

VPA Recommendation – *Reinstitute the Capability & Development Plan in statue, and update the plan as guidance in coordinating state, municipal, and regional planning affecting land use and development, and in Act 250 review, for use by:*

- Municipal, regional, state agency planners – coordinated planning, development review
- Developers, Act 250 applicants, other parties – site planning, project development
- District Commissions, NRB – as guidance supporting consistent development review

To Include:

- ***A process in statute for periodic plan update and readoption***, that includes opportunities for public, state agency, regional, and municipal planning input
- ***Updated information and data*** regarding state development trends, objectives
- ***Updated state land use and development policies***, that
 - Are consistent with more recently enacted state plans and policies affecting land use (e.g., Act 200, smart growth, energy, climate, hazard mitigation, transportation, housing); and to
 - Address emerging issues such as climate change.
- ***Updated maps*** (data layers) that clearly define and delineate, as referenced under Act 250 criteria:
 - Physical development limitations (e.g., wetlands, floodplains, river corridors)
 - Areas of critical state interest (e.g., primary ag soils, existing settlement patterns, designated areas, *interchange areas, forest blocks, connecting habitat*)
- ***Recommendations for:***
 - **Updating Act 250 jurisdiction** (new areas, proposed exemptions)
 - **Updating Act 250 criteria** (new areas of critical state interest)
 - **Protocols, strategies to identify and mitigate the impacts of development** (e.g., environmental, fiscal, health, equity impacts; accepted mitigation practices)
 - **Priorities, strategies to address competing or conflicting areas of interest under the criteria** (e.g., high elevation ski area development, river corridors in downtowns)

Related Recommendation: *Require municipal and regional plan review and approval for consideration under Criterion 10* to ensure that municipal and regional plans referred to in this context:

- ***Contain required plan elements and maps*** – including proposed land use, transportation, and infrastructure maps.
- ***Are consistent with state planning and development policies.***

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VPA Recommendations Specific to H.120 (as introduced):

Sections 1, 2 - Revisions to the Capability and Development Plan (1973 policies)

- VPA supports proposed policy updates in association with a more comprehensive update of C&D Plan policies.
- 1973 (Act 85) policies should be reviewed for consistency with more recently adopted state policies and plans affecting land use and development – e.g., Act 200 (24 VSA 4302), smart growth (24 VSA 76A), and state energy, climate, hazard mitigation, food system, housing, and transportation plans; and as proposed,
- to address new state concerns, including GHG and climate change

Section 3 – Revisions to State Land Use Law (T.10, Ch.151)

- VPA supports clarifying in statute (§ 6000) that the purposes Chapter 151 are to protect the environment, and to achieve state land use and development goals under the C&D plan and 24 VSA 4302 – again subject to review and update.
- As noted, VPA also more generally supports reinstating the C&D Plan for use as originally intended – to include updating associated planning and adoption processes currently defined in statute under sections:
 - 6044 – public hearings
 - 6046 – plan adoption, approval
 - 6047 – plan amendments, to also specify periodic updates; and
 - Potentially to also include required plan elements (supporting data, policies, maps, guidance) relevant to Act 250 review
- VPA also recommends repealing the language under Criterion 9 (Conformance with the Capability and Development Plan), as added in 1973, that states: "*However, the legislative findings of subdivisions 7(a)(1) through (19) of Act 85 of 1973 shall not be used as criteria in the consideration of applications by a District Commission.*" This could be replaced by language that clarifies the meaning of "conformance" with the plan.

Section 4 – Resource Mapping (pp.37-38)

Ref: Interim 1971 C&D Maps (VCGI)

- VPA strongly supports the resource mapping called for under Section 4, separate from – or in association with – an update of the C&D Plan, to include the mapping of all existing and proposed areas of critical state interest referenced under each of the Act 250 criteria – e.g., to also include primary agricultural soils, infrastructure, service areas, existing settlements, conserved land, etc. as referenced under criterion 9. Data layers specific to Act 250 review should be incorporated and identified in the ANR Resource Atlas.

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- This mapping process should also provide opportunity for input from municipal and regional planning commissions, state agencies, and the public, for use in regulatory proceedings (e.g., similar to the mapping process developed for enhanced energy planning under Section 248).

Section 5 – Regional and Municipal Planning (Related)

- VPA supports consideration of only “approved” municipal and regional plans in Act 250, particularly under Criterion 10 (conformance with municipal and regional plans). This ensures that plans have been reviewed for required plan elements and maps, and for consistency with state land use and development policies.
- Currently, municipal plans approved by a regional planning commission must include required plan elements and maps, must be consistent with state land use and development policies, and must be compatible with the regional and other approved municipal plans.
- In addition to consistency with state land use and development goals, regional plans should also be reviewed to ensure they include required plan elements, including proposed land use, transportation, and infrastructure (utility and facility) policies and maps.
- Note: The process and criteria for the review of regional plans already exist in statute under 24 VSA § 4476 (Formal Review of RPC Decisions). VPA recommends updating and referring to this section of statute, rather than creating a new, but similar section under Title 24, Ch. 117 specific to regional plan review for consideration in Act 250.

Section 8 – Planning Review (Capability & Development Plan)

- VPA strongly supports the proposed study outlined under Section 8 to determine how to best re-institute, update, and incorporate the Capability and Development Plan under Act 250, in recognition that the planning process and the plan, first established in the 1970s, will need to be updated to reflect and address 21st century concerns and practices.

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