

2020 ACT 250 LEGISLATION COMPARISON

Prepared for Senate Natural Resources & Energy by Ellen Czajkowski, Legislative Counsel, June 2, 2020

Current Law

- Act 250 jurisdictional triggers for development and subdivision
- §6086b- Findings and Conclusions for Downtowns- expedited process and no permit fees
- §6083a(d)- applications in NDAs gets a 50% reductions in permit fees
- Priority housing projects of a certain size are exempt- PHP is defined as mixed use/income housing in a designated area (including DD and NDA)
- Act 250 permits exist in perpetuity
- Projects may also need to get a municipal zoning permit based on the requirements of their location

S.237

- Exempts Designated Downtowns (DDs) and Neighborhood Development Areas (NDAs) from Act 250 (from both definitions of development and subdivision)
- Repeals §6086b and §6083a(d)
- Amends definition of PHP and adds affordable housing requirements to DD and NDA to address lost incentive
- Existing Act 250 permits in DD and NDAs can be extinguished. Existing permit conditions added to municipal permits
- Amends definition of “mixed income housing” (technical correction)
- Projects may still need municipal zoning permits.

H.926

- Same exemption language as S.237, but adds Designated Village Centers
- Does not amend definition of “mixed income housing”

DESIGNATED AREAS

Current Law

- DDs, NDAs, Village Centers are not required to have permanent zoning & subdivision bylaws
- As of 2018, the NRB listed
 - 132 10-acre towns (permanent zoning & subdivision bylaws)
 - 130 towns as 1-acre towns: 127 w/out permanent zoning & subdivision bylaws; 3 opted in

S.237

- 23 towns have DDs; 6 have NDAs
 - Wilmington is the only DD w/out permanent zoning & subdivision bylaws
- Towns w/NDAs: Burlington, Essex Junction, Manchester, South Burlington, Westford, and Winooski

H.926

- There are 186 Village Centers

CURRENT LAW: MUNICIPAL ZONING REGULATION

- In towns with zoning and subdivision bylaws, development may be permitted use or conditional use. It may also require site plan review.
- Zoning districts establish which types of development are permitted or conditional.
- Applications for permitted use development are reviewed by the Zoning Administrator.
- Applications for conditional use development are reviewed by the Appropriate Municipal Panel (Development Review Board or Zoning Board of Adjustment).

CONDITIONAL USE 24 V.S.A. § 4416(3)

Requires that the proposed development shall not result in an undue adverse effect on any of the following:

- (i) The capacity of existing or planned community facilities.
- (ii) The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.
- (iii) Traffic on roads and highways in the vicinity.
- (iv) Bylaws and ordinances then in effect.
- (v) Utilization of renewable energy resources.

May also require

- (i) Minimum lot size.
- (ii) Distance from adjacent or nearby uses.
- (iii) Performance standards, as under subdivision (5) of 4416.
- (iv) Criteria adopted relating to site plan review pursuant to section 4416 of this title.
- (v) Any other standards and factors that the bylaws may include.

Also, one or more of the 10 Act 250 criteria *may* be adopted as standards for use in conditional use review.

SITE PLAN REVIEW 24 V.S.A. § 4416

- The appropriate municipal panel may impose... appropriate conditions and safeguards with respect to:
 - the adequacy of parking,
 - traffic access, and circulation for pedestrians and vehicles;
 - landscaping and screening;
 - the protection of the utilization of renewable energy resources;
 - exterior lighting;
 - the size, location, and design of signs;
 - and other matters specified in the bylaws.

MUNICIPAL ZONING PROCEDURES

- Conditional Use review- public hearing w/15 days notice; notice posted in newspaper, in 3 public places, and provided to adjoining landowners and Vtrans
- Site plan review- public hearing w/7 days notice; in 3 public places, and provided to adjoining landowners and Vtrans
- Municipal panels must issue a decision within 45 days of adjourning the hearing; may attach conditions to permit.
- Appeals of decisions may be brought by interested persons
- Interested persons may include:
 - A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality.
 - Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.