

1 H.315

2 Introduced by Representative Ellis of Waterbury

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; land use; Act 250; technical  
6 corrections

7 Statement of purpose of bill as introduced: This bill proposes to make  
8 miscellaneous amendments to 10 V.S.A. chapter 151 (Act 250).

9 An act relating to miscellaneous amendments to Act 250

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 10 V.S.A. § 6021(d) is amended to read:

12 (d) The Chair of the Board, upon request of the Chair of a District  
13 Commission, may appoint and assign former Commission members, or  
14 Commission members or alternates from a different district, to sit on specific  
15 Commission cases when some or all of the regular members and alternates of  
16 the District Commission are disqualified or otherwise unable to serve.

17 Sec. 2. 10 V.S.A. § 6027(d) is amended to read:

18 (d) At the request of the Chair of a District Commission, if the Board Chair  
19 determines that the workload in the requesting district is likely to result in  
20 unreasonable delays or that one or more members or alternates of the

1 requesting District Commission ~~is~~ are disqualified to hear a case, the Chair  
2 may authorize one or more members or alternates of the District Commission  
3 of another district to sit in the requesting district to consider one or more  
4 applications.

5 Sec. 3. 10 V.S.A. § 6030 is repealed:

6 § 6030. ~~MAP OF WIRELESS TELECOMMUNICATIONS FACILITIES~~

7 ~~The board shall maintain a map that shows the location of all wireless~~  
8 ~~telecommunications facilities in the state. [Repealed.]~~

9 Sec. 4. 10 V.S.A. § 6081(o) is amended to read:

10 (o) If a downtown development district designation pursuant to 24 V.S.A.  
11 § 2793 is removed, subsection (a) of this section shall apply to any subsequent  
12 substantial change to a project that was originally exempt as a priority housing  
13 project pursuant to subdivision ~~6001(3)(B)~~ 6001(3)(A) of this title.

14 Sec. 5. 10 V.S.A. § 6081(p) is amended to read:

15 (p) No permit or permit amendment is required for any change to a project  
16 that is located entirely within a downtown development district designated  
17 pursuant to 24 V.S.A. § 2793, if the change consists exclusively of any  
18 combination of mixed use and mixed income housing, and the cumulative  
19 changes within any continuous period of five years, commencing on or after  
20 the effective date of this subsection, remain below the jurisdictional threshold  
21 for a priority housing project specified in subdivision ~~6001(3)(B)~~ 6001(3)(A)

1 of this title. To receive the benefit of this exemption, the project must obtain a  
2 jurisdictional opinion issued pursuant to section 6007 of this title determining  
3 the change meets the requirements of this subsection, and a copy of the  
4 municipal land use permit must be filed with the District Commission for  
5 recordkeeping purposes.

6 Sec. 6. 10 V.S.A. § 6083 is amended to read:

7 § 6083. APPLICATIONS

8 (a) An application for a permit shall be filed with the District Commission  
9 as prescribed by the rules of the Board and shall contain at least the following  
10 documents and information:

11 \* \* \*

12 (2) ~~Four copies of a~~ A plan of the proposed development or subdivision  
13 showing the intended use of the land, the proposed improvements, the details  
14 of the project, and any other information required by this chapter, or the rules  
15 adopted under this chapter.

16 \* \* \*

17 Sec. 7. 10 V.S.A. § 6086(a)(9)(B) is amended to read:

18 (B) Primary agricultural soils. A permit will be granted for the  
19 development or subdivision of primary agricultural soils only when it is  
20 demonstrated by the applicant that, in addition to all other applicable criteria,

1 either, the subdivision or development will not result in any reduction in the  
2 agricultural potential of the primary agricultural soils; or:

3 (i) the development or subdivision will not significantly interfere  
4 with or jeopardize the continuation of agriculture or forestry on adjoining lands  
5 or reduce their agricultural or forestry potential; ~~and~~

6 (ii) except in the case of an application for a project located in a  
7 designated ~~growth~~ center listed in subdivision 6093(a)(1) of this title, there are  
8 no lands other than primary agricultural soils owned or controlled by the  
9 applicant which are reasonably suited to the purpose of the development or  
10 subdivision; ~~and~~

11 (iii) except in the case of an application for a project located in a  
12 designated ~~growth~~ center listed in subdivision 6093(a)(1) of this title, the  
13 subdivision or development has been planned to minimize the reduction of  
14 agricultural potential of the primary agricultural soils through innovative land  
15 use design resulting in compact development patterns, so that the remaining  
16 primary agricultural soils on the project tract are capable of supporting or  
17 contributing to an economic or commercial agricultural operation; and

18 (iv) suitable mitigation will be provided for any reduction in the  
19 agricultural potential of the primary agricultural soils caused by the  
20 development or subdivision, in accordance with section 6093 of this title and  
21 rules adopted by the Natural Resources Board.

1 Sec. 8. 10 V.S.A. § 6090 is amended to read:

2 § 6090. RECORDING; DURATION AND REVOCATION OF PERMITS

3 (a) In order to afford adequate notice of the terms and conditions of land  
4 use permits, permit amendments, abandonment determinations, and  
5 revocations ~~of permits~~, they shall be recorded in local land records.

6 Recordings under this chapter shall be indexed as though the permittee were  
7 the grantor of a deed.

8 (b)(1) Any permit granted under this chapter for extraction of mineral  
9 resources, operation of solid waste disposal facilities, or logging above  
10 2,500 feet, shall be for a specified period determined by the ~~board~~ District  
11 Commission in accordance with the rules adopted under this chapter as a  
12 reasonable projection of the time during which the land will remain suitable for  
13 use if developed or subdivided as contemplated in the application, and with  
14 due regard for the economic considerations attending the proposed  
15 development or subdivision. Other permits issued under this chapter shall be  
16 for an indefinite term, ~~as long as there is compliance with the conditions of the~~  
17 ~~permit~~ unless determined to be abandoned by the District Commission under  
18 subsection 6091(b) of this title, or revoked in accordance with subsection  
19 6027(g) of this title.

20 (2) Expiration dates contained in permits issued before July 1, 1994  
21 (involving developments that are not for extraction of mineral resources,

1 operation of solid waste disposal facilities, or logging above 2,500 feet) are  
2 extended for an indefinite term, ~~as long as there is compliance with the~~  
3 ~~conditions of the permits~~ unless determined to be abandoned by the District  
4 Commission under subsection 6091(b) of this title, or revoked in accordance  
5 with subsection 6027(g) of this title.

6 Sec. 9. 10 V.S.A. § 6091 is amended to read:

7 § 6091. ~~RENEWALS AND NONUSE, EXTENSIONS, AND~~  
8 ABANDONMENT

9 (a) Renewal. ~~At~~ After the expiration of ~~each~~ any permit, ~~it~~ or the passage  
10 of the construction completion date, the permit may be renewed only under the  
11 same procedure herein specified for an original application.

12 (b) ~~Nonuse of permit~~ Abandonment. ~~Nonuse of The District Commission~~  
13 may determine a permit that is not used for a period of three years following  
14 the date of issuance ~~shall constitute an abandonment of the development or~~  
15 ~~subdivision and the permit shall be considered~~ to be abandoned and may  
16 consider it expired, in accordance with rules adopted by the Board. For  
17 purposes of this section, ~~for a permit to be considered “used,”~~ the District  
18 Commission shall consider a permit “not used” unless construction ~~must have~~  
19 has commenced and substantial progress toward completion ~~must have~~ has  
20 occurred ~~within the three-year period, unless, except when~~ construction is  
21 delayed by litigation or proceedings to secure other permits or to secure title

1 through foreclosure, or unless, ~~at the time the permit is issued or in a~~  
2 ~~subsequent proceeding, the District Commission~~ the permit provides that  
3 substantial ~~construction may be commenced~~ progress toward completion may  
4 occur more than three years from the date the permit is was issued. A  
5 permittee shall not file and a District Commission shall not grant a petition for  
6 abandonment if the permittee is in violation of the permit.

7 (c) Extensions. If the application is made for an extension of an expiration  
8 date or construction completion date prior to the expiration date or construction  
9 completion date, the District commission may grant an extension and may  
10 waive the necessity of a hearing.

11 (d) ~~Completion~~ Construction completion dates for developments and  
12 subdivisions. Permits shall include dates by which there shall be full or phased  
13 completion of construction. The Natural Resources Board, by rule, shall  
14 establish requirements for review of those portions of developments and  
15 subdivisions that fail to meet their completion dates, giving due consideration  
16 to fairness to the parties involved, competing land use demands, and  
17 cumulative impacts on the resources involved. If completion has been delayed  
18 by litigation, proceedings to secure other permits, proceedings to secure title  
19 through foreclosure, or because of market conditions, the District Commission  
20 shall provide that the completion dates be extended for a reasonable period  
21 of time.

1 Sec. 10. 24 V.S.A. § 4471(e) is amended to read:

2 (e) ~~Vermont neighborhood~~ Neighborhood Development Area.

3 Notwithstanding subsection (a) of this section, a determination by an  
4 appropriate municipal panel shall not be subject to appeal if the determination  
5 is that a proposed residential development within a designated downtown  
6 development district, designated growth center, or designated Vermont  
7 neighborhood, or designated neighborhood development area seeking  
8 conditional use approval will not result in an undue adverse effect on the  
9 character of the area affected, ~~as provided in~~ under subdivision 4414(3)(A)(ii)  
10 of this title.

11 Sec. 11. EFFECTIVE DATE

12 This act shall take effect on July 1, 2015.