

1 TO THE HONORABLE SENATE:

2 * * * Act 250 Downtown Exemption * * *

3 Sec. 1. 10 V.S.A. § 6001 is amended to read:

4 * * *

5 (27) “Mixed income housing” means a housing project in which the
6 following apply:

7 (A) Owner-occupied housing. ~~At the option of the applicant, owner-~~
8 ~~occupied housing may be characterized by either of the following:~~

9 (i) ~~at least 15 percent of the housing units have a purchase price~~
10 ~~that at the time of first sale does not exceed 85 percent of the new construction,~~
11 ~~targeted area purchase price limits established and published annually by the~~
12 ~~Vermont Housing Finance Agency; or~~

13 (ii) At the time of initial sale at least 20 percent of the housing
14 units have a purchase price that at the time of first sale does not exceed 90
15 percent of the new construction, targeted area purchase price limits established
16 and published annually by the Vermont Housing Finance Agency meet the
17 requirements of affordable owner-occupied housing under subdivision (29)(A)
18 of this section, adjusted for the number of bedrooms, as established and
19 published annually by the Vermont Housing Finance Agency.

20 (B) Rental housing. ~~At least 20 percent of the housing units that are~~
21 ~~rented constitute affordable housing and have a duration of affordability of For~~

1 not less than 15 years following the date that rental housing is initially placed
2 in service, at least 20 percent of the housing units meet the requirements of
3 affordable rental housing under subdivision (29)(B) of this section, adjusted for
4 the number of bedrooms, as established and published annually by the
5 Vermont Housing Finance Agency.

6 * * *

7 (35) “Priority housing project” means a discrete project located on a
8 single tract or multiple contiguous tracts of land that consists exclusively of:

9 (A) mixed income housing or mixed use, or any combination thereof,
10 and is located entirely within a ~~designated downtown development district,~~
11 ~~designated new town center, or~~ designated growth center, ~~or designated village~~
12 ~~center that is also a designated neighborhood development area under~~
13 ~~24 V.S.A. chapter 76A; or~~

14 (B) ~~mixed income housing and is located entirely within a designated~~
15 ~~Vermont neighborhood or designated neighborhood development area under~~
16 ~~24 V.S.A. chapter 76A.~~

17 * * *

18 Sec. 2. 10 V.S.A. § 6081 is amended to read:

19 § 6081. PERMITS REQUIRED; EXEMPTIONS

20 * * *

1 (o) If a designation pursuant to 24 V.S.A. chapter 76A is removed,
2 subsection (a) of this section shall apply to any subsequent substantial change
3 to a ~~priority housing project~~ development or subdivision that was originally
4 exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title or subsection (p)
5 of this section on the basis of that designation.

6 (p)(1) No permit or permit amendment is required for any subdivision,
7 development, or change to a project that is located entirely within a downtown
8 development district designated pursuant to 24 V.S.A. § 2793, ~~if the change~~
9 ~~consists exclusively of any combination of mixed use and mixed income~~
10 ~~housing, and the cumulative changes within any continuous period of five~~
11 ~~years, commencing on or after the effective date of this subsection, remain~~
12 ~~below any applicable jurisdictional threshold specified in subdivision~~
13 ~~6001(3)(A)(iv)(I) of this title~~ a village center that has received enhanced
14 designation under 24 V.S.A. § 2793a(e), or a neighborhood development area
15 designated pursuant to 24 V.S.A. § 2793e. Upon receiving notice and a copy
16 of the permit issued by the appropriate municipal panel pursuant to 24 V.S.A.
17 § 4460(f), a previously issued permit for a development or subdivision located
18 in a downtown development district, village center that has received an
19 enhanced designation, or a neighborhood development area shall be
20 extinguished.

21 * * *

1 (2) The appropriate municipal panel reviewing a municipal permit or
2 permit amendment pursuant to this subsection shall include conditions
3 contained within a permit previously issued pursuant to 10 V.S.A. chapter 151
4 unless the panel determines that the permit condition pertains to any of the
5 following:

6 (A) the construction phase of the project that has already been
7 constructed;

8 (B) compliance with another State permit that has independent
9 jurisdiction;

10 (C) federal or State law that is no longer in effect or applicable;

11 (D) an issue that is addressed by municipal regulation and the project
12 will meet the municipal standards; or

13 (E) the structure or use of the property that will no longer applicable
14 once the new permit is approved.

15 (3) After issuing or amending a permit containing conditions pursuant to
16 this subsection, the appropriate municipal panel shall provide notice and a
17 copy of the permit to the Natural Resources Board.

18 (4) The appropriate municipal panel shall comply with the notice and
19 hearing requirements provided in subdivision 4464(a)(1) of this title. In
20 addition, notice shall be provided to those persons requiring notice under 10
21 V.S.A. § 6084(b) and shall explicitly reference the existing Act 250 permit.

1 (b) Within 45 days of receipt of a completed application, the State Board
2 shall designate a downtown development district if the State Board finds in its
3 written decision that the municipality has:

4 (1) Demonstrated a commitment to protect and enhance the historic
5 character of the downtown through the adoption of a design review district,
6 through the adoption of an historic district, or through the adoption of
7 regulations that adequately regulate the physical form and scale of
8 development that the State Board determines substantially meet the historic
9 preservation requirements in subdivisions 4414(1)(E) and (F) of this title, ~~or~~
10 ~~through the creation of a development review board authorized to undertake~~
11 ~~local Act 250 reviews of municipal impacts pursuant to section 4420 of this~~
12 ~~title.~~

13 * * *

14 (4) A housing element in its plan in accordance with subdivision
15 4382(a)(10) of this title that achieves the purposes of subdivision 4302(c)(11)
16 of this title and that includes clear implementation steps for achieving mixed
17 income housing, including affordable housing, a timeline for implementation,
18 responsibility for each implementation step, and potential funding sources.

19 (5) Adopted one of the following to promote the availability of
20 affordable housing opportunities in the municipality:

- 1 (A) inclusionary zoning as provided in subdivision 4414(7) of this
2 title;
3 (B) a restricted housing trust fund with designated revenue streams;
4 (C) a housing commission as provided in section 4433 of this title; or
5 (D) impact fee exemptions or reductions for affordable housing as
6 provided in section 5205 of this title.

7 (c) A designation issued under this section shall be effective for eight years
8 and may be renewed on application by the municipality. The State Board also
9 shall review a community’s designation four years after issuance or renewal
10 and may review compliance with the designation requirements at more
11 frequent intervals. Any community applying for renewal shall explain how the
12 designation under this section has furthered the goals of the town plan and
13 shall submit an approved town plan map that depicts the boundary of the
14 designated district. Beginning on July 1, 2022, any community under review
15 or seeking renewal shall comply with subdivisions (b)(4) and (5) of this
16 section. If at any time the State Board determines that the downtown
17 development district no longer meets the standards for designation established
18 in subsection (b) of this section, it may take any of the following actions:

- 19 (1) require corrective action;
20 (2) provide technical assistance through the Vermont Downtown
21 Program;

1 (3) limit eligibility for the benefits established in section 2794 of this
2 chapter without affecting any of the district’s previously awarded benefits; or

3 (4) remove the district’s designation without affecting any of the
4 district’s previously awarded benefits.

5 * * *

6 Sec. 7. 24 V.S.A. § 2793a is amended to read:

7 § 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

8 * * *

9 (e)(1) A village center designated by the State Board pursuant to subsection
10 (a) of this section is eligible to apply to the State Board to receive an enhanced
11 designation. This enhanced designation shall allow the village center to be
12 exempt from 10 V.S.A. chapter 151.

13 (2) To receive enhanced designation under this subdivision, a village
14 center shall have:

15 (A) a duly adopted and regionally approved municipal plan;

16 (B) a municipal wastewater treatment facility and public community
17 drinking water system that serves the designated center; and

18 (C) duly adopted permanent zoning and subdivision bylaws that
19 include flood hazard and river corridor bylaws.

20 (D) a housing element in its plan in accordance with subdivision
21 4382(a)(10) of this title that achieves the purposes of subdivision 4302(c)(11)

1 of this title and that includes clear implementation steps for achieving mixed
2 income housing, including affordable housing, a timeline for implementation,
3 responsibility for each implementation step, and potential funding sources.

4 (5) Adopted one of the following to promote the availability of
5 affordable housing opportunities in the municipality:

6 (A) inclusionary zoning as provided in subdivision 4414(7) of this
7 title;

8 (B) a restricted housing trust fund with designated revenue streams;

9 (C) a housing commission as provided in section 4433 of this title; or

10 (D) impact fee exemptions or reductions for affordable housing as
11 provided in section 5205 of this title.

12 Sec. 8. 24 V.S.A. § 2793e is amended to read:

13 § 2793e. NEIGHBORHOOD PLANNING AREAS; DESIGNATION OF
14 NEIGHBORHOOD DEVELOPMENT AREAS

15 * * *

16 (c) Application for designation of a neighborhood development area. The
17 State Board shall approve a neighborhood development area if the application
18 demonstrates and includes all of the following elements:

19 * * *

20 (5) The proposed neighborhood development area consists of those
21 portions of the neighborhood planning area that are appropriate for new and

1 infill housing, excluding identified flood hazard and fluvial erosion areas,
2 except those areas containing preexisting development and areas suitable for
3 infill development as defined in section 29-201 of the Vermont Flood Hazard
4 Area and River Corridor Rule. In determining what areas are most suitable for
5 new and infill housing, the municipality shall balance local goals for future
6 land use, the availability of land for housing within the neighborhood planning
7 area, and the smart growth principles. Based on those considerations, the
8 municipality shall select an area for neighborhood development area
9 designation that:

10 (A) Avoids or that minimizes to the extent feasible the inclusion of
11 “important natural resources” as defined in subdivision 2791(14) of this title
12 and flood hazard areas and river corridors. If an “important natural resource”
13 is included within a proposed neighborhood development area, the applicant
14 shall identify the resource, explain why the resource was included, describe
15 any anticipated disturbance to such resource, and describe why the disturbance
16 cannot be avoided or minimized. If the neighborhood development area
17 includes flood hazard areas or river corridors, the local bylaws must contain
18 provisions consistent with the Agency of Natural Resources rules required
19 under 10 V.S.A. § 754(a) to ensure that new infill development within a
20 neighborhood development area occurs outside the floodway, new
21 development is elevated or floodproofed at least two feet above Base Flood

1 Elevation, or otherwise reasonably safe from flooding, and will not cause or
2 contribute to fluvial erosion hazards within the river corridor. If the
3 neighborhood development area includes flood hazard areas or river corridors,
4 local bylaws shall also contain provisions to protect river corridors outside of
5 the neighborhood development area consistent with the Agency of Natural
6 Resources model river corridor bylaws.

7 (B) Is served by planned or existing transportation infrastructure that
8 conforms with “complete streets” principles as described under 19 V.S.A.
9 § 309d and establishes pedestrian access directly to the downtown, village
10 center, or new town center.

11 (C) Is compatible with and will reinforce the character of adjacent
12 National Register Historic Districts, National or State Register Historic Sites,
13 and other significant cultural and natural resources identified by local or State
14 government.

15 (6) The neighborhood development area is served by:

16 (A) municipal sewer infrastructure; or

17 (B) a community or alternative wastewater system approved by the
18 Agency of Natural Resources.

19 (7) The municipal bylaws allow minimum net residential densities
20 within the neighborhood development area greater than or equal to four single-
21 family detached dwelling units per acre, exclusive of accessory dwelling units,

1 or no fewer than the average existing density of the surrounding neighborhood,
2 whichever is greater.

3 (A) The methodology for calculating density shall be established in
4 the guidelines developed by the Department pursuant to subsection 2792(d) of
5 this title.

6 ~~(A)~~(B) Regulations that adequately regulate the physical form and
7 scale of development may be used to demonstrate compliance with this
8 requirement.

9 ~~(B)~~(C) Development in the neighborhood development areas that is
10 lower than the minimum net residential density required by this subdivision (7)
11 shall not qualify for the benefits stated in subsections (f) and (g) of this section.
12 ~~The district coordinator shall determine whether development meets this~~
13 ~~minimum net residential density requirement in accordance with subsection (f)~~
14 ~~of this section.~~

15 (8) Local bylaws, regulations, and policies applicable to the
16 neighborhood development area substantially conform with neighborhood
17 design guidelines developed by the Department pursuant to section 2792 of
18 this title. These policies shall:

19 (A) ensure that all investments contribute to a built environment that
20 enhances the existing neighborhood character and supports pedestrian use;

21 (B) ensure sufficient residential density and building heights;

1 (C) minimize the required lot sizes, setbacks, and parking and street
2 widths; and

3 (D) require conformance with “complete streets” principles as
4 described under 19 V.S.A. § 309d, street and pedestrian connectivity, and
5 street trees.

6 * * *

7 (12) A housing element in its plan in accordance with subdivision
8 4382(a)(10) of this title that achieves the purposes of subdivision 4302(c)(11)
9 of this title and that includes clear implementation steps for achieving mixed-
10 income housing, including affordable housing, a timeline for implementation,
11 responsibility for each implementation step, and potential funding sources.

12 (13) The application includes information in the proposed neighborhood
13 development area that the municipality has adopted one of the following to
14 promote the availability of affordable housing opportunities in the
15 municipality:

16 (A) inclusionary zoning as provided in subdivision 4414(7) of this
17 title;

18 (B) a restricted housing trust fund with designated revenue streams;

19 (C) a Housing Commission as provided in section 4433 of this title;

20 or

1 (1) ~~The~~ the application fee limit for wastewater applications stated in
2 3 V.S.A. § 2822(j)(4)(D); and

3 (2) ~~The application fee reduction for residential development stated in~~
4 ~~10 V.S.A. § 6083a(d).~~

5 ~~(3) The~~ the exclusion from the land gains tax provided by 32 V.S.A.
6 § 10002(p).

7 (g) Neighborhood development area incentives for municipalities. Once a
8 municipality has a designated neighborhood development area, it may receive:

9 (1) priority consideration for municipal planning grant funds; and

10 (2) training and technical assistance from the Department to support an
11 application for benefits from the Department.

12 (h) Alternative designation. If a municipality has completed all of the
13 planning and assessment steps of this section but has not requested designation
14 of a neighborhood development area, an owner of land within a neighborhood
15 planning area may apply to the State Board for neighborhood development
16 area designation status for a portion of land within the neighborhood planning
17 area. The applicant shall have the responsibility to demonstrate that all of the
18 requirements for a neighborhood development area designation have been
19 satisfied and to notify the municipality that the applicant is seeking the
20 designation. The State Board shall provide the municipality with at least
21 14 days' prior written notice of the Board's meeting to consider the

1 application, and the municipality shall submit to the State Board the
2 municipality's response, if any, to the application before or during that
3 meeting. On approval of a neighborhood development area designation under
4 this subsection, the applicant ~~may proceed to obtain a jurisdictional opinion~~
5 ~~from the district coordinator under subsection (f) of this section in order to~~
6 ~~obtain~~ shall be eligible for the benefits granted to neighborhood development
7 areas, subject to approval by the administrative officer, as provided in
8 subsection (f) of this section.

9 * * * Designation Appeals * * *

10 Sec. 9. 24 V.S.A. § 2798 is amended to read:

11 § 2798. DESIGNATION DECISIONS; ~~NONAPPEAL~~ APPEAL

12 ~~The~~ A person aggrieved by a designation decisions decision of the State
13 Board under ~~this chapter are not subject to appeal~~ section 2793, 2793a(e) or
14 2793e of this title may appeal to the Environmental Division of the Superior
15 Court pursuant to 10 V.S.A. chapter 220.

16 Sec. 10. 10 V.S.A. §8503 is amended to read:

17 § 8503. APPLICABILITY

18 (a) This chapter shall govern all appeals of an act or decision of the
19 Secretary, excluding enforcement actions under chapters 201 and 211 of this
20 title and rulemaking, under the following authorities and under the rules
21 adopted under those authorities:

1 (1) The following provisions of this title:

2 * * *

3 (V) Section 6094 (allocation of costs by the Commissioner of
4 Fish and Wildlife).

5 * * *

6 (b) This chapter shall govern:

7 (1) all appeals from an act or decision of a District Commission under
8 chapter 151 of this title, excluding appeals of application fee refund and waiver
9 requests;

10 * * *

11 (h) This chapter shall govern designation decisions made by the Downtown
12 Development Board pursuant to 24 V.S.A. §§ 2793, 2793a(e), or 2793e.

13 * * * Release from Act 250 Jurisdiction * * *

14 Sec. 11. 10 V.S.A. § 6090 is amended to read:

15 § 6090. RECORDING; DURATION AND REVOCATION OF PERMITS

16 * * *

17 (c) Change to nonjurisdictional use; release from permit.

18 (1) On an application signed by each permittee, the District Commission
19 may release land subject to a permit under this chapter from the obligations of
20 that permit and the obligation to obtain amendments to the permit on finding
21 each of the following:

1 (A) One of the following is true:

2 (i) the use of the land as of the date of the application is not the
3 same as the use of the land that caused the obligation to obtain a permit under
4 this chapter; or

5 (ii) the municipality where the land is located has adopted
6 permanent zoning and subdivision bylaws but had not when the permit was
7 issued.

8 (B) The use of the land as of the date of the application does not
9 constitute development or subdivision as defined in section 6001 of this title
10 and would not require a permit or permit amendment but for the fact that the
11 land is already subject to a permit under this chapter.

12 (C) The permittee or permittees are in compliance with the permit
13 and their obligations under this chapter.

14 (2) It shall be a condition of each affirmative decision under this
15 subsection that a subsequent proposal of a development or subdivision on the
16 land to which the decision applies shall be subject to this chapter as if the land
17 had never previously received a permit under the chapter.

18 (3) An application for a decision under this subsection shall be made on
19 a form prescribed by the Board. The form shall require evidence
20 demonstrating that the application complies with subdivisions (1)(A)
21 through (C) of this subsection. The application shall be processed in the

1 manner described in section 6084 of this title and may be treated as a minor
2 application under that section. In addition to those required to be notified
3 under section 6084, the District Commission shall send notice at the same time
4 to all other parties to the permit and to all current adjacent landowners.

5 * * * Municipal Response to Act 250 Requests * * *

6 Sec. 12. 10 V.S.A. 6086(g) is added to read:

7 (g) If a municipality fails to respond to a request by the applicant within 90
8 days as to the impacts related to subdivision (a)(6) or (7) of this section, the
9 application will be presumed not to have an unreasonable burden on
10 educational, municipal, or governmental services.

11 * * * Wastewater Connection Permits * * *

12 Sec. 13. 10 V.S.A. § 1972 is amended to read:

13 § 1972. DEFINITIONS

14 ~~For the purposes of~~ As used in this chapter:

15 * * *

16 (11) “Change in use” means converting to a different type of use, such
17 as from a residence to a restaurant or office space or from a restaurant to a
18 residence; change from seasonal to year-round use; or scaling up a use, such as
19 increasing the number of employees or adding bedrooms. “Change of use”
20 does not include the addition of a home occupation to a living unit.

1 (9) A person who receives an authorization from a municipality that
2 administers a program registered with the Secretary pursuant to section 1983 of
3 this title.

4 Sec. 15. 10 V.S.A. § 1983 is added to read:

5 § 1983. REGISTRATION FOR MUNICIPAL WASTEWATER SYSTEM
6 AND POTABLE WATER SUPPLY CONNECTIONS

7 (a) Notwithstanding the requirement under section 1976 of this title that the
8 Secretary delegate to a municipality authority to approve a connection and
9 notwithstanding the requirement under section 1973 of this title, a municipality
10 may issue an approval for a connection or an existing connection with a change
11 in use to the municipal sanitary sewer collection line by a sanitary sewer
12 service line or a connection to a water main by a new water service line,
13 provided that the municipality documents the following information in a form
14 prescribed by the Secretary:

15 (1) The municipality owns or has legal control over connections to:

16 (A) a public community water system permitted pursuant to chapter
17 56 of this title; and

18 (B) a wastewater treatment facility permitted pursuant to chapter 47
19 of this title.

20 (2) The municipality shall only issue authorizations for:

1 (A) a sanitary sewer service line that connects to the sanitary sewer
2 collection line that serves a single connection; and

3 (B) a water service line that connects to the water main that serves a
4 single connection.

5 (3) The building or structure connects to both the sanitary sewer
6 collection line and public community water system.

7 (4) The municipality issues approvals that comply with the technical
8 standards for sanitary sewer service lines and water service lines adopted under
9 the Agency of Natural Resources' Wastewater System and Potable Water
10 Supply Rules.

11 (5) The municipality requires documentation in the land records of the
12 municipality from a professional engineer or a licensed designer that the
13 connection authorized by the municipality was installed in accordance with the
14 technical standards.

15 (6) The municipality retains plans that show the location and design of
16 authorized connections.

17 (b) The municipality shall notify the Secretary 30 days in advance of
18 terminating any registration. The municipality shall provide all approvals and
19 plans to the Secretary as a part of this termination notice.

1 ~~to upstream impoundments and flood control projects~~ “Flood hazard area” has
2 the same meaning as under section 752 of this title.

3 (7) ~~“Floodway fringe” means an area which is outside a floodway and is~~
4 ~~flooded with an average frequency of once or more in each 100 years as~~
5 ~~determined by the Secretary of Natural Resources with full consideration given~~
6 ~~to upstream impoundments and flood control projects~~ “River corridor” has the
7 same meaning as under section 752 of this title.

8 * * *

9 Sec. 17. 10 V.S.A. § 6086(a)(1)(D) is amended to read:

10 (D) ~~Floodways~~ Flood hazard areas; river corridors. A permit will be
11 granted whenever it is demonstrated by the applicant that, in addition to all
12 other applicable criteria:

13 (i) ~~the development or subdivision of lands within a floodway~~
14 flood hazard area or river corridor will not restrict or divert the flow of flood
15 waters, cause or contribute to fluvial erosion, and endanger the health, safety,
16 and welfare of the public or of riparian owners during flooding; and

17 (ii) ~~the development or subdivision of lands within a floodway~~
18 fringe will not significantly increase the peak discharge of the river or stream
19 within or downstream from the area of development and endanger the health,
20 safety, or welfare of the public or riparian owners during flooding.

21 * * * Trails * * *

1 Sec. 18. 10 V.S.A. § 442(3) is amended to read:

2 (3) “Trails” means land used for hiking, walking, bicycling, cross-country
3 skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other
4 similar activities. Trails may be used for recreation, transportation, and other
5 compatible purposes, but the primary purpose shall not be the operation of a
6 motor vehicle. As used in this subdivision, “motor vehicle” shall not include
7 all-terrain vehicles or snowmobiles.

8 Sec. 19. 10 V.S.A. § 6001 is amended to read:

9 § 6001. DEFINITIONS

10 * * *

11 (38) “Recreational trail” has the same meaning as “trails” in subdivision
12 442(3) of this title.

13 (39) “Vermont trails system trail” means a recreational trail recognized
14 by the Agency of Natural Resources pursuant to chapter 20 of this title. For
15 purposes of this chapter, the construction, operation, and maintenance of a
16 Vermont trails system trail shall be for a municipal, county, or State purpose.

17 Sec. 20. 10 V.S.A. § 6001(3)(A) is amended to read:

18 (3)(A) “Development” means each of the following:

19 * * *

20 (xi) The construction of improvements for a Vermont trails system
21 trail on a tract or tracts of land involving more than 10 acres.

1 the operation of the trail. Jurisdiction shall not extend to the remainder of a
2 parcel or parcels where a recreational trail is located, unless otherwise
3 determined to be jurisdictional pursuant to another provision of this chapter.

4 Sec. 22. 10 V.S.A. § 6081 is amended to read:

5 § 6081. PERMITS REQUIRED; EXEMPTIONS

6 * * *

7 (y) No permit or permit amendment shall be required for the construction
8 of improvements on a tract of land that would provide access across a
9 recreational trail, provided that the access is not related to the use of the
10 permitted recreational trail and would not establish jurisdiction under this
11 chapter on its own.

12 (z) Notwithstanding 1 V.S.A. §§ 213 and 214, and until January 1, 2022,
13 no permit is required for a Vermont trails system trail recognized pursuant to
14 chapter 20 of this title if the trail was in existence prior to October 1, 2020.

15 Sec. 23. RECREATIONAL TRAILS RECOMMENDATIONS AND

16 REPORT

17 On or before January 15, 2021, the Agency of Natural Resources shall
18 report to the House Committee on Natural Resources, Fish, and Wildlife and to
19 the Senate Committee on Natural Resource and Energy with legislative
20 recommendations for a best management practices driven program for
21 Vermont trails system trails that is administered by the Agency of Natural

1 Resources. The report shall include recommendations for revisions to
2 10 V.S.A. chapter 20, including revisions to mapping, legislative authority to
3 administer the program, potential funding sources, staffing needs, and whether
4 to include other recreational trails. The Agency of Natural Resources shall
5 consult with stakeholders on the proposed program, including the Vermont
6 Trail Alliance, the Forest Partnership, and the Vermont Agency of
7 Transportation.

8 Sec. 24. PROSPECTIVE REPEAL

9 10 V.S.A. § 6001(3)(A)(xi) shall be repealed on January 1, 2022.

10 * * * Forest Blocks * * *

11 Sec. 25. 10 V.S.A. § 6001 is amended to read:

12 § 6001. DEFINITIONS

13 * * *

14 (40) “Connecting habitat” means land or water, or both, that links
15 patches of habitat within a landscape, allowing the movement, migration, and
16 dispersal of wildlife and plants and the functioning of ecological processes. A
17 connecting habitat may include features including recreational trails and
18 improvements constructed for farming, logging, or forestry purposes.

19 (41) “Forest block” means a contiguous area of forest in any stage of
20 succession and not currently developed for nonforest use. A forest block may
21 include features including recreational trails, wetlands, or other natural features

1 that do not themselves possess tree cover and improvements constructed for
2 farming, logging, or forestry purposes.

3 (42) “Fragmentation” means the division or conversion of a forest block
4 or connecting habitat by the separation of a parcel into two or more parcels; the
5 construction, conversion, relocation, or enlargement of any building or other
6 structure, or of any mining, excavation, or landfill; and any change in the use
7 of any building or other structure, or land, or extension of use of land.

8 However, fragmentation does not include the division or conversion of a forest
9 block or connecting habitat by a recreational trail or by improvements
10 constructed for farming, logging, or forestry purposes below the elevation of
11 2,500 feet.

12 (43) “Habitat” means the physical and biological environment in which
13 a particular species of plant or wildlife lives.

14 Sec. 26. 10 V.S.A. § 6086(a)(8) is amended to read:

15 (8) Ecosystem protection; scenic beauty; historic sites.

16 (A) Will not have an undue adverse effect on the scenic or natural
17 beauty of the area, aesthetics, historic sites or rare and irreplaceable natural
18 areas.

19 ~~(A)~~(B) Necessary wildlife habitat and endangered species. A permit
20 will not be granted if it is demonstrated by any party opposing the applicant

1 that a development or subdivision will destroy or significantly imperil
2 necessary wildlife habitat or any endangered species; and

3 (i) the economic, social, cultural, recreational, or other benefit to
4 the public from the development or subdivision will ~~not~~ outweigh the
5 economic, environmental, or recreational loss to the public from the
6 destruction or imperilment of the habitat or species; or

7 (ii) all feasible and reasonable means of preventing or lessening
8 the destruction, diminution, or imperilment of the habitat or species have not
9 been or will not continue to be applied; or

10 (iii) a reasonably acceptable alternative site is owned or controlled
11 by the applicant ~~which~~ that would allow the development or subdivision to
12 fulfill its intended purpose.

13 (C) Will not result in an undue adverse impact on forest blocks and
14 connecting habitat. If a project as proposed would result in an undue adverse
15 impact, a permit may only be granted if effects are avoided, minimized, and
16 mitigated in accordance with rules adopted by the Board.

17 Sec. 27. CRITERION 8(C) RULEMAKING

18 (a) The Natural Resources Board (Board), in consultation with the Agency
19 of Natural Resources shall adopt rules to implement the requirements for the
20 administration of 10 V.S.A. § 6086(a)(8)(C). Rules adopted by the Board shall
21 include:

1 (1) How forest blocks and connecting habitat are further defined,
2 including their size, location, and function, which may include:

3 (A) information that will be available to the public to determine
4 where forest blocks and connecting habitat are located; or

5 (B) advisory mapping resources, how they will be made available,
6 how they will be used, and how they will be updated.

7 (2) Standards establishing **how impacts can be avoided, minimized, or**
8 **mitigated, including** how fragmentation of forest blocks or connecting habitat
9 is avoided or minimized, which may include steps to promote proactive site
10 design of buildings, roadways and driveways, utility location, and location
11 relative to existing features such as roads, tree lines, and fence lines.

12 (3) Criteria to identify when a forest block or connecting habitat is
13 eligible for mitigation.

14 (4) Standards for how impacts to a forest block or connecting habitat
15 may be mitigated. Standards may include:

16 (A) appropriate ratios for compensation;

17 (B) appropriate forms of compensation such as conservation
18 easements, fee interests in land, and other forms of compensation; and

19 (C) appropriate uses of on-site and off-site mitigation.

1 (b) The Board shall convene a working group to provide input to the rule
2 prior to prefiling with the Interagency Committee on Administrative Rules.

3 The Board shall convene the working group on or before February 1, 2021.

4 (c) The Board shall file a final proposed rule with the Secretary of State
5 and Legislative Committee on Administrative Rules on or before February 1,
6 2022.

7 Sec. 28. 10 V.S.A. § 127 is amended to read:

8 § 127. RESOURCE MAPPING

9 ~~On or before January 15, 2013, the~~ The Secretary of Natural Resources
10 ~~(the Secretary)~~ shall complete and maintain resource mapping based on the
11 Geographic Information System (GIS) or other technology. The mapping shall
12 identify natural resources throughout the State, including forest blocks, that
13 may be relevant to the consideration of energy projects and projects subject to
14 chapter 151 of this title. The Center for Geographic Information shall be
15 available to provide assistance to the Secretary in carrying out the ~~GIS-based~~
16 resource mapping.

17 (b) The Secretary ~~of Natural Resources~~ shall consider the ~~GIS-based~~
18 resource maps developed under subsection (a) of this section when providing
19 evidence and recommendations to the Public Utility Commission under
20 30 V.S.A. § 248(b)(5) and when commenting on or providing

1 recommendations under chapter 151 of this title to District Commissions on
2 other projects.

3 (c) The Secretary shall establish and maintain written procedures that
4 include a process and science-based criteria for updating resource maps
5 developed under subsection (a) of this section. Before establishing or revising
6 these procedures, the Secretary shall provide opportunities for affected parties
7 and the public to submit relevant information and recommendations.

8 * * * The Road Rule * * *

9 Sec. 29. 10 V.S.A. 6001(3)(A) is amended to read:

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

11 * * *

12 (x) The construction of a road, roads, driveway, or driveways,
13 which in combination is greater than 2,000 feet, to provide access to or within
14 a tract or tracts of land of more than one acre owned or controlled by a person.

15 (I) For the purposes of determining jurisdiction under this
16 subdivision (x), any tract or tracts of land that will be provided access by the
17 road or driveway is involved land.

18 (II) As used in this subdivision (x), “road” shall include any
19 new road or upgrade of a Class 4 highway by a person other than a
20 municipality, including a road that will be transferred to or maintained by a
21 municipality after its construction or upgrade. For the purposes of this

1 subdivision (II), routine maintenance of a Class 4 highway or stormwater
2 improvements required pursuant to section 1264 of this title shall not constitute
3 an “upgrade.”

4 (aa) Routine maintenance shall include replacing a culvert
5 or ditch, applying new stone, grading, or making repairs after adverse weather.

6 (bb) Routine maintenance shall not include changing the
7 size of the road, changing the location or layout of the road, or adding
8 pavement.

9 (III) For the purpose of determining the length under this
10 subdivision, the length of all roads and driveways within the tract or tracts of
11 land constructed within any continuous period of 10 years after October 1,
12 2020 shall be included.

13 (IV) This subdivision (x) shall not apply to

14 (aa) a road constructed for a municipal, county, or State
15 purpose; a utility corridor of an electric transmission or distribution company;;
16 or a road located entirely within in a designated downtown, enhanced village
17 center, or neighborhood development area.

18 (bb) a road used primarily for farming or forestry purposes
19 unless used for residential purpose.

20 * * *

21 * * * Wood Products Manufacturers * * *

1 Sec. 30. 10 V.S.A. § 6001 is amended to read:

2 § 6001. DEFINITIONS

3 * * *

4 (44) “Wood products manufacturer” means a manufacturer that
5 aggregates wood products from forestry operations and adds value through
6 processing or marketing in the wood products supply chain or directly to
7 consumers through retail sales. “Wood products manufacturer” includes
8 sawmills; veneer mills; pulp mills; pellet mills; producers of firewood,
9 woodchips, mulch, and fuel wood; and log and pulp concentration yards.
10 “Wood products manufacturer” does not include facilities that purchase,
11 market, and resell finished goods, such as wood furniture, wood pellets, and
12 milled lumber, without first receiving wood products from forestry operations.

13 (45) “Wood product” means logs, pulpwood, veneer wood, bolt wood,
14 wood chips, stud wood, poles, pilings, biomass, fuel wood, maple sap, and
15 bark.

16 Sec. 31. 10 V.S.A. § 6086(c) is amended to read:

17 (c)(1) A permit may contain such requirements and conditions as are
18 allowable proper exercise of the police power and which are appropriate within
19 the respect to subdivisions (a)(1) through (10) of this section, including those
20 set forth in 24 V.S.A. §§ 4414(4), 4424(a)(2), 4414(1)(D)(i), 4463(b), and
21 4464, the dedication of lands for public use, and the filing of bonds to ~~insure~~

1 ensure compliance. The requirements and conditions incorporated from Title
2 24 may be applied whether or not a local plan has been adopted. General
3 requirements and conditions may be established by rule of the Natural
4 Resources Board.

5 (2) Permit conditions on a wood products manufacturer.

6 (A) A permit condition that sets hours of operation for a wood
7 product manufacturer shall only be imposed to mitigate an impact under
8 subdivision (a)(1), (5), or (8) of this section. Permit conditions shall impose
9 the minimum restriction necessary to mitigate the undue adverse impact.

10 (B) Unless an impact under subdivision (a)(1), (5), or (8) of this
11 section would result, a permit issued to a wood product manufacturer shall
12 allow the manufacturer to ship and receive forest products outside regular
13 hours of operation. These permits shall allow for deliveries of wood products
14 from forestry operations to the manufacturer outside of permitted hours of
15 operation, including nights, weekends, and holidays, for a minimum of 60 days
16 per year.

17 (3) Permit conditions on the delivery of wood heat fuels. A permit
18 issued to a wood products manufacturer that produces wood chips, pellets, cord
19 wood, or other fuel wood used for heat shall allow shipment of that fuel wood
20 from the manufacturer to the end user outside permitted hours of operation.

1 including nights, weekends, and holidays, from October 1 through April 30 of
2 each year.

3 (4) Wood products manufacturer holding a permit may request an
4 amendment to existing permit conditions related to hours of operation and
5 seasonal restrictions to be consistent with subdivisions (2) and (3) of this
6 subsection. Requests for condition amendments under this subsection shall not
7 be subject to Act 250 Rule 34(E).

8 * * * Master Permit Fees * * *

9 **Sec. 32. 10 V.S.A. § 6083a is amended to read:**

10 **§ 6083a. ACT 250 FEES**

11 * * *

12 (5) For projects involving the review of a master plan, the fee established
13 in subdivision (1) of this section shall be due for any portion of the proposed
14 project for which construction approval is sought and a fee equivalent to \$0.10
15 per \$1,000.00 of total estimated construction costs in current dollars in addition
16 to the fee established in subdivision (1) of this subsection for any portion of the
17 project seeking construction approval shall be due for all other portions of the
18 proposed project. If construction approval is sought in future permit
19 applications, the fee established in subdivision (1) of this subsection shall be
20 due, except to the extent that it is waived pursuant to subsection (f) of this
21 section.

1 * * *

2 (f) In the event that an application involves a project or project impacts that
3 previously have been reviewed, the An applicant may petition the Chair of the
4 District Commission to waive all or part of the application fee. If an
5 application fee was paid previously in accordance with subdivisions (a)(1)
6 through (4) of this section, the Chair may waive all or part of the fee for a new
7 or revised project if the Chair finds that the impacts of the project have been
8 reviewed in an applicable master permit application, or that the project is not
9 significantly altered from a project previously reviewed, or that there will be
10 substantial savings in the review process due to the scope of review of the
11 previous applications.

12 (1) In reviewing this petition, the District Commission shall consider the
13 following:

14 (A) Whether a portion of the project's impacts have been reviewed in
15 a previous permit.

16 (B) Whether the project is being reviewed as a major application,
17 minor application, or administrative amendment.

18 (C) Whether the applicant relies on any presumptions permitted
19 under subsection 6086(d) of this title and has, at the time of the permit
20 application, already obtained the permits necessary to trigger the presumptions.

1 If a presumption is rebutted, the District Commission may require the applicant
2 to pay the previously waived fee.

3 (D) Whether the applicant has engaged in any preapplication
4 planning that will result in a decrease in the amount of time the District
5 Commission will have to consider the application.

6 (2) The District Commission shall issue a written decision in response to
7 any application for a fee waiver. The written decision shall address each of the
8 factors in subdivision (1) of this subsection.

9 (3) If the classification of an application is changed from an
10 administrative amendment or minor application to a major application, the
11 Board may require the applicant to pay the previously waived fee.

12 (g) A Commission or the Natural Resources Board may require any
13 permittee to file a certification of actual construction costs and may direct the
14 payment of a supplemental fee in the event that an application understated a
15 project's construction costs. Failure to file a certification or to pay a
16 supplemental fee shall be grounds for permit revocation. A written request for
17 an application fee partial refund may be submitted to the District Commission
18 to which the fee was paid within 90 days of the date that the applicant files a
19 certification pursuant to this section showing that the actual construction costs
20 are less than the estimated construction costs for which the original permit fee
21 was calculated.

1 * * * Fish and Wildlife Billback Authority * * *

2 Sec. 33. 10 V.S.A. 6094 is added to read:

3 § 6094. ALLOCATION OF COSTS; DEPARTMENT OF FISH AND
4 WILDLIFE

5 (a) Notwithstanding any other provision of law, the Department of Fish and
6 Wildlife shall have the authority to bill the applicant for the costs of
7 participating in any permit application before a District Commission, including
8 the costs of employee application review, submissions, comments, and
9 testimony before a District Commission related to impacts on natural resources
10 under subsection 6086(a) of this title, including on wildlife, necessary wildlife
11 habitat, or connecting habitat. The Department may recover those costs from
12 the applicant after notice to the applicant, including an estimate of the costs of
13 the personnel or services.

14 (b) From time to time, the Department shall provide the applicant with
15 detailed statements showing the amount of money contracted for or expended
16 on personnel and services. All funds for services under this section shall be
17 paid directly to the Department.

18 (c) An applicant to which costs are allocated under this section may appeal
19 costs assessed by the Commissioner to the Environmental Division pursuant to
20 10 V.S.A. chapter 220.

21 Sec. 34. 10 V.S.A. § 8504(o) is amended to read:

1 10 V.S.A. § 8504(o) is amended to read:

2 (o) With respect to review of an act or decision of the Secretary pursuant to
3 3 V.S.A. § 2809 or section 6094 of this title, the Division may reverse the act
4 or decision or amend an allocation of costs to an applicant only if the Division
5 determines that the act, decision, or allocation was arbitrary, capricious, or an
6 abuse of discretion. In the absence of such a determination, the Division shall
7 require the applicant to pay the Secretary all costs assessed pursuant to 3
8 V.S.A. § 2809.

9 Sec. 35. 10 V.S.A. § 6024 is amended to read:

10 § 6024. INTRAGOVERNMENTAL COOPERATION

11 (a) Other departments and agencies of State government shall cooperate
12 with the Board and make available to it data, facilities, and personnel as may
13 be needed to assist the Board in carrying out its duties and functions. There
14 shall be established a regular schedule of project review that shall assure that
15 all affected departments and agencies recognize and pursue their respective
16 responsibilities. State employees whose job is to assist applicants in the
17 permitting process established under this chapter, shall endeavor to assist all
18 applicants regardless of the size and value of the projects involved.

19 (b) The Secretary of Natural Resource and the Chair of the Natural
20 Resources Board shall enter a memorandum of understanding on how the
21 Agency of Natural Resources cooperates under subsection (a) of this

1 section. The memorandum shall define when it is appropriate for a District
2 Commission to request comment or testimony from the Agency of Natural
3 Resources giving due consideration to:

4 (1) the novelty, complexity, and significance of the issue under
5 consideration in a proceeding under this chapter; and

6 (2) the resource limitations and staffing priorities of Agency of Natural
7 Resources staff.

8 **Sec. 36. ON THE RECORD APPEALS REVIEW**

9 On or before December 15, 2021, the Secretary of Natural Resources shall
10 make recommendations to the House Committees on Natural Resources, Fish,
11 and Wildlife and Judiciary and the Senate Committees on Natural Resources
12 and Energy and Judiciary as to whether permits issued by the Secretary should
13 be reviewed on the administrative record developed by the Secretary. In
14 making these recommendations, the Secretary shall consult with lawyers and
15 other interested persons who participate in Agency of Natural Resources
16 Permitting processes.

17 **Sec. 37. STUDY ON THE ROLE OF THE NATURAL RESOURCES**

18 **BOARD, COMPOSITION, AND ACT 250 PERMITTING**

19 (a) On or before January 15, 2021, the Chair of the Natural Resources
20 Board shall make recommendations to the House Committee on Natural

1 Resources, Fish, and Wildlife and the Senate Committee on Natural Resources
2 and Energy on:

3 (1) The current role of the Natural Resources Board, District
4 Commissions, and District Coordinators in the Act 250 permitting process.

5 (2) The strengths and challenges of the current structure of the Natural
6 Resources Board.

7 (3) Recommendations to improve the current structure of the Natural
8 Resources Board.

9 (b) In making these recommendations, the Chair shall consult with State
10 agencies involved in Act 250, regional planning commissions, municipalities,
11 and persons who have participated in the Act 250 process, including concerned
12 citizens, developers, and nongovernmental organizations.

13 Sec. 38. VERMONT REGIONAL AND MUNICIPAL PLANNING

14 REVIEW

15 (a) On or before June 15, 2021, the Natural Resources Board, in
16 consultation with the Agency of Commerce and Community Development,
17 shall submit a draft report with recommendations on:

18 (1) How Sec. 7 of 1973 Acts and Resolves No. 85 (Capability and
19 Development Plan Findings) should be incorporated into 10 V.S.A. chapter
20 151 and what changes should be made, if any, to the Capability and
21 Development Plan Findings.

1 (2) How the State should update the Capability and Development Plan
2 authorized by 10 V.S.A. chapter 151, subchapter 3. If the recommendation is
3 to update the Capabilities and Development Plan, the report shall provide a
4 schedule and budget for the proposed update.

5 (3) How 10 V.S.A. chapter 151 should require the creation of Capability
6 and Development maps. If the recommendation is to require the creation of
7 Capability and Development maps, the report shall identify the resources and
8 land uses to be mapped and provide a schedule and budget for the proposed
9 update.

10 (4) How Capability and Development Plan Findings, the Capability and
11 Development Plan, and Capability and Development maps would be used in
12 permitting under 10 V.S.A. chapter 151 and how these would relate to the
13 criteria considered under 10 V.S.A. § 6086(a).

14 (5) Whether designations of village centers, growth centers, and new
15 town centers should be appealable. If these designations are appealable, which
16 tribunal should hear the appeal.

17 (b) The Natural Resources Board shall have a public comment period of at
18 least 30 days on the draft report required by subsection (a) of this section. The
19 Board shall hold at least one public informational meeting on the draft report.
20 Notice provided by the Board shall include affected State agencies,
21 municipalities, regional planning commissions, the Vermont Planners

1 Association, the Vermont Planning and Development Association, and other
2 interested persons.

3 (c) On or before December 15, 2021, the Natural Resources Board shall
4 provide a final report to the House Committee on Natural Resources, Fish, and
5 Wildlife and the Senate Committee on Natural Resources and Energy. The
6 final report shall incorporate recommendations from the public engagement
7 process under subsection (b) of this section and shall contain a response to
8 stakeholder comments as a part of the final report.

9 * * * Effective Dates * * *

10 Sec. 39. EFFECTIVE DATES

11 This act shall take effect on October 1, 2020, except that Sec. 25, 10 V.S.A.
12 § 6086(a)(8), shall take effect on March 1, 2022.

13

14

15

16

17

18 (Committee vote: _____)

19

20

Senator _____

21

FOR THE COMMITTEE