003(3)(A)(xiii) shall take effect on passage. Any appeal of a decision of a regional planning commission shall be calculated as if the decision were made on November 1, 2022.

(c) Terms of Board members. For the initial appointment of Board members:

(1) The Chair of the Board shall be appointed for a term of six years;

(2) One member of the Board shall be appointed for a term of four years and one member of the Board shall be appointed for a term of two years;

(3) Each administrative district shall have one regional commissioner appointed for a term of six years, one regional commissioner appointed for a term of four years, and one alternate appointed for a term of two years.

1 (d) Terms of existing Natural Resources Board members. The terms of any Natural Resources  
2 Board member not appointed consistent with the requirements of 10 V.S.A. § 6021(a)(1)(A) or  
3 (B) of this Act shall expire on October 31, 2022.

4 (e) Terms of District Commissioners.

5 (1) A district commission shall continue to remain in effect until all applications before it as of  
6 October 31, 2022 have been resolved and final permits have been issued in those matters.

7 (2) An application shall be deemed resolved when the Commission issues a final permit even if a  
8 final permit is appealed. Upon remand the Board then in office may in its discretion consider  
9 relevant evidence including any part of the transcript of testimony in the proceedings prior to  
10 appeal.

11 (d) Rulemaking. On or before November 1, 2022, the Enhanced Natural Resources Board shall:

12 (1) adopt rules of procedure pursuant to 10 V.S.A. § 6025(a);

13 (2) adopt rules, in consultation with the Secretary of Natural Resources, for the administration of  
14 10 V.S.A. § 6086(a)(8)(C), including how an applicant can avoid and mitigate impacts to  
15 necessary wildlife habitat, forest blocks, connecting habitat, rare and irreplaceable natural areas  
16 and endangered species.

## **H.782: Key Provisions + Supporting Investments**

### **MODERNIZE STATE REGULATIONS:**

- 1. Act 250 in State Designated Downtowns & Neighborhoods**
  - Modifies jurisdiction to exempt development-ready downtowns and neighborhoods
  - Transitions existing permits to municipal review
- 2. State & Municipal Water/Wastewater Connection Permits**
  - Exempts state connection permits in willing and capable municipalities
  - Requires communities improve maps of their sewer and water infrastructure
- 3. Enables safe infill and redevelopment opportunities within Neighborhood Development Areas (NDA)**
  - Makes NDA designation consistent with existing the Department of Environmental Conservation's River Corridor procedures

### **HOUSING READY BYLAWS, MUNICIPAL TECHNICAL ASSISTANCE AND TRAINING:**

- Provides new funding [\$150K to RPCs and \$150K to MPGs] to help municipalities update and adopt model inclusionary housing bylaws developed in partnership with CNU, cities and towns, and Regional Planning Commissions (the bylaw project was underwritten with grants from VHCB, VT-AARP, and VAR)
- Funding [\$50K] to train “missing middle” builders and landlords to jumpstart development in all counties

### **NEW FUNDING TO INCREASE COMMUNITY INVESTMENT IN HOUSING:**

- 1. Tax Incentives**
  - Provides downtown tax credits for income producing properties to encourage communities to modernize their bylaws through the Neighborhood Development Area designation
  - Increases tax credit cap [\$1.4M to \$4M total] to support re-investment within designated Neighborhood Development Areas
  - Provides tax credits to elevate or flood proof buildings at risk from floods
  - Eliminates capital gains on the sale of improved homes located within federally designated Opportunity Zones
- 2. \$1M Vermont Housing Improvement Program Grants**
  - Creates housing provider grants [\$1M] to bring unsafe, blighted, and vacant rental units up to code and back online
- 3. \$250K “Better Places” Crowd-grants**
  - Establishes funding framework to leverage and additional \$250K funding from private foundations for placemaking projects in state designated centers.

## S.237: Recommended Amendments

1. **Amend Act 250 Sections:** New language to close Priority Housing Project loophole; clarifications to language enabling the review and transfer of existing Act 250 conditions to municipal permits
2. **Amend Section 3 on municipal pre-emption covenants:** New language to ensure conservation easements and housing subsidy covenants are not unintentionally pre-empted

### Language in H.782 not in S.237

3. **Enable ‘one-stop’ permitting for municipal system water and sewer connections:** Enable changes to reduce the cost and time to permit housing development within areas served by water and sewer infrastructure. The language proposes to exempt water and sewer connections from state permits unless the Secretary of the Agency of Natural Resources finds that the municipality does not meet certain criteria.
4. **Qualify tax credits for floodproofing work:** Expand eligibility of the benefits to include flood mitigation work within flood hazard areas where the National Flood Insurance Program's (NFIP's) floodplain management regulations are enforced, and the mandatory purchase of flood insurance applies. Qualified flood mitigation projects would have to:
  - meet any applicable local flood hazard bylaw
  - be certified by qualified professionals, and
  - meet historic preservation requirements if listed or eligible for the State or National Register.

These amendments intended to encourage more building owners to relocate basement-level utilities to upper floors and elevate structures above base flood elevation. As proposed, the tax credits could cover 50% of the qualified flood mitigation expenditures up to \$75,000.

5. **Raise the Cap on Downtown and Village Center Tax Credits from \$2.6M to \$4M:** Add language to increase the program cap and as well as miscellaneous housekeeping changes to the program.
6. **Add opportunity zone capital gains exemption:** Add an income tax exemption for capital gains for residential property located within a low-income census tract designated as an opportunity zone, if the property is sold to an owner-occupant.
7. **Create “Better Places” crowd-grant program:** Authorize a new program that will leverage and additional \$250K funding from private foundations for placemaking projects in state designated centers.
8. **Establish Vermont Housing Improvement Program:** Language to enable \$1M in housing provider grants to bring unsafe, blighted, and vacant rental units up to code and back online.

# Neighborhood Development Areas

## **Designated Communities:**

1. Burlington
2. Essex Junction
3. Manchester
4. South Burlington
5. Winooski
6. Westford

## **Communities Pursuing Designation:**

1. Barre\*
2. Brattleboro\* - application submitted
3. Bristol
4. Cabot
5. St. Albans
6. Castleton
7. E. Montpelier
8. Fair Haven
9. Fairlee
10. Hinesburg\*
11. Hyde Park
12. Jericho\*
13. Johnson
14. Lyndon
14. Middlebury\*
15. Middlesex
16. Montpelier\*
17. Putney
18. Richmond
19. Rutland
20. Shoreham
21. South Hero\*
22. Swanton
23. Vergennes\*
24. Waterbury
25. Stowe
26. Randolph

\* bylaws close meeting the designation requirements

## S.237: “Plain Speak” Section-by-Section Summary

### Section 1 – Page 2, lines 1-2

**Municipal Plan Water & Sewer Map & Statements: Facilities, Lines, & Service Areas.** This changes the requirements for municipal plans by adding detail to the existing requirement to include a map and statement of present and prospective water supply and sewage disposal to help owners, investors, and community leaders and policy makers determine existing and future municipal water and sewer. Although a map and statement of water and sewer is already a municipal plan requirement, the information produced does not consistently address best practices on the identification of facilities, lines and service areas necessary to guide coordinated enterprise and land use policies, regulations, and administration consistent. Including this additional information in municipal plans can lead to a more consistent and predictable regulatory framework for funding and development partnership within investment-ready areas.

### Section 1 – Page 2, lines 11-12

**Municipal Plan Housing Element.** This expands the scope of the municipal plan’s housing element and program to ensure it account for all fair housing provisions in the Planning Act (Title 24, Chapter 117)

The required provisions and prohibited effects section sets a level playing field and statewide baseline for the equal treatment of housing. Historically and nationwide, housing has been subject to exclusionary and discriminatory practices by municipalities and interested parties (also known as NIMBYs) leading to less socio-economically diverse communities. The section aims to extend greater equity and equal opportunity for housing.

### Section 2 – Page 1, lines 4 -7

**Standards of Review for Small Multi-Family.** Many small multi-unit dwelling projects (four units or less) are unnecessarily subjected to discretionary standards and conditional use review, making approval less predictable and increasing opportunities for permit appeals based on subjective criteria. This provision intends to reduce discretionary reviews and exclusionary appeals by stating that where such small-multi-unit uses are allowed, a small multi-unit must be a permitted (“by-right”) – not conditional use – and may not be subject to a character of the area review. It would not affect underlying districts or density the municipality has established for multi-unit dwelling uses.

### Section 2 – Pages 3-4

**Increases Accessory Dwelling Unit Flexibility.** This change aims to reduce a common point of confusion about the accessory dwelling (ADU) statute, which many interpret as a ceiling rather than a regulatory floor that can be made less restrictive. This change helps makes clear that ADU’s may not be subject to any higher standard of review than a single-family dwelling unit would be subject to, by no longer limiting ADUs to be one-bedroom or 30% of the size of the primary residence; such restrictions are reported to unnecessarily limit the production of accessory dwelling units, such as a small house on a large lot that cannot build an adequately-sized and modest ADU, while a significantly larger home on the same lot could. The proposal retains the flexibility for a municipality to be less restrictive than the baseline established above, such as not requiring owner-occupancy.

It also clarifies that municipalities may regulate overnight accommodation and lodging distinctly from residential dwellings intended for long-term occupancy according to local conditions and needs. The use of accessory dwelling units, or any dwelling unit, as a short-term rental may be regulated by the municipalities to reflect local conditions and needs.

#### **Section 2 – Pages 4-5**

**Development of Pre-Existing Small Lots Served by Water & Sewer.** This provision would no longer allow a municipality to prohibit development of a pre-existing small lot with a narrow width or depth in areas served by water and sewer. It continues to allow a municipality to prohibit the development of existing small lots outside of areas served by development-enabling infrastructure. This recognizes that a small lot with narrow width or depth is neither unusual, nor undevelopable for infill served by water and sewer. Many such lots and buildings exist in Vermont's centers and go underutilized.

#### **Section 2 – Page 5**

**New Inclusive Housing Development Provisions.** This adds a new section to the required provisions and prohibited effects that allows a municipality to opt-out of the following paragraphs because of capacity constraints. Overall, these additions intend to ease restrictions on small-scale and efficient patterns of residential development focused on areas planned for and capable of accommodating incremental housing development in character with Vermont's traditional settlement patterns. They aim to expand opportunities for smaller lots, duplexes, by-right reviews of multi-unit projects, and reduced parking. Municipalities would continue to be able to regulate form, bulk, design, and performance standards to guide character. The flood hazard and fluvial erosion area bylaws would still apply and take precedence. The overall goal of the combined provisions is to enable efficient, small scale, and incremental housing development consistent with statewide goals.

#### **Section 2 – Page 5, line 15**

**Quarter-Acre Lots Served by Water.** Water and sewer infrastructure is one of the most influential development-enabling infrastructure investments that federal, state, and local funds support. This section aims to expand opportunities to subdivide quarter-acre lots in areas served by municipal water if the applicant can obtain a water/sewer permit to serve the resulting lot(s). Since land and infrastructure are a significant contributor to housing cost, reducing the amount of land required per conveyable lot (and linear feet of pipe per lot) is intended to increase potential land supply and lower potential costs per unit of housing in areas with substantial public investment in infrastructure.

#### **Section 2 – Page 5, line 18**

**Eighth Acre Lots Served by Water and Sewer.** Like the prior section, these amendments aim to expand opportunities to subdivide eighth acre lots in areas served by municipal water and sewer if the applicant can obtain a water/sewer permit for the lot(s). Because land and infrastructure are a significant contributor to housing cost, reducing the amount of land required per conveyable lot (and linear feet of pipe per lot) is intended to increase the potential supply of buildable land and lower potential costs per housing unit in areas with substantial public investment in infrastructure. An eighth acre pattern of development is frequently cited in transportation planning as the baseline at which public transit becomes feasible; in fact, many public amenities and services become more efficient and affordable when minimum lot sizes decrease.

#### **Section 2 – Page 6, line 4**

**Duplexes Served by Water & Sewer.** This provision expands opportunities to develop a duplex on lots served by municipal water and sewer to the same extent as a single-family dwelling. Unlike Vermont’s accessory dwelling unit provisions, this would not require owner-occupancy. Duplexes in areas served by water and sewer are intended as a method to grow small-scale housing opportunities in areas with substantial public investment in infrastructure. Reviews by DHCD indicate that most low-density residential districts in Vermont already include duplexes as an allowed use, but many add unnecessary and costly land area requirements.

#### **Section 2 – Page 6, line 11**

**50% Reduction of Min. Parking Required for Spaces Leased Separately from Dwelling Units Located Near Transit.** Parking spaces cost between \$5,000 and \$25,000<sup>1</sup> to construct, and require additional funds to maintain (i.e. plowing, paving, striping, stormwater treatment, and landscaping). This provision is intended to make housing within a half mile of transit more affordable by allowing a developer to propose un-bundling residential unit rent from parking space rent. Under this section, un-bundling would allow a 50% reduction of the municipality’s minimum required parking -- reducing the cost to construct and operate a housing unit. In other words, one residential parking space would count as two spaces for regulatory purposes if the proposed parking will be separately leased and the project is near transit. It allows residents who do not want or need a parking space to have the choice not to subsidize free parking for other residents that the market would not otherwise require. It would not affect zoning districts without minimum parking requirements.

#### **Section 2 – Page 7, line 1**

**Opt-Out Provisions for Substantial Municipal Constraints.** This provision allows a municipality to opt-out of the proposed requirements for justifiable constraints (such as lack of water/sewer capacity for development) by filing a report to the Department of Housing and Community Development for public posting and comment. Opt-out reports would have to be updated upon each plan or bylaw amendment to account for any change in situation.

#### **Section 2 – Page 9, line 12**

**Opt-In Incentives (Including Water/Wastewater Funding).** Municipalities that have opted-in, or are working to overcome constraints that prevent opting-in, will receive priority funding for water and sewer infrastructure grants and programs, Municipal Planning Grants, the Community Development Program, and Downtown and Village Historic Tax Credits.

---

<sup>1</sup> <https://www.strongtowns.org/journal/2018/11/20/the-many-costs-of-too-much-parking>



### **Section 3 – Page, line 16**

**Municipal Pre-Emption of Exclusive Covenants Preventing the Furtherance of Public Interest.** This section recognizes that inclusive bylaws furthering important public interests can be undermined via restrictive covenants, conditions, or restrictions put in place by municipal panels, developers, and owners' associations. This provision would allow a municipality to adopt bylaws that permit land development otherwise restricted by private covenants, conditions, or restrictions in conflict with the goals of the Planning Act and duly adopted municipal policies. For instance, this provision would enable a municipality to pre-empt and permit accessory dwelling units within a development where the homeowner's association disallows them. This mirrors legislation for renewable energy and energy saving devices statewide, which is known on the 'clothesline bill' because it prevents homeowners' associations from banning clotheslines. Unlike the provisions above, this does not set a common standard, but grants new powers to the municipality to address private restrictions that may limit housing -- but may also relate to other municipal interests. It is not intended to affect the enforceability of conservation easements or housing subsidy covenants.

### **Section 4 – Page 10**

**Report on Substantial Municipal Constraints.** This requires the Department to review and report to General Assembly by January 15, 2023 on the municipal constraints filed and make recommendations to reduce or eliminate constraints.

### **Section 5 – Page 10**

**Removes Priority Housing Project eligibility from Downtowns and NDAs.** Priority Housing Projects exempt from Act 250 certain qualified affordable and mixed-use developments within state designated centers. The broader exemption for Downtowns and NDAs levels the playing field for all development in areas the state has determined to have robust bylaws and capacity to regulate. Priority Housing Project provisions will remain in place within designated New Town Centers and Growth Centers.

### **Section 6 – Page 11-12**

**Exempt Downtowns and Neighborhood Development Areas from Act 250.** In order to promote development in and around reinvestment-ready centers, this section exempts State designated downtowns and neighborhood development areas (which can overlay a designated village center) from Act 250 review. It creates a process and criteria to extinguish existing Act 250 permits within these areas upon issuance of a municipal land use permit.

### **Section 7 – Pages 12-13**

**Repeal NDA Fees and 6086b Downtown "Off Ramp."** This strikes language for two sections because the existing Act 250 statute on 50% fee reductions for residential development within neighborhood development areas and 6086b downtown findings are made moot by the proposed jurisdictional exemptions.

## **Section 8 – Pages 13-14**

**Transfer Existing Act 250 Conditions to Municipal Permits.** This section outlines what happens to landowners seeking to develop sites with existing Act 250 permits that are located within State designated downtowns or neighborhood development areas (NDA) exempted from Act 250 review. In such cases, the municipalities appropriate municipal panel would be tasked with holding a hearing and issuing findings that include the Act 250 permit conditions in the municipal land use permits unless the condition meets certain criteria, such as conditions related to: 1) the construction phase for something already constructed, 2) compliance with another state permit, 3) federal and state law no longer in effect, 4) a matter addressed by municipal bylaw, and 5) physical or use conditions no longer present. The municipality must send a copy of the permit to the Natural Resources Board and continue to record the municipal permit containing the Act 250 conditions in the land records.]

## **Section 9 – Pages 14-15**

**Amends Downtown Designation Requirements for Local Act 250 Review.** The downtown designation process requires municipalities to demonstrate their commitment to protect local historic resources. The option to meet this requirement via Act 250 becomes moot given the process outlined in the prior sections.

## **Section 10 – Pages 17, line 9**

**Aligns Neighborhood Development Areas and River Corridor Policy.** This provision amends the requirements for approval of a NDA to allow for the inclusion of flood hazard areas and river corridors if the local bylaws include flood-ready provisions (current law excludes these areas from designation). This proposed change to the designation process brings the program into consistency with the Department of Environmental Conservation's River Corridor procedures. The Agency of Natural Resources would collaborate with the Department of Housing and Community Development to review local bylaws as part of Neighborhood Development Area application process. The goal of this review is to ensure that: 1) new infill occurs outside the floodway, 2) new development is elevated or floodproofed above the base flood elevation, 3) development will not exacerbate fluvial erosion hazards, and 4) development is reasonably safe from flooding.

## **Section 10 – Pages 18 -24**

**Density Eligibility for NDA.** This provision clarifies the density eligibility for neighborhood development area designation to resolve existing ambiguity about the program's baseline density. The change establishes a baseline for conventional subdivision of quarter-acre lots and maintains the net residential density and average existing density standards to ensure that efficient neighborhood development is enabled by the municipality prior to designation. The deletion of density determination is addressed in an earlier section that assigns this duty to the municipal administrative officer.

## **Section 11 – Pages 24 - 26**

**Enable Tax Credits for Neighborhood Development Areas, Title 32.** This section enables NDAs to qualify for downtown and village center tax credits to rehabilitate income producing buildings. Currently, tax credits may only benefit qualified buildings located within state designated downtowns and village centers.

**Staff Review of the Town of Bolton Enhanced Energy Plan Melanie Needle, Senior Planner  
Reviewed by the CCRPC Planning Advisory Committee on February 12, 2020**

---

The Town of Bolton has requested that the Chittenden County Regional Planning Commission issue a determination of compliance with the enhanced energy planning standards set forth in 24 V.S.A. §4352 for the Town of Bolton Town Plan's energy elements.

Bolton is amending their Town Plan in several sections to holistically incorporate the enhanced energy element; therefore the draft attached to this report includes the sections that have been amended (not the entire Plan). In accordance with statute, an amendment is not a full rewrite of the Town Plan and the Town Plan expiration date will remain in 2025. Therefore, CCRPC's previous Town Plan approval and confirmation of Bolton's planning process remains in effect.

Staff completed a review of a previous draft (draft 12/9/2019) against the Vermont Department of Public Service's Energy Planning Standards for Municipal Plans in advance of the Planning Commission's public hearing on January 21, 2020. Our usual practice is to hold a PAC meeting prior to the Planning Commission's public hearing, but that was not possible in this case. The Planning Commission agreed to the edits recommended by Staff, and the edits were made to the draft now attached to this final staff report (draft 1/29/2020).

**Enhanced Energy Plan Review**

Following the statutory requirements of 24 V.S.A. §4352 and Vermont Department of Public Service's Energy Planning Standards for Municipal Plans, I have reviewed the draft Bolton Town Plan Enhanced Energy elements to determine whether:

1. The Town Plan includes an energy element that has the same components as described in 24 V.S.A. §4348a(a)(3) for a regional plan and is confirmed under the requirements of 24 V.S.A. §4350.
2. The Town Plan is consistent with following State goals:
  - a. Vermont's greenhouse gas reduction goals under 10 V.S.A. § 578(a);
  - b. Vermont's 25 by 25 goal for renewable energy under 10 V.S.A. § 580;
  - c. Vermont's building efficiency goals under 10 V.S.A. § 581;
  - d. State energy policy under 30 V.S.A. § 202a and the recommendations for regional and municipal energy planning pertaining to the efficient use of energy and the siting and development of renewable energy resources contained in the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202b (State energy plans); and
  - e. The distributed renewable generation and energy transformation categories of resources to meet the requirements of the Renewable Energy Standard under 30 V.S.A. §§ 8004 and 8005.
3. The Town Plan meets the standards for issuing a determination of energy compliance included in the State energy plans as developed by the Vermont Department of Public Service.

**Staff Review Findings and Comments**

Consistency with the requirements above is evaluated through the Vermont Department of Public Service's Vermont Department of Public Service's Energy Planning Standards for Municipal Plans, which is attached to this document and briefly summarized below.

Standard	Met	Not Met	N/A
----------	-----	---------	-----

CCRPC Staff & PAC Review – Town of Bolton Enhanced Energy Plan  
February 12, 2020

1. Plan duly adopted and approved		Necessary for final determination	
2. Submit a copy of the adopted plan		Necessary for final determination	
3. Plan contains an energy element	X		
4. Analysis of resources, needs, scarcities, costs and problems in the municipality across all energy sectors	X		
5.a. Report Current energy use for heating, electricity, and transportation	X		
5.b. Report 2025, 2035 and 2050 targets for energy use	X		
5.c. Evaluation of thermal-sector energy use changes	X		
5.d. Evaluation of transportation-sector energy use changes	X		
5.e. Evaluation of electric-sector energy use changes	X		
6.a. Encourage conservation by individuals and organizations	X		
6.b. Promote efficient buildings	X		
6.c. Promote decreased use of fossil fuels for heat	X		
6.d. Demonstrate municipal leadership re: efficiency of municipal buildings?	X		
7.a. Encourage increased public transit use	X		
7.b. Promote shift away from single-occupancy vehicle trips	X		
7.d. Promote shift from gas/diesel to non-fossil fuel vehicles?	X		
7.e. Demonstrate municipal leadership re: efficiency of municipal transportation?	X		
8.a. Promote Smart growth land use policies	X		
8.b. Strongly prioritize development in compact, mixed use centers	X		
9.a. Report existing renewable energy generation	X		
9.b. Analyze generation potential	X		
9.c. Identify sufficient land to meet the 2050 generation targets	X		
9.d. Ensure that local constraints do not prevent the generation targets from being met	X		
9.e. Include policy statements on siting energy generation	X		
9.f. Maximize potential for generation on preferred sites	X		
9.g. Demonstrate municipal leadership re: deploying renewable energy	X		
4. Include maps provided by CCRPC	X		

Comments related to the Standards:

The updates and enhancements made to the Bolton Town Plan produced an energy element that meets all the energy planning standards for a municipal plan. The proposed elements demonstrate a strong commitment to implementing best practices for advancing the State energy goals at the municipal level and for planning additional renewable energy generation which are balanced with local land use policies. The energy element meets all the energy planning standards for a municipal plan set by the Department of Public Service.

Comments related to typos or clarification:

In the energy data profile, the title of the chart on page 50 should be changed to total electricity usage.

**Proposed Motion & Next Steps:**

The PAC finds that the proposed Town of Bolton Town Plan Energy Elements (draft 1/29/2020) meet the requirements of the enhanced energy planning standards (“determination”) set forth in 24 V.S.A. §4352.

Upon notification that the municipality has adopted the amendments, CCRPC staff will review the plan, and any information relevant to the confirmation process. If staff determines that that substantive changes have been made, the materials will be forwarded to the PAC for review. Otherwise the PAC recommends that the draft Energy Plan, should be forwarded to the CCRPC Board for an affirmative determination of energy compliance.

# Energy Planning Standards for Municipal Plans

## Instructions

Before proceeding, please review the requirements of Parts I and II below, as well as the Overview document. Submitting a Municipal Plan for review under the standards below is entirely voluntary, as enabled under [Act 174](#), the Energy Development Improvement Act of 2016. If a Municipal Plan meets the standards, it will be given an affirmative “determination of energy compliance,” and will be given “substantial deference” in the Public Service Board’s review of whether an energy project meets the orderly development criterion in the Section 248 process. Specifically, with respect to an in-state electric generation facility, the Board:

*[S]hall give substantial deference to the land conservation measures and specific policies contained in a duly adopted regional and municipal plan that has received an affirmative determination of energy compliance under 24 V.S.A. § 4352. In this subdivision (C), “substantial deference” means that a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy. The term shall not include consideration of whether the determination of energy compliance should or should not have been affirmative under 24 V.S.A. § 4352.*

Municipal Plans should be submitted by the municipality’s legislative body to the Regional Planning Commission (RPC) if the Regional Plan has received an affirmative determination of energy compliance. If a Regional Plan has not received such a determination, until July 1, 2018<sup>1</sup>, a municipality may submit its adopted and approved Municipal Plan to the Department of Public Service (DPS) for a determination of energy compliance (determination), along with the completed checklist below. After a Municipal Plan and completed checklist have been submitted to the RPC (or DPS), the RPC or DPS will schedule a public hearing noticed at least 15 days in advance by direct mail to the requesting municipal legislative body, on the RPC or DPS website, and in a newspaper of general publication in the municipality. The RPC or DPS shall issue a determination in writing within two months of the receipt of a request. If the determination is negative, the RPC or DPS shall state the reasons for the denial in writing and, if appropriate, suggest acceptable modifications. Submissions for a new determination following a negative determination shall receive a new determination within 45 days.

The plans that Municipalities submit must:

- Be adopted
- Be confirmed under 24 V.S.A. § 4350
- Include an energy element that has the same components as described in 24 V.S.A. § 4348a(a)(3)
- Be consistent with state energy policy (described below), in the manner described in 24 V.S.A. § 4302(f)(1)
- Meet all standards for issuing a determination of energy compliance (see below)

---

<sup>1</sup> These standards will be revised after July 1, 2018 to reflect that Municipal Plans should be submitted only to the Regional Planning Commissions – which will all have had an opportunity to seek a determination of energy compliance – from that point forward.

Municipalities are encouraged to consult with their reviewer (either their RPC or DPS) before undertaking the process of plan adoption, which may help in identifying any deficiencies or inconsistencies with the standards or other requirements that would be more difficult to remedy after a plan has gone through the formal adoption process.

The state's Comprehensive Energy Plan (CEP) is revised on a 6-year basis. When the next CEP is published in 2022, it will include a revised set of standards, as well as Recommendations that are customized to regions and municipalities. The Recommendations that accompany this initial set of Standards represent a subset of recommendations from the 2016 CEP, which were not written with regions and municipalities specifically in mind. A Guidance document – which is expected to evolve as best practices from regions and municipalities emerge – will be published shortly after the Standards are issued. It will serve as the warehouse for relevant recommendations from the 2016 CEP, links to data sources, instructions on conducting analysis and mapping, and sample language/best practices. Once issued and until the 2022 CEP is published, this Guidance document will supplant the Recommendations document.

Affirmative determinations last for the life cycle of a revision of the Municipal Plan, and Municipal Plans that are submitted after the 2022 CEP is issued will be expected to meet the Standards that are issued at that time. Municipalities are encouraged to consult with their RPC or DPS regarding interim amendments that might affect any of the standards below, to discuss whether a new review is triggered.

If you wish to submit your Municipal Plan to your RPC or to DPS for a determination, please read closely the specific instructions at the start of each section below, and attach your Municipal Plan to this checklist.

Determination requests to an RPC (and any other questions) should be submitted to your RPC's designated contact. Determination requests to DPS until July 1, 2018 – and only for municipalities whose Regions' plans have not received an affirmative determination – should be submitted to:

[PSD.PlanningStandards@vermont.gov](mailto:PSD.PlanningStandards@vermont.gov).

Part I: Applicant Information		
<b>The plan being submitted for review is a:</b>	<input checked="" type="checkbox"/> Municipal Plan in a region whose regional plan has received an affirmative determination of energy compliance from the Commissioner of Public Service  <b>Please submit these plans to your RPC</b>	<input type="checkbox"/> Municipal Plan in a region whose regional plan has <u>not</u> received a determination of energy compliance  <b>Until July 1, 2018, please submit these to the DPS. After July 1, 2018, this option ceases to exist.</b>
<b>Applicant:</b>	Town of Bolton	
<b>Contact person:</b>	Larry Lewack	
<b>Contact information:</b>	zoningbolton@gmavt.net	
<b>Received by:</b> Melanie Needle, CCRPC	<b>Date:</b> January 29, 2020	

## Part II: Determination Standards Checklist

The checklist below will be used to evaluate your plan's consistency with statutory requirements under Act 174, including the requirement to be adopted and approved, contain an enhanced energy element, be consistent with state energy policy, and meet a set of standards designed to ensure consistency with state energy goals and policies.

Please review and attach your plan (or adopted energy element/plan, along with supporting documentation) and self-evaluate whether it contains the following components. Use the Notes column to briefly describe how your plan is consistent with the standard, including relevant page references (you may include additional pages to expand upon Notes). If you feel a standard is not relevant or attainable, please check N/A where it is available and use the Notes column to describe the situation, explaining why the standard is not relevant or attainable, and indicate what measures your municipality is taking instead to mitigate any adverse effects of not making substantial progress toward this standard. If N/A is not made available, the standard must be met (unless the instructions for that standard indicate otherwise) and checked "Yes" in order to receive an affirmative determination. There is no penalty for checking (or limit on the number of times you may check) N/A where it is available, as long as a reasonable justification is provided in the Notes column.

### Plan Adoption Requirement

[Act 174](#) requires that municipal plans be adopted and approved in order to qualify for a determination of energy compliance. In the near term, it is likely municipalities will revise and submit isolated energy plans or elements, particularly due to long planning cycles. Therefore, the plan adoption requirement can be met through an amendment to an existing plan in the form of an energy element or energy plan, as long as the amendment or plan itself is duly adopted as part of the municipal plan and incorporated by reference or appended to the underlying, full plan (i.e., is officially "in" the municipal plan), as well as approved for confirmation with the region. If this route is chosen, the municipality should also attach the planning commission report required for plan amendments under 24 V.S.A. § 4384, which should address the internal consistency of the energy plan/element with other related elements of the underlying plan (particularly Transportation and Land Use), and/or whether the energy plan/element supersedes language in those other elements. Standards 1 and 2 below must be answered in the affirmative in order for a plan to receive an affirmative determination of energy compliance.

1. Has your plan been duly adopted and approved for confirmation according to <a href="#">24 V.S.A. § 4350</a> ?	<input type="checkbox"/> Yes. Adoption date: Click here to enter text. Confirmation date: Click here to enter text.	<input checked="" type="checkbox"/> No	The Planning Commission hearing occurred on January 21, 2020
2. Is a copy of the plan (or adopted energy element/plan, along with underlying plan and planning commission report addressing consistency of energy element/plan with other elements of underlying plan) attached to this checklist?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Notes: Click here to enter text.



## Energy Element Requirement

To obtain a determination of energy compliance, Act 174 requires municipalities to include an “energy element” that contains the same components described in 24 V.S.A. § 4348a(a)(3), which was revised through Act 174 to explicitly address energy across all sectors and to identify potential and unsuitable areas for siting renewable energy resources:

*An energy element, which may include an analysis of resources, needs, scarcities, costs, and problems within the region across all energy sectors, including electric, thermal, and transportation; a statement of policy on the conservation and efficient use of energy and the development and siting of renewable energy resources; a statement of policy on patterns and densities of land use likely to result in conservation of energy; and an identification of potential areas for the development and siting of renewable energy resources and areas that are unsuitable for siting those resources or particular categories or sizes of those resources.*

The standards below are generally organized to integrate each component of the enhanced energy element with related determination standards that evaluate the plan’s consistency with state goals and policies. **Energy element components are identified in bolded text.**

While municipalities may choose to primarily address energy used for heating, transportation, and electricity in the required energy element, they may also choose to address some of these components in related plan elements (e.g., Transportation and Land Use) and should indicate as much in the Notes column. To the extent an energy element is designed to comprehensively address energy, it should be complementary to and reference other relevant plan elements.

<b>3. Does the plan contain an energy element, that contains the same components described in 24 V.S.A. § 4348a(a)(3)?</b> <i>Individual components of the energy element will be evaluated through the standards below.</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Page: Pages 9-21 contain the energy element specifically. Additionally energy is a theme that is also threaded throughout the plan. Notes: <a href="#">Click here to enter text.</a>
---	---	-----------------------------	---

## Consistency with State Goals and Policies Requirement

Act 174 states that regional and municipal plans must be consistent with the following state goals and policies:

- Greenhouse gas reduction goals under [10 V.S.A. § 578\(a\)](#) (50% from 1990 levels by 2028; 75% by 2050)
- The 25 x 25 goal for renewable energy under [10 V.S.A. § 580](#) (25% in-state renewables supply for all energy uses by 2025)
- Building efficiency goals under [10 V.S.A. § 581](#) (25% of homes – or 80,000 units – made efficient by 2020)
- State energy policy under [30 V.S.A. § 202a](#) and the recommendations for regional and municipal planning pertaining to the efficient use of energy and the siting and development of renewable energy resources contained in the [State energy plans](#) adopted pursuant to [30 V.S.A. §§ 202](#) and [202b](#)
- The distributed renewable generation and energy transformation categories of resources to meet the requirements of the Renewable Energy Standard under [30 V.S.A. §§ 8004](#) and [8005](#)

The standards in the checklist below will be used to determine whether a plan is consistent with these goals and policies. The standards are broken out by category. *Analysis and Targets* standards address how energy analyses are done within plans, and whether targets are established for energy conservation, efficiency, fuel switching, and use of renewable energy across sectors. *Pathways (Implementation Actions)* standards address the identification of actions to achieve the targets. *Mapping* standards address the identification of suitable and unsuitable areas for the development of renewable energy.

Municipalities may choose to incorporate the information necessary to meet the standards in their energy elements, and/or in other sections of their plans (many transportation items may fit best in the Transportation chapters of plans, for instance). However, plans must be internally consistent, and applicants should cross-reference wherever possible.

### Analysis and Targets Standards

For the *Analysis & Targets* determination standards below, municipalities will be provided with analyses and targets derived from regional analyses and targets no later than April 30, 2017 (and likely much sooner). Municipalities may choose to rely on these “municipalized” analyses and targets to meet the standards in this section. Municipalities which elect to use the analysis and targets provided by a region will be presumed to have met the standards in this section. Alternatively, municipalities may develop their own custom analyses and targets or supplement the analyses and targets provided by the regions with specific local data; if this option is chosen, the analysis and targets must include all of the same components and meet the standards required of regions, as described below.

For municipalities that choose to undertake their own analysis and target-setting (and for regions), DPS is providing a guidance document to explain the expected level of detail in and data sources and methodologies available for meeting the standards (including areas where it is understood data at the municipal level is unavailable, and therefore not expected). Note that standards 5A-4E are all derived directly from requirements in Act 174 (with minor modifications to make them feasible) and must be met affirmatively in order for a municipal plan to receive an affirmative determination of energy compliance.

Targets set by regions and municipalities should be aligned with state energy policy (see the goals and policies listed above). Where targets (and efforts to reach them) depart significantly from state energy goals and policies, an explanation for how the plan otherwise achieves the intent of the state goal or policy should be provided. The guidance document also offers additional clarification on alignment with state goals and policies.

The analysis items below are intended to provide regions and municipalities with an overview of their current energy use, and with a sense of the trajectories and pace of change needed to meet targets, which can be translated into concrete actions in the *Pathways* standards below. Targets provide regions and municipalities with milestones or checkpoints along the way toward a path of meeting 90% of their total energy needs with renewable energy, and can be compared with the potential renewable energy generation from areas identified as potentially suitable in the *Mapping* standards exercise below to give regions and municipalities a sense of their ability to accommodate renewable energy that would meet their needs.

4. Does your plan’s energy element contain an analysis of resources, needs, scarcities, costs, and problems within the municipality across all energy sectors (electric, thermal, transportation)?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Page: Pages 9-21 contain the energy element specifically, Additionally energy is a theme that is also threaded throughout the plan. Notes: <a href="#">Click here to enter text.</a>
5. Does your plan contain an analysis that addresses A-E below, either as provided by your Regional Planning Commission or as developed by your municipality? <i>Municipalities may meet this standard by using the analysis and targets provided by their regions, or by developing their own analyses and targets. If using the analysis &amp;</i>	<input checked="" type="checkbox"/> Yes-Region <input type="checkbox"/> Yes-Custom	<input type="checkbox"/> No	Page: see data energy data profile Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>

targets provided by your region, please answer “Yes-Region” and skip ahead to #6. If developing a custom analysis, please answer “Yes-Custom” and address 5A-5E separately, below.			
A. Does the plan estimate current energy use across transportation, heating, and electric sectors?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Page: <a href="#">Click here to enter text.</a> Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
B. Does the plan establish 2025, 2035, and 2050 targets for thermal and electric efficiency improvements, and use of renewable energy for transportation, heating, and electricity?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Page: <a href="#">Click here to enter text.</a> Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
C. Does the plan evaluate the amount of thermal-sector conservation, efficiency, and conversion to alternative heating fuels needed to achieve these targets?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Page: <a href="#">Click here to enter text.</a> Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
D. Does the plan evaluate transportation system changes and land use strategies needed to achieve these targets?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Page: <a href="#">Click here to enter text.</a> Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
E. Does the plan evaluate electric-sector conservation and efficiency needed to achieve these targets?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Page: <a href="#">Click here to enter text.</a> Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>

### Pathways (Implementation Actions) Standards

This section examines whether plans meet the Act 174 expectation that they include pathways and recommended actions to achieve the targets identified through the *Analysis and Targets* section of the Standards (above). Plans are expected to include or otherwise address all of the pathways (implementation actions) below; some actions may not be applicable or equally relevant to all applicants (small vs. large municipalities, for instance), in which case N/A may be checked (if available) and the justification provided in the Notes column. There is no penalty for choosing N/A one or more times, as long as a reasonable justification is provided in the Notes column, preferably including an explanation of how the plan alternatively achieves attainment of the targets should be included. If N/A is not provided as an option, the standard must be met, and “Yes” must be checked, in order for the plan to meet the requirements for a determination (unless the instructions particular to that standard indicate otherwise).

DPS will be issuing a guidance document in the near term providing potential implementation actions derived from the Comprehensive Energy Plan (relevant formal Recommendations as well as opportunities not specifically called out as Recommendations), from recent regional and municipal plans, and from other sources. The guidance document will be revised after the regions have compiled best practices from early municipalities pursuing energy planning to seek a determination of energy compliance, in the summer of 2017.

For the time being, we offer potential implementation action options for consideration as italicized text under each standard. Plans are encouraged to promote as diverse a portfolio of approaches as possible in each sector, or if not, to explain why they take a more targeted approach. Implementation actions may fit best in a holistic discussion contained within a plan’s energy element, though cross-referencing to other relevant plan elements is also acceptable.

Municipalities must demonstrate a commitment to achieving each standard in both policies and implementation measures in clear, action-oriented language.			
<b>6. Does your plan's energy element contain a statement of policy on the conservation and efficient use of energy?</b>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Page: Goal 10 in the energy element Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
A. Does the plan encourage conservation by individuals and organizations? <i>(Actions could include educational activities and events such as convening or sponsoring weatherization workshops, establishing local energy committees, encouraging the use of existing utility and other efficiency and conservation programs and funding sources, etc.)</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Page: Objective 10.1 and 10.2, Action 24 of the energy element, Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
B. Does the plan promote efficient buildings? <i>(Actions could include promoting compliance with residential and commercial building energy standards for new construction and existing buildings, including additions, alterations, renovations and repairs; promoting the implementation of residential and commercial building efficiency ratings and labeling; considering adoption of stretch codes, etc.)</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Page: Action 29 of the energy element Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
C. Does the plan promote decreased use of fossil fuels for heating? <i>(Actions and policies could promote switching to wood, liquid biofuels, biogas, geothermal, and/or electricity. Suitable devices include advanced wood heating systems and cold-climate heat pumps, as well as use of more energy efficient heating systems; and identifying potential locations for, and barriers to, deployment of biomass district heating and/or thermal-led combined heat and power systems in the municipality)</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Page: 20, Action 34 Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
D. Does the plan demonstrate the municipality's leadership by example with respect to the efficiency of municipal buildings? <i>(Actions could include building audits and weatherization projects in schools and town offices, etc.)</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A	Page: Goal 1, Actions 24 and 25 of the energy plan Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
E. Other (please use the notes section to describe additional approaches that your municipality is taking)	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	Page: <a href="#">Click here to enter text.</a> Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
<b>7. Does your plan's energy element contain a statement of policy on reducing transportation energy demand and single-occupancy vehicle use, and encouraging use of renewable or lower-emission energy sources for transportation?</b>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Page: Goal 8 and Goal 10 in the energy element Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
A. Does the plan encourage increased use of public transit?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A	Page: Action 14 in the energy element Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>

<i>(Actions could include participation in efforts to identify and develop new public transit routes, promote full utilization of existing routes, integrate park-and-rides with transit routes, etc.)</i>			
B. Does the plan promote a shift away from single-occupancy vehicle trips, through strategies appropriate to the municipality? <i>(Actions could include rideshare, vanpool, car-sharing initiatives; efforts to develop or increase park-and-rides; enhancement of options such as rail and telecommuting; education; intergovernmental cooperation; etc.)</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Page: Action 13 and Action 14 in the energy element Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
C. Does the plan promote a shift away from gas/diesel vehicles to electric or other non-fossil fuel transportation options through strategies appropriate to the municipality? <i>(Actions could include promoting the installation of electric vehicle charging infrastructure, providing education and outreach to potential users, supporting non-fossil fuel vehicle availability through outreach to vehicle dealers, etc.)</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Page: Action 15 in the energy element Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
D. Does the plan facilitate the development of walking and biking infrastructure through strategies appropriate to the municipality? <i>(Actions could include studying, planning for, seeking funding for, or implementing improvements that encourage safe and convenient walking and biking; adopting a "Complete Streets" policy, etc.)</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A	Page: Action 10 in the energy element Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
E. Does the plan demonstrate the municipality's leadership by example with respect to the efficiency of municipal transportation? <i>(Actions could include purchasing energy efficient municipal and fleet vehicles when practicable, installing electric vehicle charging infrastructure, etc.)</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A	Page: Actions 21, 22 and 23 in the energy element Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
F. Other (please use the notes section to describe additional approaches that your municipality is taking)	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	Page: <a href="#">Click here to enter text.</a> Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
<b>8. Does your plan's energy element contain a statement of policy on patterns and densities of land use likely to result in conservation of energy?</b>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Page: Discussion of the Village zoning districts in the place element of the plan Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
A. Does the plan include land use policies (and descriptions of current and future land use categories) that demonstrate a commitment to reducing sprawl and minimizing low-density development? <i>(Actions could include adopting limited sewer service areas, maximum building sizes along highways, policies or zoning that require design features</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Page: Goal 23, action h, action 48 and action 49 in the land use section Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>

that minimize the characteristics of strip development [multiple stories, parking lot to the side or back of the store], and requirements that development in those areas be connected by means other than roads and cars; adopting a capital budget and program that furthers land use and transportation policies; etc.)			
B. Does the plan strongly prioritize development in compact, mixed-use centers when physically feasible and appropriate to the use of the development, or identify steps to make such compact development more feasible? (Actions could include participating in the state designation program, such as obtaining state designated village centers, downtowns, neighborhoods, new town centers, or growth centers; exploration of water or sewage solutions that enable compact development; etc.)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A	Page: Goal 23, action h, action 48 and action 49 in the land use section Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
C. Other (please use the notes section to describe additional approaches that your municipality is taking)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	Page: <a href="#">Click here to enter text.</a> Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
<b>9. Does your plan's energy element contain a statement of policy on the development and siting of renewable energy resources?</b>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Notes: <a href="#">Click here to enter text.</a>
A. Does the plan evaluate (estimates of or actual) generation from existing renewable energy generation in the municipality? <i>Municipalities should be able to obtain this information from their regions.</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Page: see energy data profile Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
B. Does the plan analyze generation potential, through the mapping exercise (see <i>Mapping</i> standards, below), to determine potential from preferred and potentially suitable areas in the municipality? <i>Municipalities should be able to obtain this information from their regions.</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Page: see energy data profile and maps Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
C. Does the plan identify sufficient land in the municipality for renewable energy development to reasonably reach 2050 targets for renewable electric generation, based on population and energy resource potential (from potential resources identified in the <i>Mapping</i> exercise, below), accounting for the fact that land may not be available due to private property constraints, site-specific constraints, or grid-related constraints? <i>If N/A, please describe how you are working with your regional planning commission to ensure overall regional objectives are achieved.</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A	Page: see energy data profile Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
D. Does the plan ensure that any local constraints (locally designated resources or critical resources, from 12B and 12C under <i>Mapping</i> , below) do not prohibit or have the effect of prohibiting the provision of sufficient renewable energy to meet state, regional, or municipal targets?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A	Page: see energy data profile and Figure 36 Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>

<i>If N/A, please describe how you are working with your regional planning commission to ensure overall regional objectives are achieved.</i>			
E. Does the plan include statements of policy to accompany maps (could include general siting guidelines), including statements of policy to accompany any preferred, potential, and unsuitable areas for siting generation (see 12 and 13 under <i>Mapping</i> , below)?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Page: <a href="#">Click here to enter text.</a> Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
F. Does the plan maximize the potential for renewable generation on preferred locations (such as the categories outlined under 12E in the <i>Mapping</i> standards, below)?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A	Page: Objective 18.6 Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
G. Does the plan demonstrate the municipality's leadership by example with respect to the deployment of renewable energy? (Actions could include deploying renewable energy to offset municipal electric use, etc.)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A	Page: Action 28 Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
H. Other (please use the notes section to describe additional approaches that your municipality is taking)	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A	Page: <a href="#">Click here to enter text.</a> Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>

### Mapping Standards

Act 174 requires plans to identify potential areas for the development and siting of renewable energy resources and areas that are unsuitable for siting those resources or particular categories or sizes of those resources. It furthermore requires that the standards address the potential generation from the potential siting areas.

The *Mapping* standards lay out a sequence of steps for planners to examine existing renewable resources and to identify potential (and preferred) areas for renewable energy development, and to identify likely unsuitable areas for development, by layering constraint map layers on to raw energy resource potential map layers. The maps should help municipalities visualize and calculate the potential generation from potential areas, and compare it with the 2025, 2035, and 2050 targets from the *Analysis and Targets* standards to get a sense of the scale and scope of generation that could be produced within the region to meet the municipality's needs. DPS will provide additional guidance to accompany the standards that fleshes out the steps, layers, and standards more fully.

Plans must include maps that address all of the standards below, unless N/A is provided as an option, in which case a compelling reason why the standard is not applicable or relevant should be provided in the Notes column. Regions must develop their own maps (already underway through support being provided to regions by DPS), and to then break out the maps for their municipalities, who can use their region-provided maps to meet the municipal *Mapping* standards (such "municipalization" work is being supported through a training & technical assistance contract between DPS and regions, and all regions must supply completed maps to their municipalities by April 30, 2017, though many are expected to do so much sooner).

Municipalities may choose to rely on the maps provided by the regions to meet the standards in this section. Those maps should be somewhat familiar to municipalities, who are expected to be consulted as regions develop their maps. Alternatively, municipalities may choose to undertake their own mapping,



<p>according to the same set of standards as regions. Additionally, municipalities are expected to work collaboratively with their regions and with neighboring municipalities to ensure compatibility between the final products.</p> <p>The map and the text describing the policies or rules used to construct the map, as well as the text describing specific policies applicable to map features, should be complementary. That should help ensure that any “land conservation measures and specific policies” that might be given substantial deference in the context of a particular project review under 30 V.S.A. § 248 are clearly identifiable in the text, should a map lack sufficient clarity or granularity regarding the area in which a project is proposed.</p>			
<p>10. Does your plan contain one or more maps that address 11-13 below, as provided by your Regional Planning Commission or as developed by your municipality?</p> <p><i>Municipalities may meet this standard by using the maps provided by their regions, or by developing their own maps. If using the maps provided by your region, please answer “Yes-Region” and skip ahead to #14. If developing custom maps, please answer “Yes-Custom” and address 11-13 separately, below.</i></p>	<input checked="" type="checkbox"/> Yes-Region <input type="checkbox"/> Yes-Custom	<input type="checkbox"/> No	<p>Page: Maps 8-9 Maps 14-16</p> <p>Paragraph #: <a href="#">Click here to enter text.</a></p> <p>Notes: <a href="#">Click here to enter text.</a></p>
<p>11. Does the plan identify and map existing electric generation sources?</p> <p><i>Maps may depict generators of all sizes or just those larger than 15 kW, as long as information on generators smaller than 15 kW is summarized and provided or referenced elsewhere. It is expected that the best available information at the time of plan creation will be used. This information is available from the DPS.</i></p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A	<p>Page: Map 8</p> <p>Paragraph #: <a href="#">Click here to enter text.</a></p> <p>Notes: <a href="#">Click here to enter text.</a></p>
<p>12. Does the plan identify potential areas for the development and siting of renewable energy resources and the potential generation from such generators in the identified areas, taking into account factors including resource availability, environmental constraints, and the location and capacity of electric grid infrastructure?</p> <p><i>Maps should include the following (available from VCGI and ANR), and the resulting Prime and Secondary Resource Maps will together comprise “potential areas”:</i></p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<p>Page: Map 9</p> <p>Paragraph #: <a href="#">Click here to enter text.</a></p> <p>Notes: <a href="#">Click here to enter text.</a></p>
<p>A. Raw renewable energy potential analysis (wind and solar), using best available data layers (including LiDAR as appropriate)</p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<p>Page: Map 9</p> <p>Paragraph #: <a href="#">Click here to enter text.</a></p> <p>Notes: <a href="#">Click here to enter text.</a></p>
<p>B. Known constraints (signals likely, though not absolute, unsuitability for development based on statewide or local regulations or designated critical resources) to include:</p> <ul style="list-style-type: none"> <li>• Vernal Pools (confirmed and unconfirmed layers)</li> <li>• DEC River Corridors</li> </ul>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<p>Page: Map 16</p> <p>Paragraph #: <a href="#">Click here to enter text.</a></p> <p>Notes: <a href="#">Click here to enter text.</a></p>



<ul style="list-style-type: none"> <li>• FEMA Floodways</li> <li>• State-significant Natural Communities and Rare, Threatened, and Endangered Species</li> <li>• National Wilderness Areas</li> <li>• Class 1 and Class 2 Wetlands (VSWI and advisory layers)</li> <li>• Regionally or Locally Identified Critical Resources</li> </ul> <p><i>If areas are constrained for the development of renewable energy due to the desire to protect a locally designated critical resource (whether a natural resource or a community-identified resource), then the land use policies applicable to other forms of development in this area must be similarly restrictive; for this category, policies must prohibit all permanent development (and should be listed in the Notes column).</i></p> <p><i>These areas should be subtracted from raw renewable energy resource potential maps to form Secondary Resource Maps</i></p>			
<p>C. Possible constraints (signals conditions that would likely require mitigation, and which may prove a site unsuitable after site-specific study, based on statewide or regional/local policies that are currently adopted or in effect), including but not limited to:</p> <ul style="list-style-type: none"> <li>• Agricultural Soils</li> <li>• FEMA Special Flood Hazard Areas</li> <li>• Protected Lands (State fee lands and private conservation lands)</li> <li>• Act 250 Agricultural Soil Mitigation areas</li> <li>• Deer Wintering Areas</li> <li>• ANR's Vermont Conservation Design Highest Priority Forest Blocks (or Habitat Blocks 9 &amp; 10, for plans using regional maps in regions whose plans will be submitted for adoption at the regional level by March 1, 2017)</li> <li>• Hydric Soils</li> <li>• Regionally or Locally Identified Resources</li> </ul> <p><i>If locations are constrained for the development of renewable energy due to the desire to protect a locally designated resource (whether a natural resource or community-identified resource, like a view), then the land</i></p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<p>Page: Map 14</p> <p>Paragraph #: <a href="#">Click here to enter text.</a></p> <p>Notes: <a href="#">Click here to enter text.</a></p>

<p><i>use policies applicable to other forms of development must be similarly restrictive (and should be listed in the Notes column).</i></p> <p><i>These areas should be subtracted from Secondary Resource Maps to form Prime Resource Maps.</i></p>			
<p>D. Transmission and distribution resources and constraints, as well as transportation infrastructure. (Including three-phase distribution lines, known constraints from resources such as Green Mountain Power’s solar map, known areas of high electric load, etc.)</p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<p>Page: Map 8</p> <p>Paragraph #: <a href="#">Click here to enter text.</a></p> <p>Notes: <a href="#">Click here to enter text.</a></p>
<p>E. Preferred locations (specific areas or parcels) for siting a generator or a specific size or type of generator, accompanied by any specific siting criteria for these locations <i>Narrative descriptions of the types of preferred areas in accompanying plan text are acceptable, though mapping of areas and especially specific parcels (to the extent they are known) is highly encouraged, to signal preferences to developers, particularly for locally preferred areas and specific parcels that do not qualify as a statewide preferred location under i. below.</i> <i>The locations identified as preferred must not be impractical for developing a technology with regard to the presence of the renewable resource and access to transmission/distribution infrastructure.</i></p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A	<p>Page: discussion of constraints starting on page 14 explain the specific criteria for identifying locations for siting a generator, Map 9</p> <p>Paragraph #: <a href="#">Click here to enter text.</a></p> <p>Notes: <a href="#">Click here to enter text.</a></p>
<p>i. Statewide preferred locations such as rooftops (and other structures), parking lots, previously developed sites, brownfields, gravel pits, quarries, and Superfund sites</p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A	<p>Page: page 16, Map 8</p> <p>Paragraph #: <a href="#">Click here to enter text.</a></p> <p>Notes: <a href="#">Click here to enter text.</a></p>
<p>ii. Other potential locally preferred locations <i>For example, customer on- or near-site generation, economic development areas, unranked and not currently farmed agricultural soils, unused land near already developed infrastructure, locations suitable for large-scale biomass district heat or thermal-led cogeneration, potential locations for biogas heating and digesters, etc.</i> <i>These are particularly important to map if possible, as “a specific location in a duly adopted municipal plan” is one way for a net metering project to qualify as being on a preferred site.</i></p>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	<p>Page: <a href="#">Click here to enter text.</a></p> <p>Paragraph #: <a href="#">Click here to enter text.</a></p> <p>Notes: <a href="#">Click here to enter text.</a></p>

<p><b>13. Does the plan identify areas that are unsuitable for siting renewable energy resources or particular categories or sizes of those resources?</b>  <i>Either Yes or No ("No" if the plan chooses not to designate any areas as unsuitable) is an acceptable answer here. "Resources" is synonymous with "generators."</i></p>	<input checked="" type="checkbox"/> Yes ("Yes" for A and B must also be selected below)	<input type="checkbox"/> No	Page: <a href="#">Click here to enter text.</a> Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
<p>A. Are areas identified as unsuitable for particular categories or sizes of generators consistent with resource availability and/or land use policies in the regional or municipal plan applicable to other types of land development (answer only required if "Yes" selected above, indicating unsuitable areas have been identified)?  <i>If areas are considered unsuitable for energy generation, then the land use policies applicable to other forms of development in this area should similarly prohibit other types of development. Please note these policies in the Notes column.</i></p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A (if no unsuitable areas are identified)	Page: <a href="#">Click here to enter text.</a> Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
<p>B. Does the plan ensure that any regional or local constraints (regionally or locally designated resources or critical resources, from 12b-12c above) identified are supported through data or studies, are consistent with the remainder of the plan, and do not include an arbitrary prohibition or interference with the intended function of any particular renewable resource size or type?  <i>Please explain in the Notes column.</i></p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Page: <a href="#">Click here to enter text.</a> Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>
<p><b>14. Municipalities seeking a determination of energy compliance from the Department and not using their region's maps only:</b> Does the plan ensure that its approach, if applied regionally, would not have the effect of prohibiting any type of renewable generation technology in all locations?</p>	<input type="checkbox"/> Yes (also check Yes if seeking determination from region, or from DPS but using region-provided maps)	<input type="checkbox"/> No	Page: <a href="#">Click here to enter text.</a> Paragraph #: <a href="#">Click here to enter text.</a> Notes: <a href="#">Click here to enter text.</a>

## 1 Introduction

2 With this plan, the Bolton Planning Commission has created a plan that is user friendly and  
3 understandable. This planning process has been a pilot project for the Vermont Planning Manual  
4 (hyperlink), a new guide from the Vermont Agency of Commerce and Community Development to help  
5 towns create “town plans that work.” The writing of this plan was funded by a Municipal Planning  
6 Grant from the Vermont Agency of Commerce and Community Development.

7 This plan replaces the 2012 Bolton Town Plan. That plan was a re-adoption of the 2007 Bolton Town  
8 Plan. This plan takes into account all the changes that have happened in the past ten years and  
9 establishes a vision and series of goals, objectives and actions for the eight-year life of this plan.

## 10 Purpose and Use

11 The Bolton Town Plan serves as a guide for accomplishing community aspirations and intentions through  
12 public investments, land use regulations and other implementation programs. The plan covers a broad  
13 range of topics relevant to the future of Bolton, including but not limited to, areas designated for  
14 growth, and other areas designated for preservation for rural character and protection of natural  
15 resources, steps to advance economic wellbeing in the town, and calls for the availability of safe and  
16 affordable housing.

17 The Town Plan is used by a variety of entities for a variety of reasons.

- 18 • The Select Board uses the town plan as a guiding document when deciding policy for the town,  
19 including but not limited to town ordinances and budgets, Capital Improvement Plan updates  
20 for facility, road and infrastructure improvements and acquisitions, staffing needs and the  
21 creation of new boards and committees.
- 22 • The Planning Commission uses the town plan to update and revise the Bolton Land Use and  
23 Development Regulations (BLUDRs). The BLUDRs are unified bylaws that include zoning,  
24 subdivision and hazard area regulations; the purpose of which is to regulate development  
25 proposals. The Planning Commission also uses the town plan to guide other planning and  
26 development activities.
- 27 • The Development Review Board uses the town plan to understand the reasoning behind the  
28 BLUDRs and the town’s priorities for the protection and preservation of natural, scenic and  
29 historic resources.
- 30 • The Conservation Commission uses the town plan’s discussion and prioritization of natural  
31 resources and recreation opportunities to inform their work.
- 32 • The Economic Resources Committee uses the town plan to identify economic development  
33 priorities and strategies for Bolton.
- 34 • Residents, developers and property owners use the town plan as a source of information about  
35 the town’s history, its present state and its vision for the future, including its plan for future  
36 regulation and development. The information in the plan provides information about the town’s  
37 function, opportunities for development and resources that need protection.
- 38 • State departments and officials use the town plan to determine whether Bolton is eligible for  
39 state grants and project funding.

- The Public Utilities Commission gives the town plan “substantial deference” during Section 248 proceedings because this plan meets the standards for energy planning established by Act 174 of 2016 and outlined in 24 V.S.A. §4352. Substantial deference means that the Public Utilities Commission shall apply this plan’s policies in accordance with their terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy. See the Implementation section for further discussion.
- The District Environmental Commission uses the town plan during Act 250 proceedings to ensure development applications conform with the plan. See the Implementation section for further discussion.

## CHAPTER 2: PROSPERITY

*Our vision is to cultivate a fiscally sustainable community that promotes local businesses, encourages options for affordable housing, energy and transportation, and provides the necessary infrastructure and services needed for the safety, health and well-being of our residents.*

The key issues/concerns in the Prosperity chapter include:

- Bolton has a relatively limited economic base currently, and therefore it is imperative to support Bolton Valley and other recreation related businesses, and the variety of home based businesses in Bolton.
- The continued availability of affordable housing will require new and rehabilitated units within the growth confines of this plan.
- Maintaining a safe and reliable road network and finding funding to comply with the new Municipal Roads General Permit will be the town's biggest challenges during the life of this plan.
- Bolton's town government cannot and should not provide all the facilities and utilities needed by residents, and coordination with outside entities is necessary.
- This plan defines energy generation facilities as development just like any other form of development. Therefore, any energy generation facility in Bolton must comply with the goals and objectives related to land conservation as outlined in the natural resources, natural hazards and resilience and land use sections of this plan.

**Commented [MN1]:** Seems like a word is missing here.  
Consider adding "form of development"

## Housing

Bolton is well situated between the large employment areas of Burlington and Montpelier, and has a relatively low cost of housing for the region. As a result, Bolton is an affordable bedroom community. Maintaining this status will require rehabilitation of existing affordable housing stock, as well as developing additional housing to keep up with demand over time.

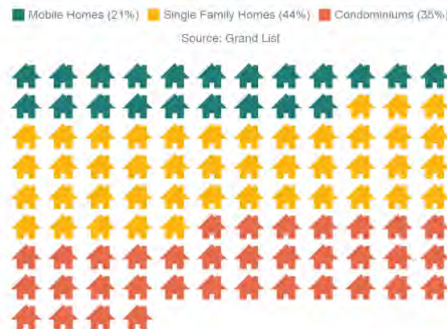
### Housing Stock

Bolton has relatively low housing costs and slow turnover rates (meaning that homes in Bolton remain on the market for twice as long as the county average). This indicates that Bolton has less of a housing supply problem than the urban areas in the County are experiencing. In fact, sales of homes, new construction and prices have all stagnated in Bolton since 2008. However, there are housing stock challenges that face Bolton – decreasing household size which will result in the need for more homes for the same amount of people; and an aging housing stock that will require rehabilitation. Therefore, Bolton will need to be diligent in keeping up its housing stock in order to maintain a healthy housing market.

Most homes in Bolton are occupied by one or two people, and these small households are the fastest growing in town. Because of this, it is likely that by 2030, the town will need about 50-80 more homes for new residents. One method to handle this demographic shift is a diverse housing stock.

Bolton already has a higher percentage of mobile homes and condominiums than most Chittenden County towns (see right). Most of the condominiums in Bolton are located around Bolton Valley. While these condominiums have largely been seasonal housing for skiers in the past, most of them are now used by permanent residents. In 2014, seasonal properties made up only 3.4% of the town's Grand List.

Housing Stock in Bolton, 2015



Housing Stock in Chittenden County, 2015

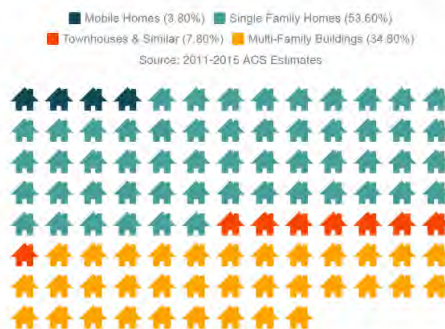


Figure 25b: Chittenden County Housing Tenure

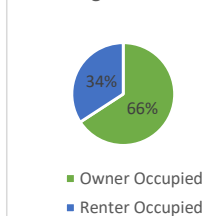
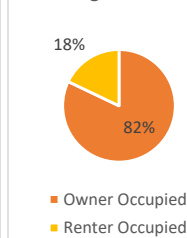


Figure 26b: Bolton Housing Tenure



Another future consideration is maintenance of Bolton's older housing stock. Most of Bolton's homes were built in the 1970s and 1980s, meaning that they are likely not energy efficient and may have lead paint. See the Energy section of this plan for a discussion of weatherization and energy efficiency.

Finding appropriate areas for developing new homes can be challenging in Bolton, because of the town's steep topography, amount of conserved land and flood plains. As the town continues to grow, the greatest opportunity for future housing development will be in West Bolton, due to its good septic soils and few natural development constraints. If infrastructure improvements allow, Bolton Valley may become a site for new development as well.

**MAKING THE CONNECTION**  
See the Land Use section of this plan for a discussion areas planned for future development, including housing development.

#### Affordability

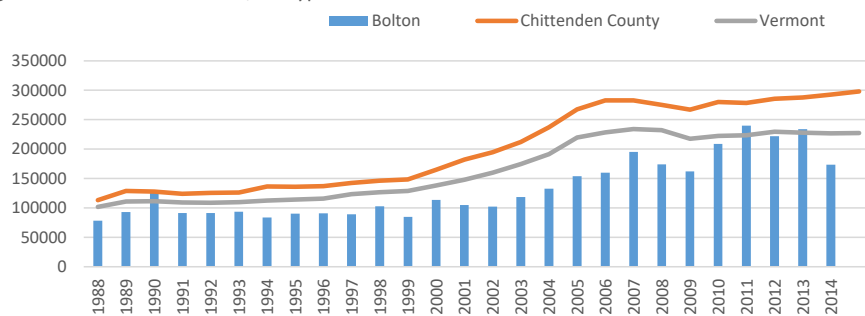
An estimated 82% of Bolton residents own their homes, compared to 66% in Chittenden County as whole. This is likely because housing in Bolton is more affordable than housing in Chittenden County, due to the relatively high percentages of mobile homes and condominiums. This high rate of ownership helps build the town's sense of community, and is a source of pride for the town. Condominium prices in Bolton have decreased in recent years, compared to the county, and Bolton's median price for a single-family home (\$300,000 in 2016) is in what local realtors consider the "sweet spot" for Chittenden County homebuyers.

These trends will help maintain Bolton as an affordable place to live in the region, however Bolton residents may still have difficulty affording their housing costs. A Bolton resident who also works in Bolton would have an especially difficult time, due to low wages, and a relatively low percentage of rental housing.

Another consideration for housing affordability in Bolton is transportation costs. Most residents commute to jobs outside of Bolton and must travel to other towns for necessities, and transportation costs are consequently high (further described in the transportation section). This is not an insignificant cost, and could impact a person's ability to live in Bolton, speaking further to the

**MAKING THE CONNECTION**  
For more information on transportation and where Bolton residents work, see the prosperity section (hyperlink).

Figure 28: Median Home Cost, All Types



Source: Vermont Department of Taxes via HousingData.org



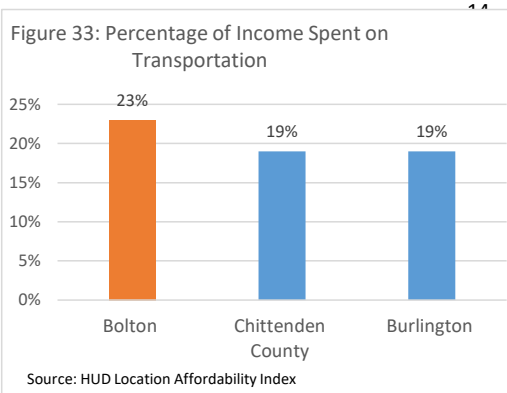
need for Bolton to increase the number of safe and affordable homes.

## Transportation

The Town of Bolton maintains 20.5 miles of road, and it requires 44% of Bolton’s municipal spending. Maintaining a safe and reliable road network and finding funding to comply with the new Municipal Roads General Permit will be the town’s biggest challenges during the life of this plan. Considering the recreation industry is the core of Bolton’s economy, it is also critically important to maintain the road network for both residents and visitors alike. Transportation infrastructure is shown on Map 10. See the Energy section for more information on energy use and transportation.

## Getting Around in Bolton

Residents of Bolton are by necessity very car dependent, given the town’s rural location. Almost all Bolton residents drive alone to work, which contributes to high transportation costs and high energy use for driving. The American Community Survey (2010-2014) estimates that over 87% of workers living in



Bolton drove 10 or more miles to get to work, compared to 45% of Chittenden County residents. A median income household living in Bolton is estimated to drive 31,360 miles annually and to spend 23% of their income on transportation, compared to 26,368 miles and 19% for a median income household living in Chittenden County, according to the US Department of Housing and Urban Development. The American Community Survey estimates that 90% of residents who work outside of their homes drive to work alone, while 7% carpool (2011-2015). Residents have very limited access to public

transportation, and only 1% of those working outside the home are estimated to use public transportation. The nearest park and rides are located in Richmond and Waterbury, and offer service only to Burlington and Montpelier. Past attempts to build a park and ride in Bolton have been unsuccessful both because of Select Board opposition and because of a lack of interest on the part of bus operators, but the idea should be re-examined.

**Table 27: Commuting Distances for Workers**

	Bolton Residents		Chittenden County Residents		
	Workers	Percentage	Workers	Percentage	
<b>Less than 10 miles</b>	65	12.40%	54759	55.00%	
<b>10 to 24 miles</b>	435	82.70%	22139	22.20%	
<b>25 to 50 miles</b>	26	4.90%	12481	12.50%	
<b>Greater than 50 miles</b>	0	0.00%	10244	10.30%	
Source: US Census, American Community Survey OnTheMap 2014					

## Active Transportation and Complete Streets

While there are many trails in Bolton, the town has no sidewalks or bike paths. This forces pedestrians and bicyclists onto narrow and steep roads with minimal shoulders, which often have sharp curves creating blind turns.

In fact, several key Vermont trails, including the Cross-Vermont bicycle trail and the Long Trail, run along Bolton roads. The Long Trail crosses I-89 in Bolton, where hikers must walk through the same culvert that carries the Notch Road. Due to the culvert's small size and limited visibility, combined with the fact that wildlife use the culvert to cross underneath I-89 as well, this creates danger for hikers and drivers alike. The Chittenden County Regional Planning Commission's Transportation Improvement Program indicates that the replacement of this culvert is a funding priority for the region, with construction to occur in fiscal year 2019. However, the planned replacement of this culvert does not address pedestrian safety to the satisfaction of the town.

Because most Bolton residents work outside of the Town, only a few residents use non-motorized transportation to get to work. However, residents and outside visitors regularly walk and bike along the roads for recreation. Bolton's roads, especially Duxbury Road, are also commonly used by cycling and hiking groups. Ensuring that roads in Bolton are safe for all users, including drivers, walkers, bicyclists and equestrians, is key. The Chittenden County Regional Planning Commission's Active Transportation Plan recognizes US 2 as a significant bicycling route as well, and indicates that VTTrans should improve the road's safety for bicyclists when it is next repaved.

## Railroad

Although railroad tracks run along Route 2 throughout the length of Bolton, the nearest passenger rail station is in Waterbury. The railroad tracks also create a barrier between most of Bolton and the eastern bank of the Winooski River. Only two recognized legal pedestrian railroad crossings to the river exist, one where the Long Trail crosses the tracks and one near Lot #02-030.000. The limited number of places to cross decreases access to the Sara Holbrook Property and the Winooski River, one of the town's prime natural resources.

Railroad cars also present a potential hazard. They may be carrying hazardous materials, and local emergency response teams such as the Bolton Volunteer Fire Department must be prepared to respond to any spills, either when the cars are traveling through the town or when they are parked for long periods of time on the tracks. The response to such a spill is discussed in the Bolton Local Emergency Operations Plan (LEOP).

### MAKE THE CONNECTION

To learn more about Bolton's trail network, see the Recreation section.

## Utilities and Facilities

While the Community Services section describes the services provided to residents, this section describes the 'bricks and mortar' and equipment assets of the town, as well as the utilities that serve residents. As described in the Community Services section, ensuring that the town has enough capacity to complete the actions required of it by the state and desired by residents will be a challenge. However, Bolton's town government cannot and should not provide all the facilities and utilities needed by residents, and coordination with outside entities is necessary. For example, solid waste management is made possible by town support of multijurisdictional entities. Residents are served by utilities available within the town, for telecommunications, energy and in some cases, water and sewer service.

## Town Facilities

The town of Bolton owns three buildings—the town office, the town garage and the fire station—and 469 acres of land, including Preston Pond and the town cemeteries, including one in West Bolton, which is still in active use. The town is also responsible for maintaining records of development and life events, including cemetery records. Due to the town's long period without a formal town office, not all records are consolidated in the town vault. Bolton's fire station was recently renovated to serve the town more effectively. In 2007-2008, the town office was torn down and reconstructed. The town garage is in need of major renovations, including flood-proofing, due to its location in the floodplain. Map 7 shows the location of Bolton's town facilities.

Bolton also owns four trucks for use by the highway department, a loader, a grader, and three fire department trucks. The town's capital improvement plan (CIP), currently in development, defines a maintenance and replacement schedule for the equipment. Most equipment the town owns is heavy machinery and trucks for road work and plowing. That equipment will not likely be replaced solely for the purpose of energy efficiency, but energy efficiency is increasing across all vehicle types, and certain steps can be taken to increase the efficiency of all machinery. Consequently, when the equipment needs to be replaced, the Town will gain the efficiencies inherent to newer equipment. Increased energy efficiency represents the greatest cost savings and greenhouse gas emissions reduction potential for Bolton. However, as efficient vehicles become more common, energy efficiency gains will slow. As technology improves and new technologies become available, the Town of Bolton should consider both cost and energy efficiency in all purchases, including heavy duty vehicles.

## Energy

Bolton's energy use has been declining over the past ten years, largely because of increasing efficiency. Bolton's planning surrounding energy issues must take Vermont's energy goals into account. The State of Vermont has a series of ambitious energy goals, as laid out in the state's 2016 Comprehensive Energy Plan ([hyperlink](#)):

- To reduce greenhouse gas emissions, with a 40% reduction below 1990 levels by 2030, and an 80% to 95% reduction below 1990 levels by 2050
- To reduce total energy consumption per capita by 15% by 2025 and by more than 1/3 by 2050
- To meet 25% of remaining energy needs from renewable sources by 2025, 40% by 2035, and 90% by 2050.
- To substantially improve the energy fitness of 25% of the state's housing stock by 2020

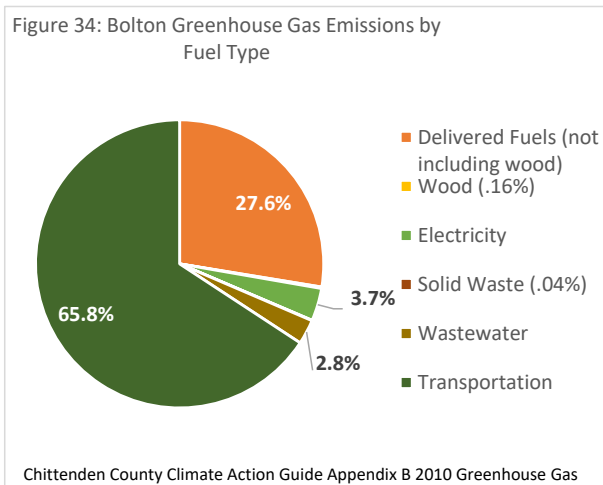
Current patterns of energy usage in Vermont, including in Bolton, are not in line with these goals, but local and regional planning efforts aim to change that. The Chittenden County Regional Planning Commission (CCRPC) has worked with the Vermont Energy Investment Corporation (VEIC) to develop a model with the Long-Range Energy Alternatives Program (LEAP). The LEAP model shows one path that Chittenden County's municipalities could take to meet Vermont's energy goals. The LEAP model estimates the following as the most likely path:

- Reduce total energy use per capita by 48%, with renewably sourced electricity becoming a larger proportion of total energy use
- Increase generation of renewable electricity by siting between 3,890 and 6,729 MWh of additional generation capacity in Bolton by 2050 (in addition to 328 MWh being generated annually in Bolton in 2017, when these targets were developed).
- Increase electric vehicles to 89% of the light duty fleet, using renewably sourced electricity, and switch 96% of heavy-duty vehicle energy use to biofuels.
- Weatherize 95% of homes and 60% of businesses
- Switch to wood heat or heat pumps in 80%<sup>1</sup> of homes and 82% of businesses, using renewably sourced electricity

More details on the LEAP Model can be found in the Data Profile associated with this plan.

#### Energy Use Changes Across Sectors

Throughout the State, the biggest energy usage and contributor to greenhouse gas emissions is transportation, mostly gasoline use by personal vehicles. Bolton is no exception. After transportation, residential energy use, largely for electricity and home heating, is the largest energy use in Bolton. Most residents heat with fuel oil, delivered propane gas or wood; with the first two sources sometimes acting as backup for the latter. Electricity in Bolton is provided by Green Mountain Power or Vermont Electric Coop (VEC). A major VELCO transmission corridor runs through Bolton north of Route 2 and I-89.



<sup>1</sup> While the LEAP model shows a steady 14% of households using wood heat between 2025-2050, 20% of Bolton's homes currently use wood as the primary heating source.

**Commented [MN2]:** This should match the percentage in table 38

**Commented [MN3]:** Recommendation to add "or wood heat" to this statement to summarize that the energy goals can be met by switching from fossil fuels to heat pumps or wood heat and I suggest changing the number to 80% to represent the goal of 60% of homes heating with heat pumps and 20% of homes heating with heat. I also suggested a footnote to explain why the percentage of homes heating with wood is 20%

According to the CCRPC ECOS energy data guide 18% of business should be using wood heat and 64% should be heating with heat pumps so the number for businesses should be 82%

### 1 Thermal

2 Given the age of Bolton's homes and the fact that an estimated 57% of homes heat with fuel oil,  
3 kerosene or propane, changing home and business heating will be a challenge. The Long-Range Energy  
4 Alternatives Program model calls for 60% of all home heating energy use in Bolton to come from wood  
5 or heat pumps by 2050, to meet Vermont's energy goals. With electricity energy sourced from  
6 renewable sources, heat pumps could be a major component in meeting Vermont's energy goals, and  
7 the LEAP model estimates high rates of usage in Bolton and throughout Chittenden County.

8  
9 However, the LEAP model understates the current and future wood heat use in Bolton. While the LEAP  
10 model shows a steady 14% of households using wood heat between 2025-2050, 20% of Bolton's homes  
11 currently use wood as the primary heating source. This proportion is likely to increase; wood is a familiar  
12 heating source and therefore may be a more logical avenue for future investment than heat pumps. The  
13 main residential thermal energy goal of this plan is for homes to switch from fossil fuels such as fuel oil  
14 to renewable sources. Therefore, the goals can be met through either heat pumps or wood heating  
15 systems. Future studies and models of energy data for the town may reflect different renewable heating  
16 choices. For example, a more recent report by Renewable Energy Vermont and the Biomass Energy  
17 Resource Center sets a goal of 35% of Vermont's thermal energy demand to come from wood heating  
18 by 2030 (See the report *Expanded Use of Advanced Wood Heating in Vermont*, 2018).

**Table 38. Proposed Goals for Thermal Energy Use in Bolton, 2050, LEAP Model**

Residential Thermal Energy from Wood Heat or Heat Pumps by 2050	80%
Commercial Thermal Energy from Wood Heat or Heat Pumps by 2050	82%
Homes Weatherized by 2050	95%*
Commercial Establishments Weatherized by 2050	60%

\* Although the LEAP model estimates that the 100% of homes need to be weatherized, the Town decided to focus on an achievable goal of 95% of homes weatherized.

**Table 37. Homes Heating with Delivered Fuels, 2017**

Number of homes heating with fuel oil or kerosene*	164 homes (28% of homes)
Homes heating with wood	118 homes (20% of homes)
Number of homes heating with propane*	173 homes (30% of homes)

\*These estimates have a relatively high margin of error and should be used with caution.

Sources: American Community Survey 2013-2017 5-Year Estimates

Outside groups will be valuable partners in providing weatherization resources. For example, Efficiency Vermont can connect residents with contractors to complete energy audits, which pinpoint efficiency problems and offer suggested solutions. For low-income residents, the Champlain Valley Office of Economic Opportunity offers free weatherization. Between 2014 and 2017, there were an average of 27 energy efficiency projects per year in Bolton.

Efficiency Vermont and some utilities also offer education on efficient heating systems such as heat pumps or advanced wood heat. Rebates or other incentives may also be available for customers to install these systems. Bolton's newly formed energy committee will work with these organizations to

**Commented [Ds4]:** Table title is misleading. This one is a more succinct statement of LEAP goals as applied to Bolton, as listed in ¶3 on p. 9, above.

**Commented [MN5]:** Repeat from above: Add the goals for heat pumps and wood heat together to equal 80%

**Commented [MN6]:** According to the bullets on the previous page and CCRPC ECOS energy data guide 18% of business should be using wood heat and 64% should be heating with heat pumps so this number should be 82%

**Commented [Ds7]:** I don't know that we'll ever achieve 100% residential compliance, given financing challenges & structural issues in old housing stock. It might be better to focus on something more achievable; say 75%?

**Commented [MN8]:** Suggestion to add an \* here to explain that although the LEAP model estimates that the 100% of homes need to be weatherized the Town decided to focus on an achievable goal of 95% of homes weatherized.

educate Bolton residents on opportunities to save money, increase comfort and work towards the town's energy goals through changes to heating systems and home efficiency. Bolton has budgeted for energy audits of town-owned buildings, which will result in identification of cost-effective improvements to save energy and money. These audits will also help the town determine if there is the potential for solar generation on the roofs of existing town buildings.

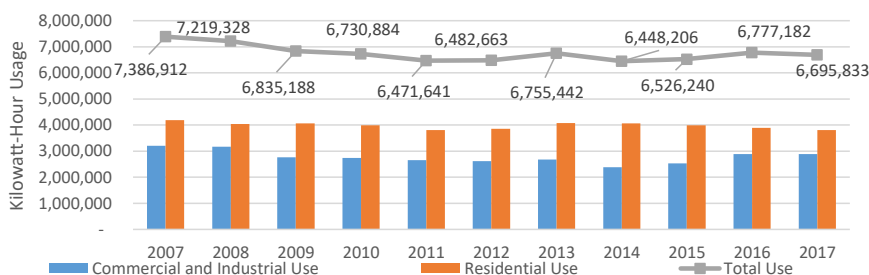
#### Transportation

The vast majority of Bolton's vehicles run on fossil fuels (only 4 of Bolton's 1,014 registered vehicles were electric or plug in hybrid vehicles as of 2017). Sixty-six percent of the town's greenhouse gas emissions come from transportation, so switching away from fossil fuel vehicles is one of the pillars of Vermont's energy goals. Switching to electric vehicles, with electricity sourced from renewable sources, currently seems the most likely way for this to occur, along with increasing walking, bicycling, carpooling and public transportation (see the Transportation section). Education and incentives, such as test-driving different electric vehicles at town events or enrolling in the benefits of commuter programs like Go Vermont! can encourage this switch.

#### Efficiency

The State of Vermont's energy goals plan for a 1/3 reduction in total energy use by 2050. Energy usage in all sectors has decreased 13% in Bolton since 2007, largely due to increases in energy efficiency. The LEAP model estimates that with the changes shown in the LEAP model, per capita energy use in Bolton will decrease by 48% as necessary changes occur to meet Vermont's energy goals.

Figure 35: Total Electrical Use in Bolton



Source: Efficiency Vermont, 2018

Commented [MN9]: Is this really total energy use? I think this is electric energy use.

#### Energy Production

To meet the state's goal of having 90% of energy used in Vermont produced from renewable sources by 2050, the amount of renewable energy produced and used in Bolton will need to increase significantly. Currently, there are 20 solar projects and one small wind turbine producing electricity for homes of Bolton residents. Existing energy facilities in Bolton can be seen on Map 8. This data only reflects generation that is located within Bolton. Some Bolton residents buy into group net-metered solar projects or other types of generation located elsewhere. While this practice lowers electricity costs and carbon footprints for those residents, it is not reflected in this data.

1

<b>Table 39: Renewable Energy Production</b>			
	Number of Sites	Total Capacity	Estimated Generation
<b>Ground Mounted Solar</b>	3 residential	9.95 kW	12,203 kWh
<b>Roof Mounted Solar Panels</b>	17 residential	116.2 kW	142,508 kWh
<b>Small Wind</b>	1 commercial, 1 residential	101.8 kW*	312,119 kWh
<b>Total</b>	21 residential, 1 commercial	227.95 kW	466,829 kWh
<b>*Reported capacity, but Bolton Valley Wind Turbine is currently not producing energy</b>			
<b>Source: Vermont Energy Dashboard, 2019</b>			

1 Analysis by CCRPC shows that the potential for ground-  
2 mounted solar panels is relatively limited in Bolton, due to  
3 the town's steep slopes, which shade much of the town for  
4 large parts of the day. However, there is some potential for  
5 solar projects, especially in West Bolton and along Route 2.  
6 There is a greater potential for wind energy in Bolton, given  
7 the town's mountains and ridgelines. However, much of this  
8 land is constrained by Bolton's regulations on steep slopes.  
9 This generation potential can be seen on Map 9. Even with  
10 constraints, Bolton has more than enough land available to  
11 generate its high goal for energy production with either wind  
12 or solar (See Figure 36).

13  
14 Community engagement has shown that Bolton residents are  
15 generally divided on the building of large-scale wind energy  
16 projects in the town, due to the impact on Bolton's scenic  
17 views and ridgelines. Energy generation facilities are  
18 considered to be development, and any renewable energy  
19 project in Bolton must comply with the goals and objectives  
20 related to land conservation as outlined in the natural  
21 resources, natural hazards and resilience and land use  
22 section of this plan.

23  
24 Bolton's landscape is largely forested. Therefore, its greatest  
25 renewable energy resource potential is from biomass. It is  
26 imperative to maintain Bolton's forests for biomass  
27 purposes, rather than clearing the forests to make way for  
28 solar fields and wind turbines. This harvesting must take the  
29 form of responsible forest management, as discussed in the  
30 natural resources section of this plan.

#### Energy Generation

Estimates of how much energy can be generated come from the Chittenden County Regional Planning Commission and the Vermont Department of Public Service. These estimates assume the following:

On prime solar area (areas without any known or possible constraints), 8 acres of land can accommodate 1 MW of ground mounted solar panels.

On base solar area (areas without known constraints but with some possible constraints), 60 acres of land will be needed to accommodate 1 MW of ground mounted solar panels because an irregular layout might be needed to avoid constraints.

On prime and base wind areas, 25 acres of land will be needed to accommodate 1 MW of wind turbines and associated infrastructure like access roads.

Rooftop solar panels can be installed on 25% of residential buildings (average size of 4kW), 25% of small commercial buildings (average size of 20kW) and 50% of large commercial buildings (average size of 200kW).

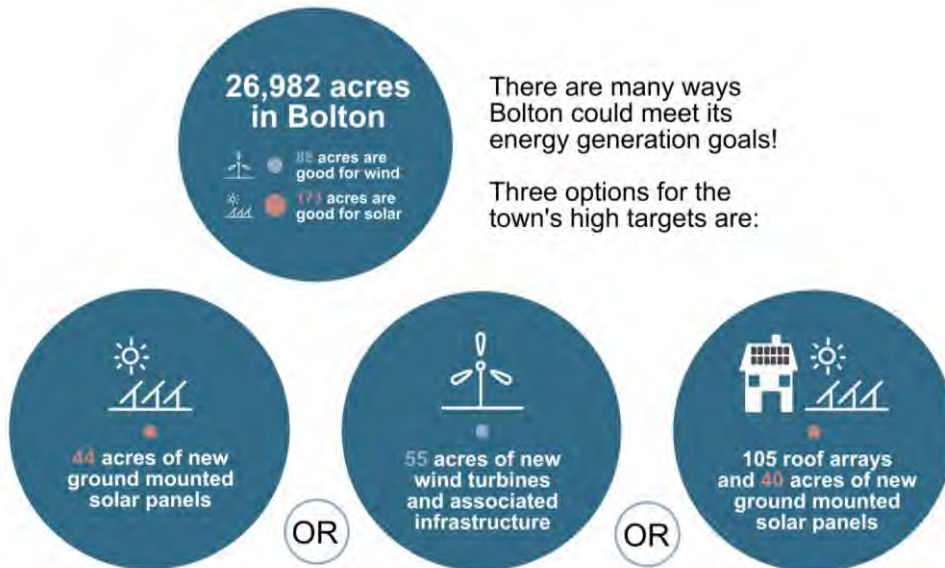
[See the 2018 ECOS Plan: Supplement 6 for more details.](#)

Commented [MN10]: Considering qualifying solar panels as ground-mounted



**Figure 36 – Renewable Energy Potential in Bolton**

1



## Enhanced Energy Planning and Substantial Deference

In 2016, Act 174 was signed into law. The intention of the law is to integrate land use and energy planning. While regions and towns have always had an obligation to include energy in their planning processes, there are now more specific and detailed standards for analyzing energy use, planning for future energy generation needs and determining potential sites for energy generation. In response to this law, the Chittenden County Regional Planning Commission adopted an energy plan as part of its 2018 ECOS Regional Plan (see: [www.ecosproject.com/2018-ecos-plan](http://www.ecosproject.com/2018-ecos-plan)). This plan is written to meet the Department of Public Service's Energy Planning Standards for Municipal Plans. Therefore, this plan's land use and natural resources policies will receive "substantial deference" in energy facility proceedings before the Public Utilities Commission (PUC).

The State of Vermont and the Town of Bolton have defined certain resources as known and possible constraints. Known constraints are areas in which development, including renewable energy generation, is not appropriate. Possible constraints are areas in which the effects of development, including renewable energy generation, may need to be mitigated. State-defined constraints are protected by the ECOS Regional Plan and state agency review during the Public Utility Commission review process. Local constraints are protected by the ECOS Regional Plan and this document. These constraints ensure that energy generation in Bolton is subject to the same standards as other kinds of development.

State-defined known constraints are listed below and are shown on Map 16.

- FEMA Floodways
- DEC River Corridors
- State-significant Natural Communities
- Rare, Threatened, and Endangered Species
- Vernal Pools
- Class 1 and 2 wetlands (VSWI and advisory layers)

State-defined possible constraints are listed below and are shown on Map 14

- Agricultural Soils and Hydric Soils
- Act 250 Agricultural Soil Mitigation Areas
- FEMA Special Flood Hazard Areas
- Vermont Conservation Design Highest Priority Forest Blocks (Forest Blocks – Connectivity, Forest Blocks – Interior, Forest Blocks - Physical Land Division)
- Highest Priority Wildlife Crossings
- Protected Lands (State fee lands and private conservation lands)
- Deer Wintering Areas

1  
2 The Town of Bolton has defined additional constraints based on local policy. These resources are  
3 discussed in detail in the Natural Resources and Land Use sections of this plan.

4  
Locally defined known constraints are listed below and are shown on Map 16.

- Surface Water Setbacks
- Wetland Buffers
- Slopes 25% or more

Locally defined possible constraints are listed below and are shown on Map 15.

- Conservation District
- Slopes 15% to 25%
- Forest District
- Town Owned Land
- Flood Hazard Overlay II

5  
6 While it is important to identify constraints to renewable energy generation, it is also important to  
7 identify preferred sites. Articulating preferred sites for renewable energy generation is important  
8 because of the growth of net metering (the process by which homeowners or businesses feed electricity  
9 they generate directly into the grid and are paid the retail rate or higher for that electricity). Vermont's  
10 Net Metering Rules (Rule 5.100, effective 7/1/2017) define preferred sites for net-metered renewable  
11 energy generation (any renewable technology besides hydroelectric). Net metering on preferred sites  
12 can be larger (up to 500 kW instead of 150 kW) and receive better net metering rates. (See the latest  
13 *Vermont Public Utility Commission Rule Pertaining to Construction and Operation of Net-Metering*  
14 *Systems*). Though they receive benefits, preferred sites are still subject to review by the Public Utilities  
15 Commission. Preferred sites as of 2019 are:

- 16 • On a pre-existing structure
- 17 • Parking lot canopies over permitted paved areas
- 18 • Previously developed land
- 19 • Brownfields
- 20 • Landfills

- Gravel pits
- Superfund sites
- On the same parcel as a customer taking 50% or more of the output
- Town-designated sites (Town-designated preferred sites can be identified in a duly adopted municipal plan or through a joint letter of support by the town planning commission, town legislative body and regional planning commission)

## Prosperity Goals, Objectives and Actions

Goal 5: Bolton will support economic development that is compatible with its small town, rural nature.

Objective 5.1: Bolton's Economic Resources Committee will work to develop strategies to promote and support economic development in the town.

Objective 5.2: While economic development is important to the Town of Bolton, the goals and objectives of the Town Plan need to be met for all development, especially the goals of this plan related to natural hazards and resilience, natural resources and land use.

Objective 5.3: Support the creation and growth of local businesses, including home-based businesses, that meet the goals of the Town Plan.

Objective 5.4: Encourage the establishment and continuation of recreational businesses and events that utilize and support the town's scenic beauty and recreational opportunities and contribute to the town's attractiveness as a recreational destination.

Objective 5.5: Encourage Bolton Valley Resort to become a successful four-season resort able to thrive during an era of warmer weather and less snow.

### Actions

1. Complete and maintain an inventory of all businesses in Bolton and make the list of interested businesses available as a community resource on the town website.
2. The Town of Bolton and Bolton Valley Resort will work together to improve the relationship between the two entities, by initiating quarterly discussions to establish a dialogue regarding long term planning in and around the Resort, and by investigating changes to the BLUDRs as necessary and appropriate.
3. Undertake a survey to quantify the number of abandoned buildings in Bolton and adopt an ordinance regarding the definition and treatment of abandoned buildings.

Goal 6: Bolton will increase safety and affordability of housing for residents.

Objective 6.1: Make residents aware of programs and funding sources for the rehabilitation of homes to address safety issues and energy inefficiency.

Action 4 NEW: Coordinate with Efficiency Vermont and Champlain Valley Office of Economic Opportunity to make residents aware of reduced cost and free weatherization.

Action 5 NEW: Coordinate with Efficiency Vermont to make residents aware of rebates for energy efficient appliances.

Objective 6.2: Increase the number of safe, affordable housing opportunities in Bolton.

Actions:

6. Educate residents about eligibility for homestead declarations.

Goal 7: Bolton will improve the resilience and maintain the quality of its road network through cost-effective methods that are appropriate for the town's steep topography.

Objective 7.1: Continue the Town of Bolton's long-standing policy to not take over private roads.

Objective 7.2: Develop an adequate budget for the Bolton Road Crew, ensuring an appropriate level of spending for necessary road maintenance and for compliance with changing state regulations.

Actions:

7. Ensure that town highway department personnel, including the Highway Foreman, receive training on and are aware of relevant state standards, including the requirements of the Municipal Roads General Permit.
8. Increase the Highway Department's capacity within the limits of the town's annual operating budgets as necessary to maintain and update paving, culvert and erosion inventories, identify priority projects, and seek funding as necessary to comply with Municipal Roads General Permit requirements.
9. Work with VTrans and CCRPC to develop management practices and road and bridge standards for mountainous terrain and adopt standards that will lead to an increase in the town's ERAF match rate after disasters.
10. Continue to coordinate with VTrans on issues involving development on and access to Route 2.

Goal 8: Bolton will increase the safety and efficiency of its transportation system for all users.

Objective 8.1: Address the safety of all road users, including motorists, bicyclists, public transportation users, and pedestrians of all ages and abilities, when designing and scheduling needed highway improvements.

Objective 8.2: Increase car-sharing and ride-sharing opportunities and access to existing public transit services.

Objective 8.3: Decrease fossil fuel use in the transportation sector.

Actions:

11. Advocate for options to increase pedestrian and motorist safety, and wildlife crossing connections in association with the replacement of the Notch Road tunnel (Culvert 51-3) under I-89, which also accommodates the Long Trail.
12. Develop a Complete Streets Policy.

13. Administer and enforce the town's traffic ordinance through contracted services with existing law enforcement agencies (Vermont State Police, Chittenden County Sheriff) and/or through shared service agreements with neighboring municipalities.

14. Identify road locations where guard rails might be needed.

15. Investigate a municipal Park and Ride in Bolton.

16. Provide local residents with information about Go! Vermont and carpool, vanpool, ridesharing, and public transit opportunities coordinated through the program.

NEW 15. Work with Drive Electric Vermont and other advocates to facilitate opportunities for Bolton residents to test drive electric or other alternative fuel vehicles and to educate residents on rebate options or other financial incentives for electric vehicle purchases.

Goal 9: Bolton will plan for, finance and provide an efficient and cost-effective system of public facilities and utilities to meet existing and anticipated needs, in relation to the town's planned rate of growth and development.

Objective 9.1: Work to improve the layout and functionality of town buildings and property.

Objective 9.2: Consolidate, update and ensure public availability of town records to continue making information on town governance available to the public in accordance with state law.

Objective 9.3: The Town of Bolton will not take over privately owned and operated water or wastewater systems.

Objective 9.4: The Town of Bolton supports the expansion or creation of privately owned and operated community water and wastewater systems that meet all relevant state and municipal standards and regulations for water supply and wastewater systems, and that are:

- Designed and installed by private developers to serve private development, and where the cost of maintenance is borne by those homes and/or businesses served by it, or
- Established to serve a fire or water district, where the cost of maintenance is borne by the members of the district.

Objective 9.5: Continue to support the Chittenden Solid Waste District through dues and board membership, and comply with state regulations related to solid waste management.

Objective 9.6: Co-locate new or expanded wireless communications facilities at locations currently used for such purposes on Ricker Mountain and on Robbins Mountain, with the exception of sites which provide access to currently unserved or underserved areas. In these areas, new facilities should be considered under Bolton development regulations, with a preference for technologies that are capable of serving residents in the town's mountainous terrain and have limited environmental impacts.

Objective 9.7: Increase wired high-speed internet access on roads currently without broadband access.

Actions:

17. Continue to investigate options to ensure that Bolton has a flood proof Town Garage.
18. Centralize all town records in the Bolton Town Office for safekeeping and public inspection, and allocate funds to continue to archive, digitize, index and update town land records, permit records, cemetery records and grand lists in formats appropriate for access and use; and develop interactive town maps with the assistance of the Chittenden County Regional Planning Commission.
19. Conduct a cost of service analysis for each town department to increase understanding of expenses and identify areas that may need budgetary changes in the future.
20. The Capital Planning Committee will maintain a current Capital Improvement Plan by revising the document annually, in conformance with the municipal plan.
21. Work with the Vermont Geological Survey to complete detailed groundwater mapping, to determine possible sources for future privately-owned community water systems.
22. Work with service providers to increase wired high-speed internet infrastructure on Bolton's currently underserved roads. Increase connectivity and quality of telecom services locally, focusing on underserved areas of town and technology adapted for use within mountainous terrain.

Goal 10: Bolton will work to increase energy efficiency and to decrease the consumption of fossil fuels among residents and during town operations.

Objective 10.1: Seek opportunities to decrease energy use in publicly-owned buildings and equipment.

Objective 10.2: Educate Bolton residents on ways to increase personal energy efficiency.

Objective 10.3: Areas that have the potential to be used for forestry, such as parcels in Current Use (Use Value Appraisal Program), shall not be deforested for other renewable energy projects, as the town's greatest potential for renewable energy production is from biomass.

Objective 10.4: Energy generation facilities are considered to be development, and therefore the siting of the facilities shall not have an adverse impact on the resources identified for protection in the Place Section of this plan, and shall not be permitted in areas where other development is prohibited in the Place Section of this plan. As with other development, mitigation may be possible for some resources, observing possible state and local constraints as cited on page 15, above.

Objective 10.5: The siting of solar facilities in Bolton shall comply with the screening and setback requirements for commercial development in the district in which they are proposed.

Actions:

23. NEW 21: Periodically examine the cost-effectiveness and practicality of biofuel or electric heavy duty vehicles for town services such as road work, plowing and rescue services.
24. NEW 22: Evaluate the feasibility and cost-effectiveness of on-board battery-powered auxiliary power unit systems or other technology for emergency response vehicles to lessen idling for power-to-auxiliary systems.

**Commented [MN11]:** Please specifically mention state/local possible constraints to connect back to the energy section and to ensure the PUC and developers are interpreting the plan as you intend.

**Commented [MN12]:** Please specifically mention state/local known constraints to connect back to the energy section and to ensure the PUC and developers are interpreting the plan as you intend.

25. NEW 23: Evaluate ways to reduce idling in municipal and personal vehicles through education and enforcement of 23 V.S.A. §1110, which puts limits on idling.
26. Partner with outside experts, such as Efficiency Vermont, to complete energy audits of town buildings and implement identified strategies.
27. Evaluate options for installing renewable energy systems to power and heat municipal buildings.
28. Continue to support an active energy committee.
29. Ensure that residents know about the potential for individual renewable energy projects on their own land and educate residents about the benefits of renewable energy generation.
30. NEW 28: Work with industry experts to evaluate opportunities for non-traditional renewable energy production in Bolton, such as run-of-river micro hydroelectric systems, and to develop standards that allow for innovative techniques while still protecting the natural resources allowed in this plan.
31. Continue to provide information and guidance to permit applicants regarding Vermont Building Energy Codes (30 VSA §51) for new residential and commercial buildings, and for substantial renovations.
32. Provide information to Bolton residents and property owners regarding available energy efficiency, weatherization and renewable energy installation programs, such as those offered by Efficiency Vermont and the Champlain Valley Office of Economic Opportunity.
- 33.
34. Continue to partner with energy vendors and utilities to educate residents and businesses about decreasing use of fossil fuels in the heating sector by promoting such technologies as heat pumps, geothermal, and advanced wood heating systems.
35. Continue to solicit vendor interest in installing group-net metered solar arrays to potentially provide renewable energy to power town and school facilities.

**Commented [MN13]:** Please be more specific and reference the State of Vermont Building Energy Codes

**Commented [MN14]:** Please add an action which demonstrates the Town's commitment to promoting the decreased use of fossil fuels in heating. You've already been doing this so it'd be great to include it! Here is a suggested action:

Continue to partner with energy vendors and utilities to educate residents and businesses about decreasing use of fossil fuels in the heating sector by promoting such technologies as heat pumps, geothermal, and advanced wood heating systems.

### CHAPTER 3: PLACE

*Our vision is to responsibly steward our natural resources and working farms and forests, and to preserve the health and beauty of our mountains, waterways and wildlife, and access to the outdoors.*

The Place chapter is a significant chapter of this plan. It describes Bolton's physical features, ranging from archaeological resources to wildlife habitat, and how the town intends to protect and manage them. The Place chapter concludes with the description of the town's plan for land use.

The key issues/concerns in the Place chapter include:

- Bolton's natural resources are the defining feature of the town, and the thing that the town's residents value most about living here. Therefore, this plan calls for the continued protection of historic and natural resources as currently protected in the BLUDRs; and for additional protections for wildlife travel corridors and river corridors.
- Managing steep slopes is a key issue for the town, due to the frequency of erosion of roads, driveways and hillsides during rain storms.
- The plan calls for future growth concentrated in the Route 2 village area, Bolton Valley Resort and the proposed West Bolton Hamlet.



## Land Use

Historically, Bolton's development was concentrated largely around West Bolton and along the Winooski River. In the twentieth century, the creation of the Ethan Allen Firing Range led to the destruction of many historic homes and buildings in West Bolton, while the founding of Bolton Valley Resort created a new population center. Today, the town's population is concentrated along Route 2, in West Bolton and near Bolton Valley Resort, and the vast majority of the town's land is forested and undeveloped.

Future development of all types, including energy generation, is highly limited throughout Bolton due to conserved land, mountainous terrain and floodplains. In fact, when all constraints on development are considered, only about 3% of the town's land is available for development. This plan seeks to increase development opportunities in these areas. Currently, most of the Town's developable land is in West Bolton. Future growth in Bolton should be concentrated in West Bolton, in the Village area along Route 2, and around Bolton Valley Resort if water and sewer capacity allows. In all development, the protection of Bolton's resources is key. Community preferences about future land use in Bolton are shown on the Maintain-Evolve- Transform map, which is referenced throughout this section. Current land use can be seen on Map 11, and proposed land use can be seen on Map 12.

## Village

While high density, flood resilient development is already allowed in Bolton's Village area, the town hopes that additional development will **transform** the Village section of Route 2 into a vibrant, flood-resilient and high density mixed use area. Bolton's vision for the Village area is for the area to remain the town's civic and governmental center, anchored by an open and thriving Smilie School that continues to serve as a community gathering place and offers more opportunities and places for residents to gather, celebrate community and support the local economy.

### *Village District*

The Village District, located along Route 2 in Bolton between existing Interstate 89 and railroad rights-of-way, is an area that serves as the town's historic, governmental, civic, and commercial center, as well as the gateway to Bolton Valley. This plan expands the boundary of this district to include several parcels near the foot of the Bolton Valley Access Road, including Fernwood Manor, which were previously part of the Rural I District. The parcels have uses and densities more similar to the Village District than the Rural I District. The purpose of the Village District is to allow for the continuation of existing commercial, residential, and public uses in this area, and to encourage future development that is compatible with and promotes an historic village settlement pattern. Such development may include higher densities of development, as supported by existing and planned infrastructure.

## Resort

Bolton residents wish to see Bolton Valley Resort and the surrounding areas **evolve** into a successful four-season resort that remains a key part of the local economy and retains its family friendly nature.

### *Resort Village District (Bolton Valley)*

The Resort Village District includes land comprising the Bolton Valley Resort's village base area that is served by the Catamount Bolton water and wastewater systems. The purpose of this district is to allow

for coordinated, well planned higher density development, including a mix of recreational, commercial, and multi-family residential uses within a compact village setting, in a manner that supports the development of the resort as a year-round destination while protecting significant natural features and environmentally sensitive areas. Development of Bolton Valley Resort property shall occur in accordance with a master plan that establishes a clear indication of the intended type and pattern of future development. Significant additional development in this District will depend on the availability of additional water and wastewater capacity.

*Resort Residential District (Bolton Valley)*

The Resort Residential District encompasses areas adjoining the Resort Village District, including the Bolton Valley Resort entrance on the Bolton Valley Access Road. The purpose of this district is to allow for moderate densities of coordinated, well-planned recreational, lodging and residential development in the immediate vicinity of the resort village, in an area that is served by centralized infrastructure and utilities, in a manner that reinforces the function of Bolton Valley as a compact resort village and protects significant natural features, ridgelines and environmentally sensitive areas. Development of Bolton Valley Resort property shall occur in accordance with a master plan that establishes a clear indication of the intended type and pattern of future development.

*Rural*

Bolton's residents plan to **maintain** the town's rural landscape, characterized by working farms and forests and quiet residential areas.

*Rural I District*

The Rural I district includes areas with ready access to public roads, which are physically suitable for residential development. The boundary of this district has been expanded to include property transferred out of state ownership on the Duxbury Road that was previously located within the Conservation District. The purpose of this district is to allow for traditional uses such as forestry and agriculture, moderate densities of residential development, home based businesses and limited commercial development along Route 2, in a manner that maintains the town's rural character.

*Rural II District*

This district includes upland areas with access and/or development constraints. The purpose of the district is to allow for limited, compatible, lower densities of development that maintain Bolton's rural character and protect significant natural resources while discouraging subdivision and development in areas with limited access to public roads.

*Forests and Conserved Land*

Bolton plans to **maintain** the town's protection of higher elevation lands that host important natural resources, are fragile, or are difficult to access. These areas include state parks and conserved lands, as well as most of the town's working forests.

The significance of Bolton's natural resources is demonstrated by the fact that 61% of the town's land has been conserved, either through purchase by federal, state or local government, purchase by non-profits, or conservation easements on private land. Conserved land in Bolton has many benefits for

humans and animals. It protects the large habitat blocks that support Bolton's wildlife, and provides the recreational opportunities valued by Bolton's residents.

#### *Conservation District*

The Conservation District is intended to include all land above 2,500 feet in elevation, the town's permanently conserved lands, including town and state owned parks, forests and conservation land, and private in-holdings on Honey Hollow Road. The purpose of the Conservation District is to protect Bolton's generally remote and inaccessible mountainous areas and the town's significant resources from further subdivision or fragmentation, development, and undue environmental disturbance, while allowing for the continuation of traditional uses such as forestry and outdoor recreation. Some limited energy generation may be appropriate on a site-by-site basis, provided any impacts to protected natural resources, discussed in the Natural Resources section of the plan, are avoided or mitigated. The Conservation District also includes the Ethan Allen Firing Range, a federally-owned military establishment over which the town has no formal jurisdiction. It is important to note that not all of Bolton's conserved land is within the Conservation District. Land that is privately conserved, such as land conserved through easements, may be located in other zoning districts.

Table 61: Summary of Conserved Land in Bolton

Owner	Total Acres	% of Bolton's Total Acreage (26,520.43)
<b>Publicly Owned Land</b>	<b>12,880.68</b>	<b>49%</b>
Town of Bolton (Preston Pond, Sara Holbrook Property, Fisher Property and 2 wood lots)	458.40	2%
State of Vermont (Camels Hump State Park, Mt. Mansfield State Forest, Robbins Mountain Wildlife Management Area, Bolton Valley Nordic Lands and other parcels)	10,136.38	38%
United States Government (Ethan Allen Firing Range)	2,285.90	9%
<b>Land Owned by Non-Profits</b>	<b>376.21</b>	<b>1%</b>
CRAG, VT (Climbing Resource Access Group of Vermont)	56.01	0%
Green Mountain Club	171.90	1%
Jericho Land Trust	128.30	0%
UVM Outing Club	20.00	0%
<b>Privately Owned Land (mostly properties with easements in the Vermont Forest Legacy Program)</b>	<b>2822.6</b>	<b>11%</b>
<b>TOTAL CONSERVED LAND</b>	<b>16,079.49</b>	<b>61%</b>

Revised: 1/25/2017 by Carol Devlin

#### *Forest District*

The Forest District includes all land between 1,500 and 2,500 feet in elevation, except for such land within the Resort Village, Resort Residential and Conservation Districts. The Forest District includes several parcels without frontage on or access to existing public roads ("landlocked" parcels). The Forest District minimizes the fragmentation or destruction of significant resources in Bolton as discussed in the

1 Natural Resources section and Natural Hazards and Resilience section. The purpose of this district is to  
2 protect Bolton's more remote and inaccessible forested upland areas from fragmentation, development,  
3 and undue environmental disturbance, while allowing for the continuation of traditional uses such as  
4 forestry, outdoor recreation and compatible low-density residential development. Some limited energy  
5 generation may be appropriate on a site-by-site basis, provided any impacts to protected natural  
6 resources, discussed in the Natural Resources section of the plan, are avoided or mitigated.

#### 7 8 West Bolton Hamlet

9 As one resident said during a community engagement event in October 2015, "we should recognize that  
10 West Bolton isn't stagnant, it's always changing." Working with residents of West Bolton to decide the  
11 future of the area as it **evolves** will be a priority for the Town during the period of this plan. West Bolton  
12 has historically been one of Bolton's most densely populated areas. Although the creation of the Ethan  
13 Allen Firing Range led to the destruction of many of the area's historic homes and buildings, West  
14 Bolton has retained a unique "neighborhood" character. Although the area is currently part of the Rural  
15 I District, it is characterized by lots that are typically smaller and buildings that are closer to the road  
16 than what is allowed by current zoning regulations. These "pre-existing non-conformities" create an  
17 extra layer of regulatory challenges for residents, who must navigate a more complicated process than if  
18 the area were zoned with existing buildings and lots in mind. The Development Review Board and the  
19 Planning Commission support the creation of a West Bolton "hamlet," encompassing roughly the area  
20 within walking distance (a one-half mile radius) of the intersection of Stage and Notch Roads. The exact  
21 boundaries, density and nature of development in the hamlet remains to be decided, but regulations  
22 will be revised to allow for smaller lots and more compact development. During community engagement  
23 undertaken for this plan, West Bolton residents expressed a range of ideas for the future of the West  
24 Bolton area. Residents value the sense of neighborhood found in the area, and many residents wish to  
25 see well-planned growth that expands the number of homes and allows for small business development.  
26 The area is one of the few parts of Bolton with appropriate topography and soils for development.  
27 However, all future changes must retain Bolton's small-town feel and residents' easy access to outdoor  
28 recreation.

#### 29 Overlay Districts

30 Overlay Districts Overlay districts provide the town with the  
31 ability to regulate specific features, such as flood plains, that  
32 occur throughout various zoning districts. They define an  
33 additional layer of regulation without otherwise changing the  
34 characteristics of an area.

#### MAKING THE CONNECTION

See the Resilience Section for a  
detailed discussion of floodplains  
and erosion in Bolton ([hyperlink](#)).

#### 35 *Flood Hazard Overlay Districts*

36 The Flood Hazard Area Overlay Districts include all designated Special Flood Hazard Areas. The purpose  
37 of the Flood Hazard Area Overlay Districts is to (1) protect public health, safety, and welfare by  
38 preventing or minimizing hazards to life and property due to flooding; to (2) manage development, as  
39 specifically defined for this purpose, within designated Special Flood Hazard Areas (SFHAs) according to  
40 the town's adopted municipal and hazard mitigation plans; and to (3) ensure that the town is eligible for  
41 continued membership in the National Flood Insurance Program so that the town, its residents and  
42 businesses may qualify for federal flood insurance, and for available federal disaster recovery and  
43 hazard mitigation funds.

1  
2 Flood Hazard Overlay District I

3 The Flood Hazard Overlay District I encompasses all Special Flood Hazard Areas that are within  
4 the Village District. All development that is allowed in the Village District is also allowed in the  
5 Flood Hazard Overlay District I, provided it meets flood hazard regulations and is not a type of  
6 development specifically prohibited within all Special Flood Hazard Areas. The State of Vermont  
7 may also review and approve certain types of development in the FHO I, such as public utilities,  
8 water/wastewater systems, floodplain management activities or stream crossing structures like  
9 bridges.

10  
11 Flood Hazard Area Overlay District II

12 The Flood Hazard Area Overlay District II encompasses all Special Flood Hazard Areas outside of  
13 the Village District. Almost all new development is prohibited in the Flood Hazard Overlay  
14 District II, with exception of low impact uses such as agricultural, forestry, or accessory  
15 structures. The State of Vermont may also review and approve certain types of development in  
16 the FHO II, such as public utilities, water/wastewater systems, floodplain management activities  
17 or stream crossing structures like bridges.  
18

19 *River Corridor Overlay District*

20 Bolton currently regulates streams and rivers by prohibiting  
21 development within certain distances of these bodies of  
22 water, and by requiring that part of these setbacks be  
23 maintained as vegetated buffer. This is intended to lessen  
24 bank erosion and to protect water quality and riparian  
25 wildlife habitat. Given Bolton's steep slopes and high  
26 incidence of erosion, as discussed in the Natural Hazards  
27 section, these protections must be continued. However, the State of Vermont's mapping of River  
28 Corridors has provided the town with a new data source on areas surrounding streams that should be  
29 protected. The town will investigate the development of a new River Corridor Overlay District to ensure  
30 that mapped River Corridors are properly protected, while maintaining the town's current setback  
31 requirements for rivers and streams. However, the development of these regulations must take into  
32 account existing development in the River Corridor and the needs of affected property owners.

**MAKING THE CONNECTION**

See the Natural Hazards and  
Resilience section of the plan to read  
more about flood plains and river  
corridors, and how Bolton regulates  
them.

33 *Source Protection Area Overlay*

34 Bolton currently regulates source protection areas in its BLUDRs. Source protection areas are intended  
35 to ensure that drinking water supplies remain uncontaminated. The town will investigate the  
36 development of a Source Protection Area Overlay, to codify the location of source protection areas in  
37 the town and ensure that all are appropriately protected from development.  
38

## Place Goals, Objectives and Actions

Goal 12 The Town of Bolton will develop in a way that does not increase the community's risk from natural and man-made hazards.

Objective 12.1: Bolton will be a resilient community that effectively prepares for natural hazards.

Objective 12.2: Seek to support property owners in the flood hazard area as they attempt to improve properties in a flood resilient manner.

Objective 12.3: Development shall not take place within the flood hazard area outside of the Village area.

Objective 12.4: Development within the flood hazard area in the Village area shall only be permitted if it is elevated above the base flood elevation, is designed to be reasonably safe from flooding and minimizes the risk of flooding on other properties, as described in the BLUDRs.

Objective 12.5: Decrease damage caused by fluvial erosion to buildings, facilities or infrastructure by limiting new development in river corridors or river corridor protection areas through amendments to the development regulations.

Objective 12.6: Development, including public and private roads and driveways, shall avoid steep slopes greater than 15% and less than 25% by siting the proposed development in an alternate location to the extent physically feasible.

Objective 12.7: Development, including public and private roads, service roads, driveways and building sites shall not be located in areas of very steep slopes of 25% or more.

Objective 12.8: The Bolton Road Crew will continue to maintain the roads for the safety of all users, especially during the winter months.

### Actions:

36. Assess and undertake projects to stabilize the banks of Joiner Brook, Duck Brook, Gleason Brook and Mill Brook as needed, to prevent damage to existing homes and septic systems, and Smilie School from flashing flooding and fluvial erosion and collapse.

37. Work with CCRPC to update the All Hazard Mitigation Plan.

38. Drawing on NFIP guidance, develop information for property owners regarding constructing, improving or replacing structures within mapped flood hazard areas.

39. Review the model and data used to establish the town's 2010 flood map (base flood elevation); if justified, consider remapping the floodplain (base flood elevation) within the village flood hazard area overlay.

40. Partner with the Vermont Geological Survey to finish inventory of landslide hazard areas throughout town to ensure that clear information on landslide risk is

Commented [RM15]: Rename to Flood Hazard Area for consistency with the actual name of this.

available to property owners, residents and town officials, and update the BLUDRs as necessary.

41. Undertake a hydrological/capacity analysis of local watersheds and determine whether new stream geomorphic assessments should be conducted on Gleason Brook and Mill Brook.

Goal 13: Protect state-identified significant natural communities from fragmentation and destruction.

Objective 13.1: Avoid the fragmentation of state-identified common significant natural communities (shown on Map 1), by minimizing subdivision, the incursion of roads and clearing for development.

Objective 13.2 Prohibit development of state-identified rare significant natural communities

Goal 14: Protect forests from fragmentation and destruction.

Objective 14.1: Avoid forest fragmentation, especially in contiguous forest blocks (shown on Map 1), by minimizing subdivision, the incursion of roads and clearing for development.

Goal 15: Protect significant wildlife habitats and contiguous habitat units from fragmentation and destruction.

Objective 15.1: Minimize fragmentation of Bolton's contiguous habitat units and significant wildlife habitats (as shown on Map 1), by minimizing subdivision, the incursion of roads and clearing for development.

Objective 15.2: Prohibit development on rock outcrops, including ledge, cliff and talus habitat (as inventoried in the Science to Action report and shown on Map 2).

Actions:

42. Inventory and map Bolton's most important wildlife travel corridors and road crossing shown in the Arrowwood Science to Action Report and more recent Biofinder wildlife crossing data in consultation with state agencies, and identify needed next steps.

Goal 16: Protect populations of rare, threatened, and endangered species and associated habitat.

Objective 16.1: The town will support all efforts pursuant to the State of Vermont's Threatened and Endangered Species Law, or other regulatory and non-regulatory mechanisms, to conserve or otherwise protect rare, threatened and endangered species and the habitats necessary for their continued survival.

Objective 16.2: The town of Bolton will require consultation with a wildlife biologist regarding the impact of proposed development in the habitat area of a rare, threatened

**Commented [MN16]:** This resource is a general term which encompasses both common significant natural communities and rare significant natural communities. We've spoken to state staff about this (Jens Hilke) and he suggests that this whole resource be broken out and that the "rare" significant natural resources should be prohibited from development. We've provided some proposed edits to the language to help make this distinction and have also suggested that you add another objective. Additionally, the natural communities resource on map 1 should be broken out by these two categories. Melanie will send an updated map before the PC meeting on 1/21.

or endangered species, and will require the applicant to avoid or mitigate any impacts as recommended by the wildlife biologist.

Objective 16.3: Prohibit development or fragmentation of rare, threatened or endangered species habitat (as shown on Map 1).

Goal 17: Surface and ground water in Bolton will be managed to ensure that water quality is maintained.

Objective 17.1: Avoid all development, including public and private roads, on or within 50 feet of all wetlands identified by the Vermont Significant Wetland Inventory (shown on Map 2) or identified through field investigation, in order to retain their value as wildlife habitat, flood protection and water quality protection.

Objective 17.2: Prohibit development within 200 feet from Goose Pond, Preston Pond and Upper Preston Pond, and within 50 feet of any other naturally occurring lake or pond with a surface area greater than one acre, as measured from the annual mean high water mark.

Objective 17.3: Prohibit development within 150 feet of the Winooski River and within 100 feet of Joiner Brook, Duck Brook, Goose Pond Brook, Gleason Brook, Honey Hollow Stream, Preston Brook, Mill Brook, Pinneo Brook, and the South Branch of Mill Brook, as measured from the top of the bank, to prevent surface runoff and protect water quality and riparian wildlife habitat.

Objective 17.4: Prohibit development within a 200-foot radius of a well or spring that serves a public water supply, except for activities, structures and uses directly related to the water system.

Objective 17.5: All on-site septic systems, including leach fields, shall be located outside of designated source protection areas. Ensure that all development within designated Source Protection Areas is reviewed for consistency with State of Vermont-approved source protection plans.

Goal 18: Working lands will be maintained to support both the rural economy and wildlife habitat.

Objective 18.1: Development on farmland, including public and private roads, driveways and utility corridors, shall be designed to minimize site disturbance and fragmentation by following linear features such as roads, tree lines, stone walls, fence lines or field edge. Roads, driveways and utility corridors shall be shared to the extent feasible. Farmland is defined by prime or statewide agricultural soils, open fields or active agricultural production.

Objective 18.2: The Town of Bolton strongly supports responsible forest management that follows the State of Vermont's Acceptable Management Practices (AMPs) on both public and private property, including consultation with a professional forester and development of forest



management plans that balance the economic benefits of logging with maintaining healthy forests, water quality and protecting wildlife habitat.

Objective 18.3: Areas previously logged shall not be considered exempt from the standards of the development review process when development is proposed.

Objective 18.4: An appropriate use of Contiguous Habitat Units (shown on Map 1) is forest management activities that support a diversity of forests, including early succession forests, and that do not lead to an extension of edge conditions (as defined in the 2013 Science to Action Report).

Objective 18.5: Operation, stormwater management and erosion control and site reclamation plans shall be submitted for all new and expanded earth extraction and quarrying operations within Bolton, to ensure that the proposed operation will not cause any hazard to public health and safety, or adversely affect neighboring properties, property values or public facilities and services, surface water and groundwater supplies, contiguous habitat units and significant wildlife habitats, or other natural, cultural, and historic features.

Objective 18.6: The Town of Bolton strongly encourages solar development on former earth extraction sites, provided that the solar arrays and any associated clearing and infrastructure do not negatively impact the natural resources identified in this plan.

Goal 19: Bolton's most important scenic views, including ridgelines, will be protected from the adverse impacts of new development.

Objective 19.1: Bolton's scenic ridgelines are a defining characteristic of the town, and development shall be located in such a way that their aesthetic appeal is not lessened, especially along the ridgelines seen from the Rt. 2/I-89 corridor.

Actions:

43. Inventory and map Bolton's scenic landscape features, scenic roads and view sheds, and recommend additional regulatory and non-regulatory options for their protection.

Goal 20: Maintain, protect and improve Bolton's recreational areas and resources to ensure continued public access and sustainable use by Bolton residents and visitors.

Objective 20.1: Management of the Preston Pond Town Forest will follow the standards listed in the Preston Pond Conservation Area Management Plan and the restrictions in the property's easement.

Objective 20.2: Land that is owned by Town of Bolton will be managed by the Conservation Commission and the Select Board in a way that preserves its natural features and keeps it available for recreational use by town residents and visitors.

Objective 20.3: Increase the number of neighborhood community gathering areas and parks near residential areas.

Objective 20.4: Cooperate with key stakeholders such as Bolton Valley Resort, the Catamount Trail Association, the Climbing Access Resource Group, Cross Vermont Trail Association, the Green Mountain Club, Smilie School, the Vermont Association of Snow Travelers, and local landowners to ensure that Bolton's recreational areas are protected, improved, sustainably managed and safe for all users.

Actions:

44. Evaluate options for establishing neighborhood parks, playgrounds, community gardens or other community facilities in West Bolton, Bolton Valley or on US 2.

45. Place safety information related to hunting season (such as warning hikers to wear blaze orange) on the information kiosks of town-owned land.

46. Host hunter education courses locally.

47. Work with outdoor recreation groups and organizations active in Bolton to minimize user conflicts in shared recreation areas, especially during hunting and trapping season.

48. Investigate appropriate locations for town or privately maintained off-road parking at trailheads and in areas of heavy recreational use.

49. Verify that organizations seeking to build or maintain trails in Bolton have adopted appropriate trail standards that have proven effective in similar municipalities, to guide or regulate the development, use and maintenance of like trails.

Goal 21: Bolton's future development will protect the town's unique natural resources as described in the Natural Resources and the Natural Hazards and Resilience sections of this plan.

Goal 22: The Town of Bolton will maintain and steward its current amount of conserved land but will discourage proposals to preserve additional large amounts of land that are developable under the BLUDRs as most recently adopted.

Goal 23: Bolton's development pattern will continue to be characterized by areas of compact settlements along Route 2, in Bolton Valley and in West Bolton, and rural homesteads and large undeveloped areas elsewhere. Future development shall conform with the land use district descriptions as described in this chapter and shown on Map 12.

Actions:

50. Review and update the Bolton Land Use and Development Regulations (BLUDRs) for clarification and ease of use, to incorporate new statutory requirements under Chapter 117, and to conform to and advance the goals and objectives of this plan, as highlighted below:

General BLUDR Issues

- a. Review and update mapped boundaries, dimensional standards and allowed uses under established zoning districts to determine whether any adjustments are justified.
- b. Review and update the BLUDRs and other policies and ordinances as needed to clearly reference and further protect the town's significant natural, cultural, historic and scenic resources, as discussed in the Natural Resources section of this plan and shown on corresponding maps.
- c. Re-evaluate Select Board-adopted administrative and permit fee schedules as needed to ensure that the fees charged are adequate to cover allowed administrative costs and are comparable to those charged by similar towns but are not prohibitively expensive for residents.

Historic Preservation

- d. Refine the regulations surrounding the treatment of designated and potential historic buildings and sites to ensure the preservation of Bolton's history while not unduly burdening property owners.

Economy

- e. The town of Bolton will work with Bolton Valley Resort to gain an understanding of specific regulatory barriers that may act as a deterrent to development at the Resort, and to identify possible changes to the Bolton Land Use and Development Regulations that meet the goals of the town Plan to address those challenges, including a possible commercial recreation overlay district.
- f. Create educational materials for residents and business owners to learn about the BLUDRs
- g. Ensure that the Bolton Land Use and Development Regulations encourage the creation of home businesses.

Telecommunications and Energy Siting

- h. Revise the BLUDRs to provide density bonuses for Planned Unit Developments with layouts that enable energy efficiency and the use of renewable energy sources.
- i. Revise the BLUDRs to include renewable energy projects in the discussion of setbacks and screening.

- j. Review and update the telecommunications and co-location standard guiding local permitting and providing guidance to the Select Board and Planning Commission's participation in the PSB (Section 248a) process.

- k. Update the BLUDRs to require the submission of associated energy certificates prior to the issuance of certificates of occupancy.

#### Roads

- l. Update BLUDRs town highway regulations to ensure safety and resilience of private roads and driveways.

#### Water Quality and Stormwater

- m. Update current source protection area standards as needed, under the BLUDRs

- n. Determine and implement appropriate strategies for incentivizing Low Impact Development (LID) to reduce stormwater runoff from new development.

- o. Review, clarify and update existing stormwater management requirements under the BLUDRs to incorporate new state standards and model language regarding stormwater.

- p. Review flood hazard area bylaws for consistency with more recent state models and recommendations.

- q. Evaluate developing a new river corridor protection area overlay district, using state river corridor maps as amended for local use. Before establishing additional regulations, the town should work with CCRPC and ANR to ensure the most accurate data is included in the river corridor map. Bolton should review the implications of the full River Corridor on existing properties before establishing these additional regulations.

#### Steep Slopes

- r. Clarify, update steep slope regulations; evaluate whether additional engineered options to allow very limited development on 15-25% slopes and 25% or greater slopes (e.g., to access adjoining land) is justified under the BLUDRs – e.g., in association with an independent technical engineering review, and related stormwater management concerns.

#### Telecommunications

- s. Update Bolton's development regulations to meet FCC requirements for the regulation of telecommunications facilities. "

51. Increase planning reserve funding to cover match requirements for planning grant programs.

52. Consider rezoning West Bolton, in consultation with local residents, as a new "hamlet" district, to include reduced lot sizes and setbacks and an allowed mix of uses that are more consistent with historically established patterns of development in the area.

53. Examine the feasibility of gaining a Village Center designation for the West Bolton area from the state to allow commercial property owners to access associated benefits, including historic and related tax credits.

- 1 54. Update the Town Plan.
- 2
- 3

## CHAPTER 4: IMPLEMENTATION

The Town of Bolton has four full-time staff members, an annual municipal budget of less than one million dollars and a town government run completely by volunteers, most of whom have full time jobs. The goals and objectives in this plan reflect both the town's practical concerns and its lofty aspirations, but the actions included in this section are intended to reflect only those things the town expects to reasonably accomplish over the next eight years, given expected staff, volunteer and funding capacity. A second tier of actions are included, which represent actions that the town would like to undertake, but would only be able to pursue if new sources of funding arose and/or staff capacity increased. Within each tier, actions are ranked and numbered based first on the prioritization of them at the December 2016 community engagement event, and secondly on the cost, benefit and difficulty of accomplishing them. The actions have been assigned responsible parties, and relevant partners and funding sources have been identified. Additionally, the actions also follow the Maintain-Evolve-Transform theme. Each action is intended to either maintain, evolve or transform something about Bolton to meet the goals and objectives of this plan.

In addition to the action items identified here, one of the key forms of implementing the town plan is for Bolton to participate in Act 250 and Section 248 processes.

Act 250 provides a public, quasi-judicial process for reviewing and managing the environmental, social and fiscal consequences of major subdivisions and developments in Vermont. Both the Planning Commission and the Town of Bolton, represented by the Select Board, are statutory parties to the Act 250 process. Applicants must prove that proposed development is "in conformance" with the goals and objectives of this plan.

Section 248 outlines the process for the Vermont Public Utilities Commission to determine whether development of a public utility facility advances the public good of Vermont. Both the Planning Commission and the Town of Bolton, represented by the Select Board, are statutory parties to the Section 248 process. Because this plan meets the requirements for municipal energy planning as established by the Department of Public Service, the Public Utilities Commission must give this plan's policies "substantial deference" during Section 248 proceedings. Substantial deference means that the Public Utilities Commission shall apply this plan's policies in accordance with their terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy.

Appendix 1: Maps ([Updated](#))

Map 1: [Natural Resources – Ecological and Wildlife Resources](#)

Map 2: Natural Resources – Earth and Water Resources

Map 3: Working Lands

Map 4: Conserved Land

Map 5: Recreation and Cultural Resources

Map 6: Hazard Areas

Map 7: Facilities

[Map 8: Existing Renewable Energy and Preferred Sites for Net-Metering](#)

[Map 9: Energy Resource Areas](#)

Map 10: Transportation System

Map 11: Existing Land Use

Map 12: Proposed Land Use

Map 13: Maintain-Evolve-Transform

[Map 14: State Possible Constraints](#)

[Map 15: Local Possible Constraints](#)

[Map 16: State and Local Known Constraints](#)

## Appendix 2: Documents Incorporated by Reference

### *Town-Specific Documents*

**Bolton Community Data Profile (as amended periodically—current draft attached to this document)**

**Bolton Town Plan Community Engagement Process Results (2015-2016)**

<http://boltonvt.com/townplan/town-plan-meeting-summaries/>

**Bolton Town Plan Hearing Summaries**

<http://boltonvt.com/townplan/>

Bolton All Hazards Mitigation Plan (as updated and adopted every five years)

Bolton Capital Budget and Program (as updated and adopted annually)

Bolton Highway Erosion Inventory (2016)

Bolton Local Emergency Operations Plan (as updated and adopted annually)

Bolton Paving, Culvert and Road Sign Inventory (2016)

Joiner Brook Watershed: Phase 2 Geomorphic Assessment (2008)

Joiner Brook River Corridor Plan (2009)

National Register of Historic Places in Bolton (1999) <http://boltonvt.com/wp-content/uploads/2015/10/20151103124557156.pdf>

Preston Pond Management Plan (2016, updated and adopted periodically)

Protocol for Identification of Areas Sensitive to Landslide Hazards in Vermont (2012)

Town Highway Policies (as amended or adopted by the Select Board)

Town Ordinances (as amended or adopted by the Select Board)

Traffic Speed Study for Duxbury and Bolton Valley Access Road (2015/2016)

State Register of Historic Sites in Bolton (1980)

[http://orc.vermont.gov/Documents/Bolton\\_StateRegister\\_NominationForm\\_00000003.pdf](http://orc.vermont.gov/Documents/Bolton_StateRegister_NominationForm_00000003.pdf)

### *Regional or Statewide Documents*

ECOS Plan (2018, updated and adopted every five years) <http://www.ecosproject.com/plan/>

Science to Action: Four Town Natural Resources Inventory: Bolton, Huntington, Jericho and Richmond (2013)

Vermont Natural Resources Atlas (as maintained by the Vermont Agency of Natural Resources)

Winooski River Tactical Basin Plan (as updated in 2017)



Table 38: Greenhouse Gas Emissions by Fuel Type and Sector			
	Residential	Commercial	Total
Delivered Fuels (not including wood)	2522	116	2638
Wood	15	0	15
Electricity	225	127	351
Solid Waste	4		4
Wastewater	266		266
Transportation	6291		6291
Total	9566		9566
Measurements are in millions of tons of carbon dioxide, except for wood which is metric tons of methane and nitrous oxide			
Source: Chittenden County Climate Action Guide Appendix B 2010 Greenhouse Gas Inventory			

## Energy

### Current Energy Use

Many Bolton residents and commercial properties rely on delivered fuels to heat buildings and run machines. SAs of 2015, Bolton residents and businesses used delivered fuels, mostly heating oil, for 55% of their energy use. The majority of Bolton homes are heated with heating oil.

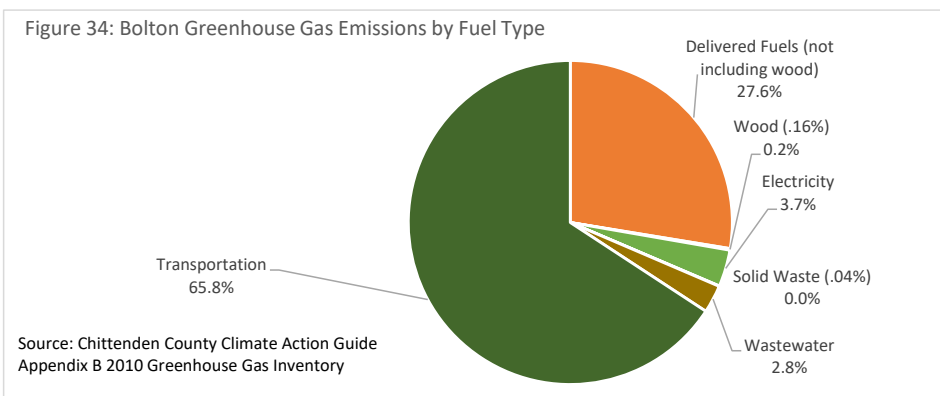
**Table 37. Number of Homes Heating with Delivered Fuels, 2017**

Number of homes heating with fuel oil or kerosene*	164 homes (28% of homes)
Homes heating with wood	118 homes (20% of homes)
Number of homes heating with propane*	173 homes (30% of homes)

*\*These estimates have a relatively high margin of error and should be used with caution.*

Sources: American Community Survey 2013-2017 5-Year Estimates

Bolton has .76% of Chittenden County's population but accounts for 1% of the County's greenhouse gas emissions. Like elsewhere in Vermont, the majority (65.8%) of greenhouse gas emissions in Bolton are from transportation.



The vast majority of vehicles in Bolton are fossil fuel burning, as shown in Table 39.

**Table 39: Current Municipal Transportation Energy Use**

Fossil Fuel Burning Light Duty Vehicles, 2015	1,014
Electric Light Duty Vehicles, July 2017	4
<i>Sources: Drive Electric Vermont, DMV</i>	

#### Energy Efficiency

As advancements in energy efficiency occur over time, the amount of energy used in Bolton has decreased and the amount of energy saved has increased.

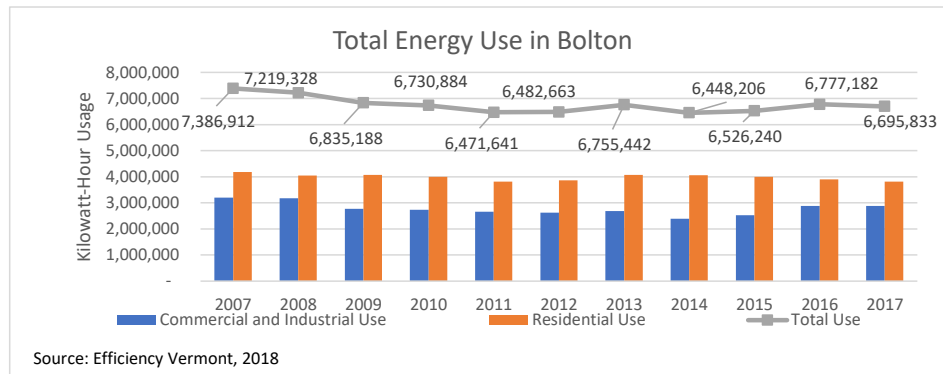


Table 39: Total Energy Use Over Time								
	kWh Usage			kWh Savings			MMBtu Savings	
Year	kWh Usage: Commercial & Industrial Sector	kWh Usage: Residential Sector	Total Usage	kWh Savings: Commercial & Industrial Sector	kWh Savings: Residential Sector	Total Savings	MMBtu Savings: Commercial & Industrial Sector	MMBtu Savings: Residential Sector
2007	3,203,583	4,183,329	7,386,912	5,935	12,944	18,879		
2008	3,176,166	4,043,162	7,219,328	54,479	14,724	69,203		
2009	2,767,796	4,067,392	6,835,188	85,037	16,306	101,343	504.9	48.889
2010	2,736,045	3,994,839	6,730,884	19	9,462	9,481	0	3.45
2011	2,658,385	3,813,256	6,471,641	1,352	16,642	17,993	-0.9	92.5
2012	2,621,978	3,860,685	6,482,663	55,459	44,288	99,747	-11.8	-18.5
2013	2,681,076	4,074,366	6,755,442	26,616	35,448	62,063	-18.2	-6.1
2014	2,388,212	4,059,994	6,448,206	1,393	67,415	68,809	-0.94	-19.414
2015	2,529,008	3,997,232	6,526,240	49,958	57,162	107,120	54	-34
2016	2,882,637	3,894,545	6,777,182	25,657	62,322	87,979	152	-33
2017	2,883,887	3,811,947	6,695,833	(3,185)	44,769	41,584	134	-35
2018	2,901,714	3,936,654	6,838,368	134,681	8,533	143,215	135	0

Source: Efficiency Vermont, 2018 (deleted per-household savings from 2017 data profile because this is no longer reported in the same way).

Table 40. Recent Residential Energy Efficiency Projects

	2014	2015	2016	2017	2018
Home Performance with ENERGY STAR® Leads	1	5	3	0	4
Home Performance with ENERGY STAR® Projects	1	1	2	0	3
Total Residential Projects (includes Home Performance with ENERGY STAR® projects)	14	33	42	18	87

Source: Efficiency Vermont, November 2018

#### Production

There are 22 renewable energy projects in Bolton as of 2019, mostly roof mounted solar projects. These projects have a combined capacity of 227.95kW and generate an estimated 466,839 kWh annually.

Table 41: Renewable Energy Production			
	Number of Sites	Total Capacity	Estimated Generation
Ground Mounted Solar	3 residential	9.95 kW	12,203 kWh
Roof Mounted Solar Panels	17 residential	116.2 kW	142,508 kWh
Small Wind	1 commercial, 1 residential	101.8 kW*	312,119 kWh
Total	21 residential, 1 commercial	227.95 kW	466,829 kWh
*Reported capacity, but Bolton Valley Wind Turbine is currently not producing energy			
Source: Vermont Energy Dashboard, 2019			

#### Future Estimated Energy Use

The data included in this section show one path Bolton could take to meet State of Vermont's energy goals. The estimates are intended to be a demonstration of one possible scenario to reach 90% renewable by 2050 and are not intended to prescribe a single future path. To meet the goals, the town must plan for a major shift away from fossil fuels in the transportation and heating sectors to renewable sources of energy, as well as efficiency in transportation, heating and electricity, and an increase in in-town renewable energy generators. However, the particular actions or technology changes that the town will take will very likely change between now and 2050, as new and improved technologies become available and new projects are completed. This information should provide the framework for a discussion about changes that will need to occur within Bolton to ensure that State energy goals are met.

Estimates for future energy use are drawn from the Long-Range Energy Alternatives Planning (LEAP) analysis for Chittenden County, completed by the Vermont Energy Investment Corporation (VEIC). The LEAP model is an accounting framework that shows one possible path for Chittenden County and its municipalities to meet the state energy goals. The detailed methodology used to create the LEAP estimates for Chittenden County and each municipality can be found in Supplement 6 of the 2018 ECOS Plan: [http://www.ecosproject.com/wp/wp-content/uploads/2017/09/ECOSPlan\\_ProcessSupplement6\\_EnergyData\\_Methodology\\_Final20180615.pdf](http://www.ecosproject.com/wp/wp-content/uploads/2017/09/ECOSPlan_ProcessSupplement6_EnergyData_Methodology_Final20180615.pdf).

#### Transportation

To meet Vermont's energy goals, it will be necessary to transform the transportation sector to dramatically reduce its reliance on gasoline fuel engines. The LEAP model calls for most light duty vehicles to be electric by 2050, and for most heavy-duty vehicles to be fueled with biodiesel.

**Table 42. LEAP Model Estimated Transportation Energy Use for Bolton, 2025-2050**

	2025	2035	2050
<b>Total Light Duty Transportation Energy Use (MMBtu)</b>	59,841	37,905	16,521
<b>Electricity Used for Light Duty Transportation (MMBtu)</b>	798	5,501	11,609
<b>Light Duty Electric Vehicles (% of Vehicle Fleet)</b>	6%	41%	89%
<b>Biofuel Blended* Energy Used for Light Duty Transportation (MMBtu)</b>	59,043	32,405	4,912
<b>Biofuel Blend*Light Duty Vehicles (% of Vehicle Fleet)</b>	94%	59%	11%
<b>Heavy-Duty Transportation Energy Use from Biodiesel (Percent of Total)</b>	33%	58%	96%
<b>Heavy-Duty Transportation Energy Use from Fossil Fuels (Percent of Total)</b>	67%	42%	4%

*\*This measures biofuels blended with fossil fuels. A common example is gasoline with ethanol mixed in.*

*Sources: VTrans, LEAP Model*

#### Residential and Commercial/Industrial Thermal Energy

The LEAP model shows a decrease in thermal energy use in residential and commercial/industrial buildings. In addition, the model calls for a major shift towards heat pumps for home heating, as well as for all homes to undergo weatherization. This will lead to an increase in electricity use for home heating. This is not intended to encourage electric resistance heating, such as electric baseboard heaters. In addition to calling for a shift away from fossil fuels, this plan calls for increased efficiency as well. Heat pumps are far more efficient than most other ways of home heating. Commercial and Industrial thermal energy is also projected to decrease as efficiency increases and establishments are weatherized. Additionally, heat pump adoptions for commercial and industrial buildings are expected to increase.

However, the LEAP model understates the current and future wood heat use in Bolton. While the LEAP model shows a steady 14% of households using wood heat between 2025-2050, 20% of Bolton's homes currently use wood as the primary heating source. This proportion is likely to increase; wood is a familiar heating source and therefore may be a more logical avenue for future investment than heat pumps. The main residential thermal energy goal of this plan is for homes to switch from fossil fuels such as fuel oil to renewable sources. Therefore, the goals can be met through boosting heat pumps and wood heating systems. Future iterations of energy data for the town may reflect different renewable heating choices.

**Table 43. Projected Residential Thermal Energy Use, 2025-2050**

	2025	2035	2050
<b>Total Residential Thermal Energy Use (MMBtu)</b>	46,870	39,740	27,515
<b>Percent of Residences Weatherized by Target Year</b>	14%	36%	95%*
<b>Energy Saved by Weatherization by Target Year (MMBtu)</b>	2,188	5,976	18,705
<b>Percent of Residences Using Heat Pumps</b>	18%	37%	60%
<b>Residential Thermal Energy Use from Heat Pumps (MMBtu)</b>	3,038	6,250	9,163
<b>Residences Using Wood Heating (%)</b>	14%	14%	14%
<b>Residential Thermal Energy Use from Wood Heating (MMBtu)</b>	8,607	8,615	7,570

Sources: LEAP Model, Department of Public Service

\* This represents a 5% reduction from LEAP goals, as initially established by CCRPC

**Table 44. Projected Commercial Thermal Energy Use, 2025-2050**

	2025	2035	2050
<b>Total Commercial Thermal Energy Use (MMBtu)</b>	14,017	13,351	11,809
<b>Percent of Commercial Establishments Weatherized by Target Year</b>	31%	35%	60%
<b>Energy Saved by Weatherization by Target Year (MMBtu)</b>	753	1,045	2,518
<b>Commercial Establishments Using Heat Pumps (%)</b>	35%	56%	64%
<b>Commercial Thermal Energy Use by Heat Pumps (MMBtu)</b>	1,137	2,247	3,357
<b>Commercial Establishments Using Wood Heating (%)</b>	15%	17%	18%
<b>Commercial Thermal Energy Use Attributable to Wood Heating (MMBtu)</b>	1,696	2,336	3,420

Sources: LEAP Model, Department of Public Service, Department of Labor

**Commented [Ds1]:** Same comment as for Plan draft—100% of homes weatherized is probably not feasible; suggest 75%.

#### Electricity Use

The LEAP model calls for a major increase in electricity use, because sectors, including transportation, are predicted to shift towards electricity, displacing fossil fuel use. This shift is discussed in the previous sections. By 2050, both total energy use and total energy use per capita will have decreased, and electricity will comprise a larger percentage of the remaining energy use. Almost all residences and commercial and industrial establishments will increase their electric efficiency.

**Table 45. Projected Electrical Energy Use, 2025-2050**

	2025	2035	2050
<b>Without Industrial</b>	5,113	6,517	8,446
<b>Industrial Only</b>	1,659	2,145	2,880
<b>Total</b>	6,773	8,663	11,326
<b>Total Electric Energy Saved (MWh)</b>	888	1,793	3,353
<b>Residences that have increased their Electric Efficiency</b>	30%	58%	98%
<b>Commercial and Industrial Establishments that have Increased Their Electric Efficiency</b>	30%	58%	98%

Source: LEAP Model

*\*Please note that industrial electricity use is recognized as the most difficult element to project in the LEAP model, because of regional discrepancies in data from the commercial and industrial sector. Therefore, projected electricity use and total energy use are reported two ways: with industrial electricity use included and excluded.*

#### Total Energy per Capita

As shown in the table below, total energy use and total energy use per capita will decrease as a result of the changes needed to reach the state's energy goals.

**Table 46. Projected Total Energy Use Per Capita (Excluding Industrial Electricity Use) 2015-2050**

	2015	2025	2035	2050
<b>Total Energy Use (MMBtu)</b>	152,914	138,174	113,233	84,662
<b>Population</b>	1,189	1,203	1,212	1,262
<b>Total Energy Use Per Capita (MMBtu)</b>	129	115	93	67
<b>Reduction in Total Energy Use Per Capita since 2015</b>	--	-11%	-27%	-48%

Source: LEAP Model

*\*Please note that industrial electricity use is recognized as the most difficult element to project in the LEAP model, because of regional discrepancies in data from the commercial and industrial sector. Therefore, projected electricity use and total energy use are reported two ways: with industrial electricity use included and excluded. Given Bolton's small industrial sector, industrial electricity projections are not reported for the town.*

Renewable Energy Generation and Targets

The renewable energy generation targets contained in this supplement provide an estimate of additional renewable energy generation to meet the 2050 target. These targets account for existing generation currently sited or permitted within Bolton’s boundaries and are technology neutral—that is, they can be met through any type of renewable energy generation technology (biomass, solar, wind, etc.). As part of the 2018 Regional Energy Plan, CCRPC established generation targets and calculated generation potential for each municipality. **Table 48. New Renewable Electricity Generation Targets for Bolton**

	2025		2035		2050	
	Low	High	Low	High	Low	High
<b>Generation Targets – Any Technology (MWh)</b>	1,111	1,923	2,233	3,845	3,890	6,729

*Sources: LEAP Model and CCRPC Modeling*  
*These targets are in addition to the 328 MWh generated annually in the municipality as of July 2017. Chittenden County Regional Planning Commission has set high and low generation targets for the county and each municipality (see [Supplement 6 of the 2018 ECOS Plan](#) for the methodology), based on two methods of equitably distributing the state’s generation goals. Any amount of generation within this range means that the town is producing its share of renewable energy generation for the county.*

Bolton has more than enough renewable energy generation potential to meet the high targets set for the town. CCRPC has calculated the number of acres of prime wind and prime solar development areas in Bolton. These are areas that are well-suited for energy production and do not have other regulatory restrictions on the development of generation facilities. CCRPC has also calculated the amount of land that is well-suited for energy production but may have some regulatory restrictions that could be mitigated. These areas are known as base wind and base solar development areas. Prime and base wind and solar areas are shown in Table 49 and on Map 9.

**Table 49. Land Available for Wind and Solar Generation**

	<b>Prime Potential</b> <i>Areas well-suited to energy production without environmental constraints</i>	<b>Base Potential</b> <i>Areas well-suited to energy production with environmental constraints that can be mitigated</i>
<b>Solar</b>	173 acres (1% of town)	1,138 acres (4% of town)
<b>Wind</b>	88 acres (.3% of town)	2,880 acres (11% of town)

*Source: CCRPC and the Department of Public Service*

The amount of energy that could be generated from siting generation facilities each of these resources is shown in Table 50.

**Table 50. Projected Renewable Electricity Generation Potential for Bolton**

	<b>Power (MW)</b>	<b>Energy (MWh)</b>
<b>Rooftop Solar*</b>	.42	520
<b>Ground-Mounted Solar* – Prime</b>	22	26,517
<b>Ground-Mounted Solar* – Base</b>	19	23,271
<b>Wind – Prime</b>	4	10,833
<b>Wind – Base</b>	115	353,169
<b>Biomass</b>	See Map	

Source: CCRPC and the Department of Public Service

\*Rooftop solar potential is calculated by assuming that a certain percentage of rooftops can hold solar systems. Ground-mounted solar potential reports how much land could be developed with solar based on its aspect and elevation, and does not remove space taken up by impervious surfaces like roofs. Therefore, rooftop solar potential cannot be added to ground-mounted solar potential, as this would lead to some generation potential being double counted.

Additionally, Bolton contains 3699.35 acres of land classified as woodland. While trees logged on these properties are used in a number of products, biomass production for home heating and electricity production could occur in these forests. There is no easy conversion from acres of forestland able to be logged to energy produced.



# Map 1

## Natural Resources:

## Ecological & Wildlife

## Resources

### BOLTON, VERMONT

**Legend**

**State Identified Significant Natural Community**

**Rank**

- Rare
- Common

**Rare, Threatened, Endangered Species**

- Animal
- Plant

- Deer Wintering Area
- Grassland Habitat (management dependant)
- Forested Riparian Habitat
- Potential Bear Wetland
- Hard Mast Stands: Beech & Oak
- Contiguous Habitat Units

- Stream Centerline
- Surface Water
- Road Centerline
- Railroad
- Tax Parcel Boundary

100 Ac.

25 Ac.

10 Ac.

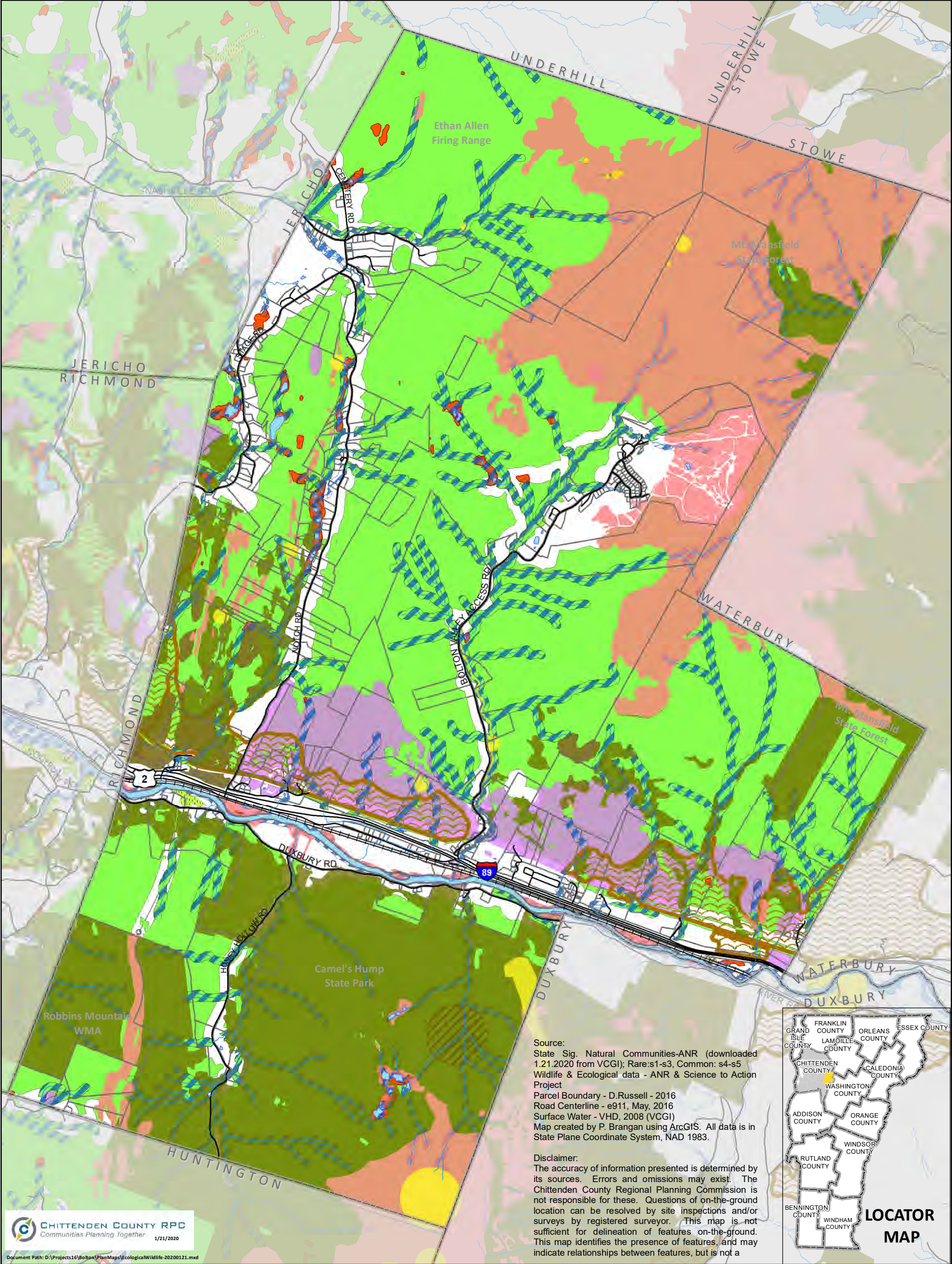
5 Ac.

1 Ac.

1:48,000

0 0.5 1 Mile

N



Source:  
State Sig. Natural Communities-ANR (downloaded 1.21.2020 from VCGI); Rare:s1-s3, Common: s4-s5  
Wildlife & Ecological data - ANR & Science to Action Project  
Parcel Boundary - D.Russell - 2016  
Road Centerline - e911, May, 2016  
Surface Water - VHD, 2008 (VCGI)  
Map created by P. Brangan using ArcGIS. All data is in State Plane Coordinate System, NAD 1983.

Disclaimer:  
The accuracy of information presented is determined by its sources. Errors and omissions may exist. The Chittenden County Regional Planning Commission is not responsible for these. Questions of on-the-ground location can be resolved by site inspections and/or surveys by registered surveyor. This map is not sufficient for delineation of features on-the-ground. This map identifies the presence of features, and may indicate relationships between features, but is not a

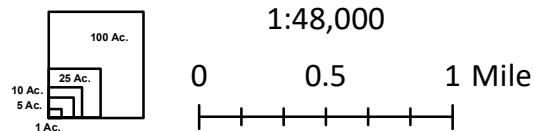




# Map 8

## Existing Renewable Energy and Preferred Sites for Net-Metering

### BOLTON, VERMONT



- Sand or Gravel Pit\*

2018 Tax Parcel Boundary

Solar

Wind
- VELCO Transmission Line

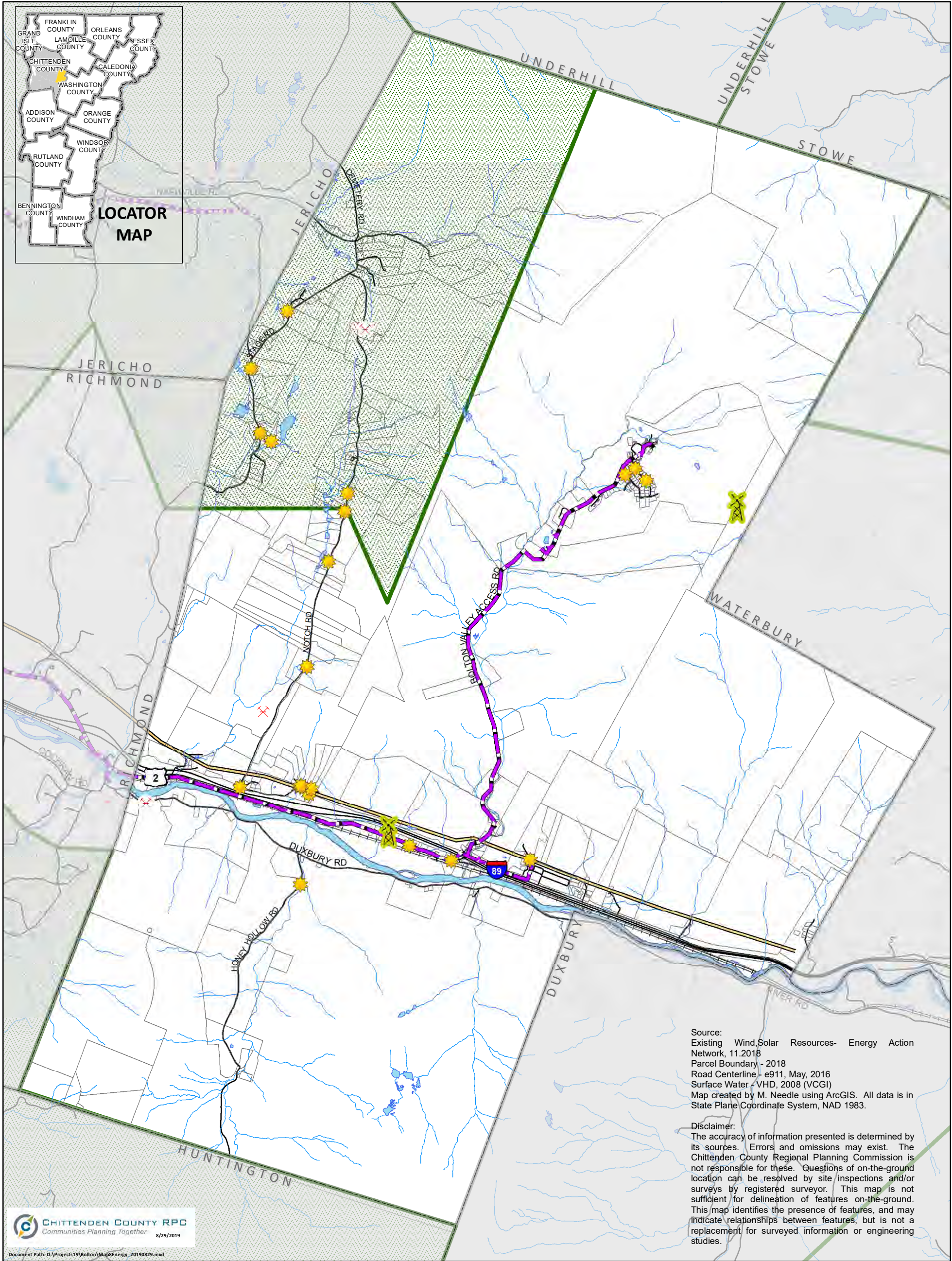
3 Phase Power Lines

Electric Utility Service Area

Green Mountain Power

Vermont Electric Co-Op

\*Sand or gravel pit is considered a preferred site for net metering. Other types of preferred sites not identified on this map are listed in the plan text.



Source:  
Existing Wind, Solar Resources- Energy Action Network, 11.2018  
Parcel Boundary - 2018  
Road Centerline - e911, May, 2016  
Surface Water - VHD, 2008 (VCGI)  
Map created by M. Needle using ArcGIS. All data is in State Plane Coordinate System, NAD 1983.

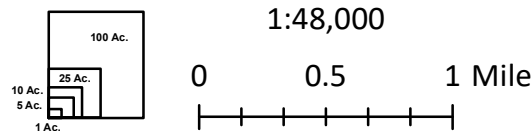
Disclaimer:  
The accuracy of information presented is determined by its sources. Errors and omissions may exist. The Chittenden County Regional Planning Commission is not responsible for these. Questions of on-the-ground location can be resolved by site inspections and/or surveys by registered surveyor. This map is not sufficient for delineation of features on-the-ground. This map identifies the presence of features, and may indicate relationships between features, but is not a replacement for surveyed information or engineering studies.



# Map 9

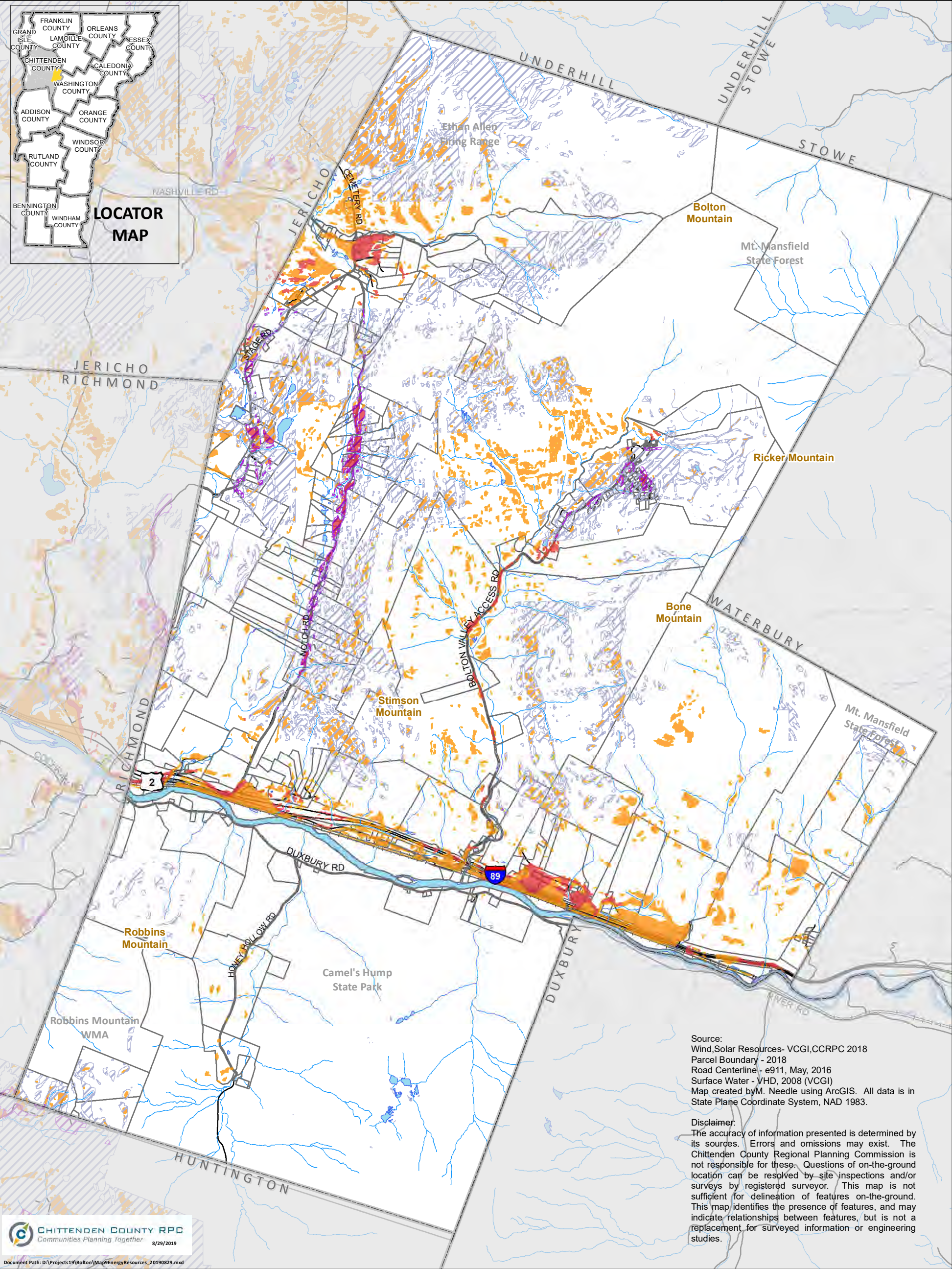
## Energy Resource Areas

### BOLTON, VERMONT



- Legend**
- Tax Parcel Boundary
  - Prime Wind
  - Base Wind
  - Prime Solar
  - Base Solar

\*Note: Potential prime renewable energy resource areas account for both statewide and local known constraints. A local constraint is a condition which precludes the development of a renewable energy project. Local known constraints include the conservation district, steep slopes greater than 25%, flood hazard overlay II, wetland buffers, surface water buffers, and town-owned land. Base resource areas have a presence of possible constraints. Possible constraints are conditions that signal the need for mitigation and which may prove a site unsuitable after site specific studies.



Source:  
Wind, Solar Resources - VCGI, CCRPC 2018  
Parcel Boundary - 2018  
Road Centerline - e911, May, 2016  
Surface Water - VHD, 2008 (VCGI)  
Map created by M. Needle using ArcGIS. All data is in State Plane Coordinate System, NAD 1983.

Disclaimer:  
The accuracy of information presented is determined by its sources. Errors and omissions may exist. The Chittenden County Regional Planning Commission is not responsible for these. Questions of on-the-ground location can be resolved by site inspections and/or surveys by registered surveyor. This map is not sufficient for delineation of features on-the-ground. This map identifies the presence of features, and may indicate relationships between features, but is not a replacement for surveyed information or engineering studies.



# BOLTON, VERMONT

## State Possible Constraints

-  2018 Tax Parcel Boundary





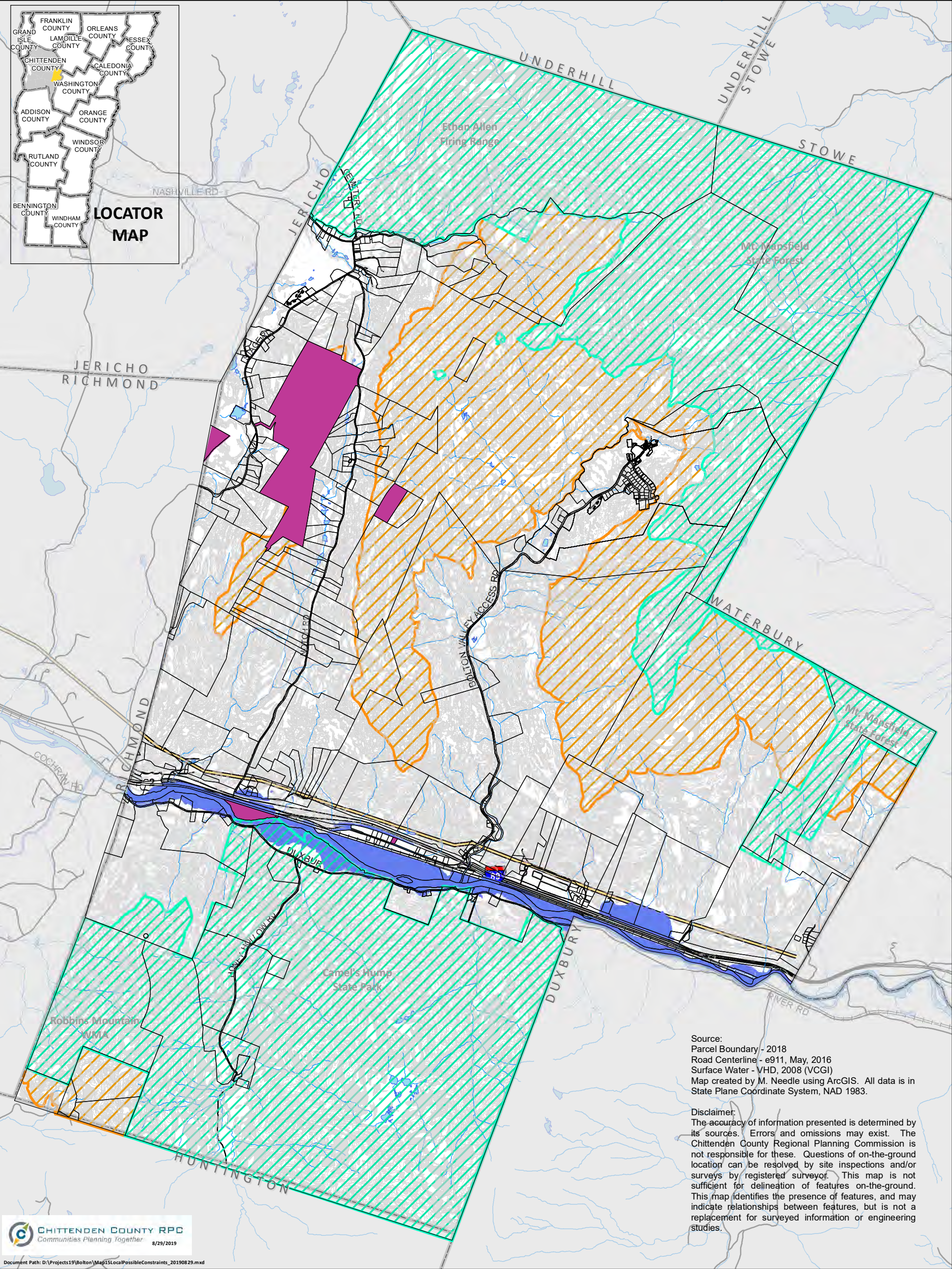
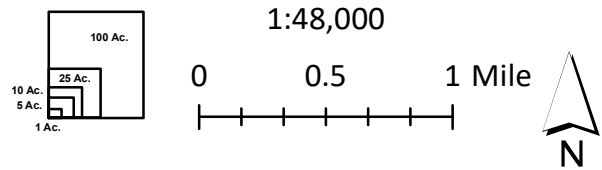
# Map 15

## Local Possible Constraints

### BOLTON, VERMONT

#### Local Possible Constraints

- Town Owned Land
- Slopes 15% to 24%
- Conservation Zoning District
- Forest Zoning District
- Flood Hazard Overlay II Zoning District
- 2018 Tax Parcel Boundary



Source:  
Parcel Boundary - 2018  
Road Centerline - e911, May, 2016  
Surface Water - VHD, 2008 (VCGI)  
Map created by M. Needle using ArcGIS. All data is in  
State Plane Coordinate System, NAD 1983.

Disclaimer:  
The accuracy of information presented is determined by  
its sources. Errors and omissions may exist. The  
Chittenden County Regional Planning Commission is  
not responsible for these. Questions of on-the-ground  
location can be resolved by site inspections and/or  
surveys by registered surveyor. This map is not  
sufficient for delineation of features on-the-ground.  
This map identifies the presence of features, and may  
indicate relationships between features, but is not a  
replacement for surveyed information or engineering  
studies.



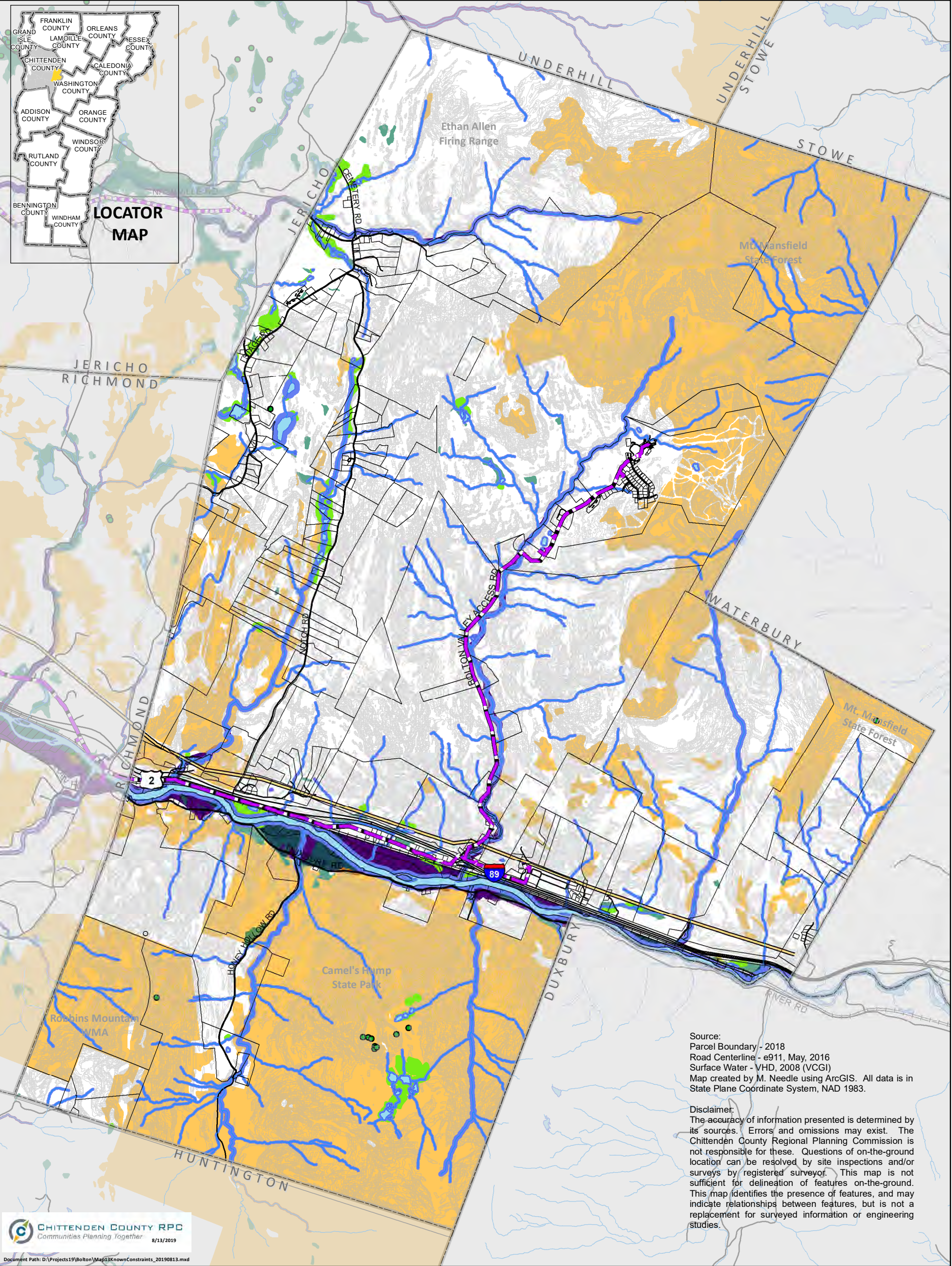
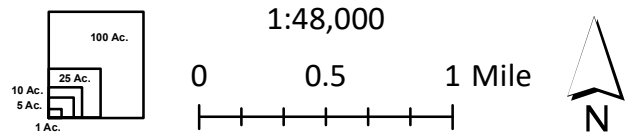
Map 16  
State and Local  
Known Constraints  
BOLTON, VERMONT

State Known Constraints

Local Known Constraints

- Vernal Pool (Confirmed or Unconfirmed)
- ◌ FEMA Floodway
- Class 2 Wetlands
- State-significant Natural Communities & RTE Species
- Vermont Department of Environmental Conservation River Corridor (2019)

- Surface Water Buffer
- Wetland Buffer
- Slopes 25% or more
- 2018 Tax Parcel Boundary



Source:  
Parcel Boundary - 2018  
Road Centerline - e911, May, 2016  
Surface Water - VHD, 2008 (VCGI)  
Map created by M. Needle using ArcGIS. All data is in  
State Plane Coordinate System, NAD 1983.

Disclaimer:  
The accuracy of information presented is determined by  
its sources. Errors and omissions may exist. The  
Chittenden County Regional Planning Commission is  
not responsible for these. Questions of on-the-ground  
location can be resolved by site inspections and/or  
surveys by registered surveyor. This map is not  
sufficient for delineation of features on-the-ground.  
This map identifies the presence of features, and may  
indicate relationships between features, but is not a  
replacement for surveyed information or engineering  
studies.