

## House Bill 19-0040

### Proposed Updated Act 250 Jurisdictional Provisions

[ references below are to bill draft 9.2 and “p” =page and “l” = line(s) in that draft ]

10 VSA 6001(3)(A) – “Development” means each of the following:

#### Proposal # 1

( ii )( II ) [ The construction of improvements for commercial or industrial purposes on more than one acre of land within a municipality that ] has adopted permanent zoning and subdivision bylaws, if the municipality in which the proposed project is located has elected by ordinance, adopted under 24 VSA Chapter 59, to have this jurisdiction apply . ( p. 6 l. 10-12 )

#### Proposal # 2

( iii ) The construction of improvements for commercial or industrial purposes on a tract or tracts of land, owned or controlled by a person, involving more than one acre of land within a rural and working lands area. ( p. 6 l. 13-18 )

Notes: The phrase “rural and working lands area “ is defined in the bill as:

(48 ) an area that is not an existing settlement or a critical resource area. ( p. 13 l. 12-13 )

The phrase “existing settlement” is found in the current statutory provisions of Act 250 at 10 VSA 6001(16)(A) :

(16)(A) "Existing settlement" means an area that constitutes one of the following:

(i) a designated center; or  
(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.

(B) Strip development outside an area described in subdivision (A)(i) or (ii) of this subdivision (16) shall not constitute an existing settlement.

The phrase “critical resource area “ is defined in the bill as :

(45) a river corridor, a significant wetland as defined under section 902 of this title, land at or above 2,000 feet, a ridgeline, and land characterized by slopes greater than 15 percent and shallow depth to bedrock. ( p. 12 l. 19-20 and p. 13. L. 1-2 )

“River corridor” is clarified elsewhere in the bill as having “ the same meaning as under section 752 of this title.” ( p. 9 l. 1-2 )

The current provisions of 10 VSA 752 state:

"River corridor" means the land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition, as that term is defined in section 1422 of this title, and for minimization of fluvial erosion hazards, as delineated by the Agency of Natural Resources in accordance with river corridor protection procedures.

The term “ridgeline” is defined in the bill as :

(50) “Ridgeline” means a line marking or following a ridge, top of a hill, or ledged area, behind which is open space or horizon. ( p.12 l. 19-20 )

### **Proposal # 3**

( vi ) The construction of improvements for commercial, industrial or residential use at or above the elevation of 2,000 feet or in a critical resources area below that elevation . ( p. 7 l. 1-3 )

### **Proposal # 4**

( xi ) The construction of improvements for commercial or industrial purposes in an interchange area , unless it is within an existing settlement. ( p. 7 l. 5-7 )

Note : The term “interchange” is defined in the bill as :

(47) “Interchange area” means the land within a 3,000-foot radius of an interstate interchange, except for land within an existing settlement. The radius shall be measured from the midpoint of the interconnecting roadways within the interchange . ( p. 13 l. 8-11 )

### **Proposal # 5**

( xii ) The construction of improvements for a road or roads, incidental to the sale or lease of land, 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, any parcel of land which will be provided access

by the road is land involved in the construction of the road. This jurisdiction shall not apply unless the road is to provide access to more than five parcels or is to be more than 800 feet in length. For the purpose of determining the length of a road, the length of all other roads within the tract of land constructed within any continuous period of ten years commencing after July 1, 2020 shall be included. ( p. 7 l. 8-17 )

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10 VSA 6001 (3) (D) - The word “development” does not include:

**Proposal # 6**

( i ) The construction of improvements for farming, logging or forestry purposes below the elevation of 2,000 feet, except when located in a critical resource area. ( p. 8 l. 1-3 )

**Proposal # 7**

( iii ) The construction of improvements for commercial and industrial purposes in an area that has obtained an enhanced designation pursuant to 24 VSA Chapter 76A . ( p.8 l. 5-7 )

Note : The phrase “enhanced designation” is included in the bill through a proposed amendment to 24 VSA Chapter 76A by adding the following :

§ 2793f. ENHANCED DESIGNATION

(a) A municipality that has received or applies for designation of a downtown development district, village center, new town center, or growth center under this chapter may also apply for an enhanced designation pursuant to this section in order to allow the municipality, in lieu of the District Commissions under 10 V.S.A. chapter 151, to ensure that land development within the designated area complies with the criteria set forth in 10 V.S.A. § 6086(a). As used in this section, “land development” has the same meaning as in section 4303 of this title.

(b) A municipality seeking an enhanced designation shall:

- (1) demonstrate that its bylaws ensure that land development in the designated area complies with the criteria set forth in 10 V.S.A. § 6086(a);
- (2) demonstrate that it has the capability to review land development for compliance with those criteria and to enforce its decisions;
- (3) identify those areas within the municipality that constitute critical

resource areas within the meaning of 10 V.S.A. § 6001; and  
(4) satisfy such other requirements as the State Board shall adopt by rule .

(c) The State Board shall adopt rules to implement 1 this section and may grant or conditionally grant an application for enhanced designation if it meets the requirements of this section and the adopted rules. ( p.55 l. 3-20 and p. 56 l. 1-3 )

### **Proposal # 8**

( vii ) The construction of improvements below the elevation of 2,000 feet for the on-site storage, preparation, and sale of compost, provided that one of the following applies :  
[ See subsections I though VI in the existing provisions of 10 VSA 6001 (3)(A)(vii)]  
( p. 8 l. 9-11 )

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10 VSA 6001 ( 19 ) – “Subdivision” means each of the following :

### **Proposal # 9**

(i) A tract or tracts of land, owned or controlled by a person, which located outside an area that has received an enhanced designation under 24 V.S.A. chapter 76A, that the person has partitioned or divided for the purpose of resale into 10 or more lots within a radius of five miles of any point on any lot, or within the jurisdictional area of the same District Commission, within any continuous period of five years. In determining the number of lots, a lot shall be counted if any portion is outside such an area and within five miles or within the jurisdictional area of the same District Commission. ( p. 9 l. 9-16 )

### **Proposal # 10**

(iii) A tract or tracts of land, owned or 1 controlled by a person, that the person has partitioned or divided for the purpose of resale into [number of lots to be determined] or more lots, within a continuous period of five years, in a rural and working lands area. ( p. 10 l. 1-4 )

### **Proposal # 11**

(v) A tract or tracts of land, owned or controlled by a person, located in a critical resource area, that have been partitioned or divided for the purpose of resale . ( p.10 l. 17-19 )

[ Prepared by Ed Stanak April 22, 2019 ]

