

Side-by-Side of Secs. Amended by Sen. Proposal of Amendment

Aaron Adler, Legislative Counsel, May 1, 2014

§	AS PASSED HOUSE	SENATE PROPOSAL OF AMENDMENT
<p>1: 10 V.S.A. § 6001 (16)</p>	<p>(16) “Rural growth areas” means lands which are not natural resources referred to in subdivisions 6086(a)(1)(A) through (F), subdivision 6086(a)(8)(A) and subdivisions 6086(a)(9)(B), (C), (D), (E) and (K) of this title.</p> <p><u>(A) “Existing settlement” means an area that constitutes one of the following:</u></p> <p><u>(i) a designated center; or</u></p> <p><u>(ii) an existing community center that is compact in form and size; that contains a mixture of uses that include a substantial residential component and that are within walking distance of each other; that has significantly higher densities than densities that occur outside the center; and that is typically served by municipal infrastructure such as water, wastewater, sidewalks, paths, transit, parking areas, and public parks or greens.</u></p> <p><u>(B) Strip development outside an area described in subdivision (A)(i) or (ii) of this subdivision (16) shall not constitute an existing settlement.</u></p>	<p>(16) “Rural growth areas” means lands which are not natural resources referred to in subdivisions 6086(a)(1)(A) through (F), subdivision 6086(a)(8)(A) and subdivisions 6086(a)(9)(B), (C), (D), (E) and (K) of this title.</p> <p><u>(A) “Existing settlement” means an area that constitutes one of the following:</u></p> <p><u>(i) a designated center; or</u></p> <p><u>(ii) an existing center that is compact in form and size; that contains a mixture of uses that include a substantial residential component and that are within walking distance of each other; that has significantly higher densities than densities that occur outside the center; and that is typically served by municipal infrastructure such as water, wastewater, sidewalks, paths, transit, parking areas, and public parks or greens.</u></p> <p><u>(B) Strip development outside an area described in subdivision (A)(i) or (ii) of this subdivision (16) shall not constitute an existing settlement.</u></p>
<p>1: 10 V.S.A. § 6001 (36)</p>	<p><u>(36) “Strip development” means linear commercial development along a public highway that includes three or more of the following characteristics: broad road frontage, predominance of single-story buildings, limited reliance on shared highway access, lack of connection to any existing settlement except by highway, limited accessibility for pedestrians, and lack of coordination with surrounding land uses in terms of design, signs, lighting, and parking. In determining whether a proposed development or subdivision constitutes strip development, the District Commission shall consider the topographic constraints in the area in which the development or subdivision is to be located.</u></p>	<p><u>(36) “Strip development” means linear commercial development along a public highway that includes three or more of the following characteristics: broad road frontage, predominance of single-story buildings, limited reliance on shared highway access, lack of connection to any existing settlement except by highway, lack of connection to surrounding land uses except by highway, lack of coordination with surrounding land uses, and limited accessibility for pedestrians. In determining whether a proposed development or subdivision constitutes strip development, the District Commission shall consider the topographic constraints in the area in which the development or</u></p>

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		<p><u>subdivision is to be located.</u></p>
<p>2: 10 V.S.A. § 6086 (a)(5), (9)(B)</p>	<p>§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA</p> <p>(a) Before granting a permit, the district commission <u>District Commission</u> shall find that the subdivision or development:</p> <p style="text-align: center;">* * *</p> <p>(5)(A) Will not cause unreasonable congestion or unsafe conditions with respect to use of the highways, waterways, railways, airports and airways, and other means of transportation existing or proposed.</p> <p>(B) <u>As appropriate, will incorporate transportation demand management strategies and provide safe access and connections to adjacent lands and facilities and to existing and planned pedestrian, bicycle, and transit networks and services.</u></p> <p><u>This subdivision (B) shall not require an applicant to construct an improvement on a tract that the applicant does not own or control. However, the District Commission may require an applicant to contribute to the cost of constructing such an improvement.</u></p> <p style="text-align: center;">* * *</p> <p>(9) Is in conformance with a duly adopted capability and development plan, and land use plan when adopted. However, the legislative findings of subdivisions 7(a)(1) through (19) of Act 85 of 1973 shall not be used as criteria in the consideration of applications by a district commission <u>District Commission</u>.</p> <p style="text-align: center;">* * *</p> <p>(L) Rural growth areas. A permit will be granted for the development or subdivision of rural growth areas when it is demonstrated by the applicant that in addition to all other</p>	<p>§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA</p> <p>(a) Before granting a permit, the district commission <u>District Commission</u> shall find that the subdivision or development:</p> <p style="text-align: center;">* * *</p> <p>(5)(A) Will not cause unreasonable congestion or unsafe conditions with respect to use of the highways, waterways, railways, airports and airways, and other means of transportation existing or proposed.</p> <p>(B) <u>As appropriate, will incorporate transportation demand management strategies and provide safe access and connections to adjacent lands and facilities and to existing and planned pedestrian, bicycle, and transit networks and services.</u></p> <p><u>In determining appropriateness under this subdivision (B), the District Commission shall consider whether such a strategy, access, or connection constitutes a measure that a reasonable person would take given the type, scale, and transportation impacts of the proposed development or subdivision.</u></p> <p style="text-align: center;">* * *</p> <p>(9) Is in conformance with a duly adopted capability and development plan, and land use plan when adopted. However, the legislative findings of subdivisions 7(a)(1) through (19) of Act 85 of 1973 shall not be used as criteria in the consideration of applications by a district commission <u>District Commission</u>.</p> <p style="text-align: center;">* * *</p> <p>(L) Rural growth areas. A permit will be granted for the development or subdivision of rural growth areas when it is</p>

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	<p>applicable criteria provision will be made in accordance with subdivisions (9)(A) “impact of growth,” (G) “private utility service,” (H) “costs of scattered development” and (J) “public utility services” of subsection (a) of this section for reasonable population densities, reasonable rates of growth, and the use of cluster planning and new community planning designed to economize on the cost of roads, utilities and land usage.</p> <p><u>Settlement patterns. To promote Vermont’s historic settlement pattern of compact village and urban centers separated by rural countryside, a permit will be granted for a development or subdivision outside an existing settlement when it is demonstrated by the applicant that in addition to all other applicable criteria, the development or subdivision:</u></p> <p style="padding-left: 40px;"><u>(i) will make efficient use of land, energy, roads, utilities, and other supporting infrastructure;</u></p> <p style="padding-left: 40px;"><u>(ii) is designed in a manner consistent with the planning goals set forth in 24 V.S.A. § 4302(c)(1);</u></p> <p style="padding-left: 40px;"><u>(iii) will conform to the land use element, map, and resource protection policies included in the municipal and regional plans applicable to the proposed location of the development or subdivision;</u></p> <p style="padding-left: 40px;"><u>(iv) will not establish, extend, or contribute to a pattern of strip development along public highways;</u></p> <p style="padding-left: 40px;"><u>(v) if the development or subdivision will be located in an area that already constitutes strip development, incorporates infill as defined in 24 V.S.A. § 2791 and is designed to avoid or minimize the characteristics listed in the definition of strip development under subdivision 6001(36) of this title; and</u></p> <p style="padding-left: 40px;"><u>(vi) if the development or subdivision will be adjacent to an area that already constitutes strip</u></p>	<p>demonstrated by the applicant that in addition to all other applicable criteria provision will be made in accordance with subdivisions (9)(A) “impact of growth,” (G) “private utility service,” (H) “costs of scattered development” and (J) “public utility services” of subsection (a) of this section for reasonable population densities, reasonable rates of growth, and the use of cluster planning and new community planning designed to economize on the cost of roads, utilities and land usage.</p> <p><u>Settlement patterns. To promote Vermont’s historic settlement pattern of compact village and urban centers separated by rural countryside, a permit will be granted for a development or subdivision outside an existing settlement when it is demonstrated by the applicant that, in addition to all other applicable criteria, the development or subdivision:</u></p> <p style="padding-left: 40px;"><u>(i) will make efficient use of land, energy, roads, utilities, and other supporting infrastructure; and</u></p> <p style="padding-left: 40px;"><u>(ii) (I) will not contribute to a pattern of strip development along public highways; or</u></p> <p style="padding-left: 40px;"><u>(II) if the development or subdivision will be confined to an area that already constitutes strip development, will incorporate infill as defined in 24 V.S.A. § 2791 and is designed to reasonably minimize the characteristics listed in the definition of strip development under subdivision 6001(36) of this title.</u></p> <p style="text-align: center;">* * *</p>

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	<p><u>development, is designed to avoid or minimize the characteristics listed in the definition of strip development under subdivision 6001(36) of this title.</u></p> <p style="text-align: center;">* * *</p>	
<p>3: 10 V.S.A. § 6086b</p>	<p><u>§ 6086b. DOWNTOWN DEVELOPMENT; FINDINGS</u> <u>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:</u></p> <p><u>(1) In lieu of obtaining a permit or permit amendment, a person may request findings and conclusions from the Board, 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) (historic sites and rare and irreplaceable natural areas only) (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.</u></p> <p><u>(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 (a) of this section.</u></p> <p><u>(A) The requestor shall file the request in accordance with the requirements of subsection 6084(a) of this title, except that the filing shall be with the Board, and the requestor shall provide a copy of the request to each agency and department</u></p>	<p><u>§ 6086b. DOWNTOWN DEVELOPMENT; FINDINGS</u> <u>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:</u></p> <p><u>(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.</u></p> <p><u>(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 (a) of this section.</u></p> <p><u>(A) The requestor shall file the request in accordance with the requirements of subsection 6084(a) of this title and the requestor shall provide a copy of the request to each agency and department listed in subdivision (3) of this section.</u></p>

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	<p><u>listed in subdivision (3) of this section.</u></p> <p><u>(B) Within five days of the request’s filing, the Chair of the Board shall determine whether the request is complete. Within five days of the date the Chair determines the request to be complete, the Board shall provide notice of the complete request to each person required to receive a copy of the filing under subdivision (2)(A) of this section and to each adjoining property owner and shall post the notice and a copy of the request on its web page. The computation of time under this subdivision (2)(B) shall exclude Saturdays, Sundays, and State legal holidays.</u></p> <p><u>(3) Within 30 days of receiving notice of a complete request:</u></p> <p><u>(A) The State Historic Preservation Officer or designee shall submit a written determination on whether the improvements will have an undue adverse effect on any historic site.</u></p> <p><u>(B) The Commissioner of Public Service or designee shall submit a written determination on whether the improvements will meet or exceed the applicable energy conservation and building energy standards under subdivision 6086(a)(9)(F) of this title.</u></p> <p><u>(C) The Secretary of Transportation or designee shall submit a written determination on whether the improvements will have a significant impact on any highway, transportation facility, or other land or structure under the Secretary’s jurisdiction.</u></p> <p><u>(D) The Commissioner of Buildings and General Services or designee shall submit a written determination on whether the improvements will have a significant impact on any adjacent land or facilities under the Commissioner’s jurisdiction.</u></p>	<p><u>(B) Within five days of the request’s filing, the District Coordinator shall determine whether the request is complete. Within five days of the date the District Coordinator determines the request to be complete, the District Commission shall provide notice of the complete request to each person required to receive a copy of the filing under subdivision (2)(A) of this section and to each adjoining property owner and shall post the notice and a copy of the request on the Board’s web page. The computation of time under this subdivision (2)(B) shall exclude Saturdays, Sundays, and State legal holidays.</u></p> <p><u>(3) Within 30 days of receiving notice of a complete request:</u></p> <p><u>(A) The State Historic Preservation Officer or designee shall submit a written recommendation on whether the improvements will have an undue adverse effect on any historic site.</u></p> <p><u>(B) The Commissioner of Public Service or designee shall submit a written recommendation on whether the improvements will meet or exceed the applicable energy conservation and building energy standards under subdivision 6086(a)(9)(F) of this title.</u></p> <p><u>(C) The Secretary of Transportation or designee shall submit a written recommendation on whether the improvements will have a significant impact on any highway, transportation facility, or other land or structure under the Secretary’s jurisdiction.</u></p> <p><u>(D) The Commissioner of Buildings and General Services or designee shall submit a written recommendation on whether the improvements will have a significant impact on any adjacent land or facilities under the Commissioner’s jurisdiction.</u></p>

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	<p><u>(E) The Secretary of Natural Resources or designee shall submit a written determination 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.</u></p> <p><u>(F) The Secretary of Agriculture, Food and Markets or designee shall submit a written determination 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.</u></p> <p><u>(4) Any person may submit written comments or ask for a hearing within 30 days of the date on which the Board 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, except that it shall be filed with the Board.</u></p> <p><u>(5) The Board 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 Board shall hold any hearing within 20 days of the end of the comment period specified in subdivisions (3) and (4) of this section.</u></p> <p><u>(A) The Board shall conduct the hearing as a contested case under the Vermont Administrative Procedure Act.</u></p> <p><u>(B) Subdivisions 6085(c)(1)–(5) of this title shall govern participation in a hearing under this section.</u></p> <p><u>(6) The Board shall issue a decision within 60 days of</u></p>	<p><u>(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.</u></p> <p><u>(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.</u></p> <p><u>(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.</u></p> <p><u>(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.</u></p> <p><u>(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</u></p>

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	<p>issuing notice of a complete request under this section or, if it holds a hearing, within 15 days of adjourning the hearing. The Board shall send a copy of the decision to the District Commission in whose district the development or subdivision is located, to each State agency listed in subdivision (3) of this section, to the municipality, to the municipal and regional planning commissions for the municipality, and to each person that submitted a comment, requested a hearing, or participated in the hearing, if any. The decision may include conditions that meet the standards of subsection 6086(c) of this title.</p> <p>(7) The requestor may waive the time periods required under subdivisions (3), (4), and (6) of this section as to one or more agencies, departments, the Board, or other persons. Such a waiver shall extend the applicable and subsequent time periods by the amount of time waived. In the absence of a waiver under this subdivision, the failure of a State agency to file a written determination or a person to submit a comment or ask for a hearing within the time periods specified in subdivisions (3) and (4) of this section shall not delay the Board's issuance of a decision on a complete request.</p> <p>(8) The record of a proceeding under this section shall consist of the request, each written determination issued under subdivision (3) of this section, each comment and request for hearing submitted under subdivision (4) of this section, each document submitted for introduction into evidence at the hearing, an audio or audiovisual recording of the hearing, and the decision of the Board.</p>	<p>decision to each State agency listed in subdivision (3) of this section, to the municipality, to the municipal and regional planning commissions for the municipality, and to each person that submitted a comment, requested a hearing, or participated in the hearing, if any. The decision may include conditions that meet the standards of subsection 6086(c) of this title.</p> <p>(7) The requestor may waive the time periods required under subdivisions (3), (4), and (6) of this section as to one or more agencies, departments, the District Commission, the District Coordinator, or other persons. Such a waiver shall extend the applicable and subsequent time periods by the amount of time waived. In the absence of a waiver under this subdivision, the failure of a State agency to file a written determination or a person to submit a comment or ask for a hearing within the time periods specified in subdivisions (3) and (4) of this section shall not delay the District Commission's issuance of a decision on a complete request.</p>
4: 10 V.S.A. §	(v) A permit or permit amendment shall not be required for a development or subdivision in a designated downtown	(v) A permit or permit amendment shall not be required for a development or subdivision in a designated downtown

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6081(v)	<p>development district for which the Board has issued positive findings and conclusions under section 6086b of this title on all the criteria listed in that section. A person shall obtain new or amended findings and conclusions from the Board under section 6086b of this title prior to commencement of a material change, as defined in the rules of the Board, to a development or subdivision for which the Board has issued such findings and conclusions. A person may seek a jurisdictional opinion under section 6007 of this title concerning whether such a change is a material change.</p>	<p>development district for which the District Commission has issued positive findings and conclusions under section 6086b of this title on all the criteria listed in that section. A person shall obtain new or amended findings and conclusions from the District Commission under section 6086b of this title prior to commencement of a material change, as defined in the rules of the Board, to a development or subdivision for which the District Commission has issued such findings and conclusions. A person may seek a jurisdictional opinion under section 6007 of this title concerning whether such a change is a material change.</p>
5: 10 V.S.A. § 6089	<p>§ 6089. APPEALS Appeals of any act or decision of a district commission <u>District Commission</u> under this chapter or the Natural Resources Board under section <u>subsection</u> 6007(d) of this title or under section 6086b of this title shall be made to the Environmental Division in accordance with chapter 220 of this title. For the purpose of this section, a decision of the chair of a district commission <u>District Commission</u> under section 6001e of this title on whether action has been taken to circumvent the requirements of this chapter shall be considered an act or decision of the district commission <u>District Commission</u>.</p>	[Deleted.]
6: 10 V.S.A. § 6093	<p>§ 6093. MITIGATION OF PRIMARY AGRICULTURAL SOILS (a) Mitigation for loss of primary agricultural soils. Suitable mitigation for the conversion of primary agricultural soils necessary to satisfy subdivision 6086(a)(9)(B)(iv) of this title shall depend on where the project tract is located.</p>	[Deleted.]

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	<p>(1) Project located in growth center <u>certain designated areas</u>. This subdivision (1) applies to projects located in the <u>following areas designated under 24 V.S.A. chapter 76A: a downtown development district, a growth center, a new town center designated on or before January 1, 2014, and a neighborhood development area associated with a designated downtown development district</u>. If the project tract is located in a designated growth center <u>one of these designated areas</u>, an applicant who complies with subdivision 6086(a)(9)(B)(iv) of this title shall deposit an offsite mitigation fee into the Vermont housing and conservation trust fund <u>Housing and Conservation Trust Fund</u> established under section 312 of this title for the purpose of preserving primary agricultural soils of equal or greater value with the highest priority given to preserving prime agricultural soils as defined by the U.S. Department of Agriculture. Any required offsite mitigation fee shall be derived by:</p> <p>(A) determining <u>Determining</u> the number of acres of primary agricultural soils affected by the proposed development or subdivision;</p> <p>(B) multiplying <u>Multiplied</u> the number of affected acres of primary agricultural soils by a factor resulting in a ratio established as follows:</p> <p>(i) for <u>For</u> development or subdivision within a designated growth center <u>area described in this subdivision (a)(1)</u>, the ratio shall be 1:1;</p> <p>(ii) for <u>For</u> residential construction that has a density of at least eight units of housing per acre, of which at least eight units per acre or at least 40 percent of the units, on average, in the entire development or subdivision, whichever is greater, meets</p>	

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	<p>the definition of affordable housing established in this chapter, no mitigation shall be required, <u>regardless of location in or outside a designated area described in this subdivision (a)(1).</u> However, all affordable housing units shall be subject to housing subsidy covenants, as defined in 27 V.S.A. § 610, that preserve their affordability for a period of 99 years or longer. For purposes of <u>As used in</u> this section, housing that is rented shall be considered affordable housing when its inhabitants have a gross annual household income that does not exceed 60 percent of the county median income or 60 percent of the standard metropolitan statistical area income if the municipality is located in such an area.</p> <p>(C) multiplying <u>Multiplying</u> the resulting product by a “price-per-acre” value, which shall be based on the amount that the secretary of agriculture, food and markets <u>Secretary of Agriculture, Food and Markets</u> has determined to be the recent, per-acre cost to acquire conservation easements for primary agricultural soils in the same geographic region as the proposed development or subdivision.</p> <p>(2) Project located outside <u>certain</u> designated growth center areas. If the project tract is not located in a designated growth center <u>center</u> area described in subdivision (a)(1) of this section, mitigation shall be provided on site in order to preserve primary agricultural soils for present and future agricultural use, with special emphasis on preserving prime agricultural soils. Preservation of primary agricultural soils shall be accomplished through innovative land use design resulting in compact development patterns which will maintain a sufficient acreage of primary agricultural soils on the project tract capable of supporting or contributing to an economic or commercial</p>	

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	<p>agricultural operation and shall be enforceable by permit conditions issued by the district commission <u>District Commission</u>. The number of acres of primary agricultural soils to be preserved shall be derived by:</p> <p>(A) determining <u>Determining</u> the number of acres of primary agricultural soils affected by the proposed development or subdivision; and.</p> <p>(B) multiplying <u>Multiplying</u> the number of affected acres of primary agricultural soils by a factor based on the quality of those primary agricultural soils, and other factors as the secretary of agriculture, food and markets <u>Secretary of Agriculture, Food and Markets</u> may deem relevant, including the soil's location; accessibility; tract size; existing agricultural operations; water sources; drainage; slope; the presence of ledge or protected wetlands; the infrastructure of the existing farm or municipality in which the soils are located; and the N.R.C.S. rating system for Vermont soils. This factor shall result in a ratio of no less than 2:1, but no more than 3:1, protected acres to acres of impacted primary agricultural soils.</p> <p>(3) Mitigation flexibility.</p> <p>(A) Notwithstanding the provisions of subdivision (a)(1) of this subsection <u>section</u> pertaining to a development or subdivision on primary agricultural soils within a <u>certain</u> designated growth center areas, the district commission <u>District Commission</u> may, in appropriate circumstances, require onsite mitigation with special emphasis on preserving prime agricultural soils if that action is deemed consistent with the agricultural elements of local and regional plans and the goals of 24 V.S.A. § 4302. In this situation, the approved plans must designate specific soils that shall be preserved inside growth centers <u>a</u></p>	

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	<p><u>designated area described in subdivision (a)(1) of this section.</u> For projects located within <u>such a designated growth center area</u>, all factors used to calculate suitable mitigation acreage or fees, or some combination of these measures, shall be as specified in this subsection, subject to a ratio of 1:1.</p> <p>(B) Notwithstanding the provisions of subdivision <u>(a)(2)</u> of this subsection <u>section</u> pertaining to a development or subdivision on primary agricultural soils outside a designated growth center <u>area described in subdivision (a)(1) of this section</u>, the district commission <u>District Commission</u> may, in appropriate circumstances, approve off-site mitigation or some combination of onsite and off-site mitigation if that action is deemed consistent with the agricultural elements of local and regional plans and the goals of 24 V.S.A. § 4302. For projects located outside <u>such a designated growth center area</u>, all factors used to calculate suitable mitigation acreage or fees, or some combination of these measures, shall be as specified in this subsection <u>(a)</u>, subject to a ratio of no less than 2:1, but no more than 3:1.</p> <p style="text-align: center;">* * *</p>	
<p>7: 10 V.S.A. § 8003</p>	<p>§ 8003. APPLICABILITY</p> <p>(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, <u>and the Board may take such action with respect to subdivision (10) of this subsection:</u></p> <p style="text-align: center;">* * *</p> <p>(10) 10 V.S.A. chapter 151, relating to land use, <u>and including findings and conclusions issued by the Board under section 6086b of this title;</u></p>	<p>§ 8003. APPLICABILITY</p> <p>(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, <u>and the Board may take such action with respect to subdivision (10) of this subsection:</u></p> <p style="text-align: center;">* * *</p> <p>(10) 10 V.S.A. chapter 151, relating to land use, <u>and including findings and conclusions issued under section 6086b of this title;</u></p>

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8: 10 V.S.A. § 8003	<p>§ 8504. APPEALS TO THE ENVIRONMENTAL DIVISION</p> <p>(a) Act 250 and agency appeals. Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the Secretary, the Natural Resources Board, or a district commission under the provisions of law listed in section 8503 of this title, or any party by right, may appeal to the Environmental Division, except for an act or decision of the Secretary <u>under subdivision 6086b(3)(E) of this title</u> or governed by section 8506 of this title.</p> <p style="text-align: center;">* * *</p> <p>(h) De novo hearing. The Environmental Division, applying the substantive standards that were applicable before the tribunal appealed from, shall hold a de novo hearing on those issues which have been appealed, except in the case of:</p> <p>(1) a <u>A</u> decision being appealed on the record pursuant to 24 V.S.A. chapter 117;</p> <p>(2) a <u>A</u> decision of the Commissioner of Forests, Parks and Recreation under section 2625 of this title being appealed on the record, in which case the court shall affirm the decision, unless it finds that the Commissioner did not have reasonable grounds on which to base the decision.</p> <p><u>(3) An act or decision of the Natural Resources Board under section 6086b of this title (downtown development; findings), which shall be reviewed on the record created by the Board. The Environmental Division shall uphold the Board unless the Division determines that the Board abused its discretion or made factual determinations not supported</u></p>	<p>§ 8504. APPEALS TO THE ENVIRONMENTAL DIVISION</p> <p>(a) Act 250 and agency appeals. Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the Secretary, the Natural Resources Board, or a district commission <u>District Commission</u> under the provisions of law listed in section 8503 of this title, or any party by right, may appeal to the Environmental Division, except for an act or decision of the Secretary <u>under subdivision 6086b(3)(E) of this title</u> or governed by section 8506 of this title.</p> <p style="text-align: center;">* * *</p>

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	<p><u>by substantial evidence when the record is viewed as a whole. The Division shall not consider an appellant’s objection that was not urged before the Board, unless the failure or neglect to urge the objection is excused by extraordinary circumstances.</u></p> <p style="text-align: center;">* * *</p>	
13	<p>Sec. 13. WASTEWATER RULES; AMENDMENT <u>On or before December 1, 2014, the Agency of Natural Resources shall amend its form under 10 V.S.A. § 1973 and its rules under 10 V.S.A. § 1978 to conform to the provisions of Sec. 12 of this act.</u></p>	<p>Sec. 13. WASTEWATER RULES; AMENDMENT <u>On or before December 1, 2014, the Agency of Natural Resources shall amend its application form under 10 V.S.A. § 1973 and its rules under 10 V.S.A. § 1978 to conform to the provisions of Sec. 12 of this act.</u></p>