

**\* \* \* Act 250 Downtown Exemption \* \* \***

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

\* \* \*

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

(A) Owner-occupied housing. ~~At the option of the applicant, owner-occupied housing may be characterized by either of the following: (i) at least 15 percent of the housing units have a purchase price that at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or~~

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

(B) Rental housing. ~~At least 20 percent of the housing units that are rented constitute affordable housing and have a duration of affordability of~~ For not less than 15 years following the date that rental housing is initially placed in service, at least 20 percent of the housing units meet the requirements of affordable rental housing under subdivision (29)(B) of this section, adjusted for the number of bedrooms, as established and published annually by the Vermont Housing Finance Agency.

\* \* \*

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

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

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

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

§ 6081. PERMITS REQUIRED; EXEMPTIONS

\* \* \*

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

(p)(1) No permit or permit amendment is required for any subdivision, development, or change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, ~~if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after the effective date of this subsection, remain below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title~~ village center that has received enhanced designation under 24 V.S.A. § 2793a(e) or a neighborhood development area designated pursuant to 24 V.S.A. § 2793e. Upon receiving notice and a copy of the permit

issued by an appropriate municipal panel pursuant to 24 V.S.A. § 4460(f), a previously issued permit for a development or subdivision located in a downtown development area or a neighborhood development area is extinguished and jurisdiction shall is extinguished on the tract or tracts of land.

(2) No permit or permit amendment is required for a priority housing project in a designated center other than a downtown development district, neighborhood development area, or enhanced village center, if the project remains below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions of any existing permit or permit amendment issued under this chapter that applies to the tract or tracts on which the project will be located. If such a priority housing project will not comply with one or more of these conditions, an application may be filed pursuant to section 6084 of this title.

\* \* \*

~~(v) A permit or permit amendment shall not be required for a development or subdivision in a designated downtown 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.~~

[Repealed.]

\* \* \*

Sec. 3. REPEALS

The following are repealed:

(1) 10 V.S.A. § 6083a(d) (neighborhood development area fees).

(2) 10 V.S.A. § 6086b (downtown development).

Sec. 4. 24 V.S.A. § 4460 is amended to read:

§ 4460. APPROPRIATE MUNICIPAL PANELS

\* \* \*

(f)(1) This subsection shall apply to a subdivision or development that:

(A) was previously permitted pursuant to 10 V.S.A. chapter 151;

(B) is located in a downtown development district, enhanced village center, or neighborhood development area designated pursuant to chapter 76A of this title; and

(C) has applied for a permit or permit amendment required by zoning regulations or bylaws adopted pursuant to this subchapter.

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

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

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

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

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

(E) a physical or use condition that is no longer in effect or applicable, or that will no longer be in effect or applicable once the new project is approved.

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

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

(5) The appropriate municipal panel's decision shall be issued in accord with subsection 4464(b) of this title and shall include specific findings with respect to its determinations pursuant to subdivision (2) of this subsection.

(6) Any final action by the appropriate municipal panel affecting a condition of a permit previously issued pursuant to 10 V.S.A. chapter 151 shall be recorded in the municipal land records.

**\* \* \* Release of Act 250 Jurisdiction \* \* \***

Sec. 5. 10 V.S.A. § 6090 is amended to read:

§ 6090. RECORDING; DURATION AND REVOCATION OF PERMITS

\* \* \*

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

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

(A) One of the following is true:

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

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

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

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

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

(3) An application for a decision under this subsection shall be made on a form prescribed by the Board. The form shall require evidence demonstrating that the application complies with subdivisions (1)(A) through (C) of this subsection. The application shall be processed in the manner described in section 6084 of this title and may be treated as a minor application under that section. In addition to those required to be notified under section 6084, the District Commission shall send notice at the same time to all other parties to the permit and to all current adjacent landowners.

**\* \* \* Wastewater and Potable Water Supply Connections \* \* \***

Sec. 6. 10 V.S.A. § 1972 is amended to read:

§ 1972. DEFINITIONS

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

\* \* \*

(11) “Change in use” means converting to a different type of use, such as from a residence to a restaurant or office space or from a restaurant to a residence; change from seasonal to year-round use; or scaling up a use, such as increasing the number of employees or adding bedrooms.

“Change of use” does not include the addition of a home occupation to a living unit.

(12) “Municipality” means a city, town, fire district, school district, consolidated water district, incorporated village, or unorganized town or gore.

(13) “Sanitary sewer service line” means piping and associated components that conveys wastewater from a building or structure or campground to a wastewater treatment facility, to an indirect discharge system, or to the leachfield of a soil-based wastewater system of less than 6,500 gallons per day. Sanitary sewer service lines also include piping that conveys wastewater from a building or structure or campground to a sanitary sewer collection line.

(14) “Water main” means water piping, such as a transmission main or distribution main, that is part of a public water system as defined in the Agency of Natural Resources’ Water Supply Rule. A water main includes piping leading to fire hydrants.

(15) “Water service line” means the piping that is not a water main and extends from the water main to a building or structure or campground.

Sec. 7. 10 V.S.A. § 1974(9) is added to read:

§ 1974. EXEMPTIONS

Notwithstanding any other requirements of this chapter, the following projects and actions are exempt:

\* \* \*

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

Sec. 8. 10 V.S.A. § 1983 is added to read:

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

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

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

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

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

(2) The municipality shall only issue authorizations for:

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

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

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

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



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

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

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

(c) Upon request of the Secretary, a municipality approving a connection under this section shall provide copies of approvals of connection, connection plans, and any associated documentation.

Sec. 9. STUDY OF SUBDIVISION REGULATIONS IN AUTHORIZED MUNICIPALITIES

The Agency of Natural Resources' Wastewater and Potable Water Supply Technical Advisory

Committee shall report to the House Committee on Natural Resources, Fish, and Wildlife and the

Senate Committee on Natural Resources and Energy on whether municipalities authorized under

10 V.S.A. § 1983 should also have jurisdiction to issue wastewater and potable water supply

permits instead of the Agency of Natural Resources for subdivisions when the lot is served by

municipal water and sewer.

**\* \* \* River Corridors and Flood Hazard Areas \* \* \***

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

§ 6001. DEFINITIONS

\* \* \*

~~(6) "Floodway" means the channel of a watercourse which is expected to flood on an average of at least once every 100 years and the adjacent land areas which are required to carry and discharge the flood of the watercourse, as determined by the Secretary of Natural Resources with~~

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

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

\* \* \*

Sec. 11. 10 V.S.A. § 6086(a)(1)(D) is amended to read:

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

- ~~(i)~~ (i) the development or subdivision of lands within a ~~floodway~~ flood hazard area or river corridor will not restrict or divert the flow of flood waters, cause or contribute to fluvial erosion, and endanger the health, safety, and welfare of the public or of riparian owners during flooding; ~~and~~
- ~~(ii)~~ (ii) ~~the development or subdivision of lands within a floodway fringe will not significantly increase the peak discharge of the river or stream within or downstream from the area of development and endanger the health, safety, or welfare of the public or riparian owners during flooding.~~

\* \* \* Trails \* \* \*

Sec. 12. 10 V.S.A. § 442(3) is amended to read:

(3) “Trails” means land used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar activities. Trails may be used for recreation, transportation, and other compatible purposes, but the primary purpose shall not be

the operation of a motor vehicle. As used in this subdivision, “motor vehicle” shall not include all-terrain vehicles or snowmobiles.

Sec. 13. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

\* \* \*

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

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

Sec. 14. 10 V.S.A. § 6001(3)(A) is amended to read:

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

\* \* \*

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

(I) This subdivision (xi) shall be the exclusive mechanism for determining jurisdiction over a recreational trail that is a Vermont trails system trail and shall only apply to the construction of improvements made on or after October 1, 2020.

(II) For purposes of this subdivision (xi), involved land includes:

(aa) land that is physically altered, including any ground disturbance and clearing that will occur; and

(bb) infrastructure that is incidental to the operation of the trail, including restrooms, parking areas, shelters, picnic areas, kiosks, and interpretive and directional signage.

(III) For purposes of this subdivision (xi), involved land does not include land where no ground will be disturbed or cleared or any Vermont trails system trail constructed before October 1, 2020.

Sec. 15. 10 V.S.A. § 6001(3)(C) is amended to read:

(C) For the purposes of determining jurisdiction under subdivision 20 (3)(A) of this section, the following shall apply:

\* \* \*

(vi) Recreational trails. When jurisdiction over a trail has been established pursuant to subdivision (A) of this subdivision (3), jurisdiction shall extend only to the recreational trail and infrastructure that is incidental to the operation of the trail. Jurisdiction shall not extend to the remainder of a parcel or parcels where a recreational trail is located, unless otherwise 6 determined to be jurisdictional pursuant to another provision of this chapter.

Sec. 16. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

\* \* \*

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

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

Sec. 17. RECREATIONAL TRAILS RECOMMENDATIONS AND REPORT

On or before January 15, 2020, the Agency of Natural Resources shall report to the House Committee on Natural Resources, Fish, and Wildlife and to the Senate Committee on Natural Resource and Energy with legislative recommendations for a best management practices driven program for Vermont trails system trails that is administered by the Agency of Natural Resources. The report shall include recommendations for revisions to 10 V.S.A. chapter 20, including revisions to mapping, legislative authority to administer the program, potential funding sources, staffing needs, and whether to include other recreational trails. The Agency of Natural Resources shall consult with stakeholders on the proposed program, including the Vermont Trail Alliance, the Forest Partnership, and the Vermont Agency of Transportation.

Sec. 18. PROSPECTIVE REPEAL

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

**\* \* \* Forest Blocks \* \* \***

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

§ 6001. DEFINITIONS

\* \* \*

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

(41) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include features including recreational trails, wetlands, or other natural features that do not themselves possess tree cover and improvements constructed for farming, logging, or forestry purposes.

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

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

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

Sec. 20. 10 V.S.A. § 6086(a)(8) is amended to read:

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

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

~~(A)~~(B) Necessary wildlife habitat and endangered species. A permit will not be granted if it is demonstrated by any party opposing the applicant that a development or subdivision will destroy or significantly imperil necessary wildlife habitat or any endangered species; and

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

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

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

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

Sec. 21. CRITERION 8(C) RULEMAKING

(a) The Natural Resources Board (Board), in consultation with the Agency of Natural Resources shall adopt rules to implement the requirements for the administration of 10 V.S.A. §

6086(a)(8)(C). Rules adopted by the Board shall include:

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

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

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

(2) Standards establishing how fragmentation of forest block or connecting habitat is avoided or minimized, which may include steps to promote proactive site design of buildings, roadways and driveways, utility location, and location relative to existing features such as roads, tree lines, and fence lines.

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

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

Standards may include:

(A) appropriate ratios for compensation;

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

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

(b) The Board shall convene a working group to provide input to the rule prior to prefilng with the Interagency Committee on Administrative Rules. The Board shall convene the working group on or before October 15, 2021.

(c) The Board shall file a final proposed rule with the Secretary of State and Legislative Committee on Administrative Rules on or before February 15, 2022.

**\* \* \* The Road Rule \* \* \***

Sec. 22. 10 V.S.A. 6001(3)(A) is amended to read:

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

\* \* \*

(x) The construction of a road or roads and any associated driveways to provide access to or within a tract or tracts of land of more than one acre owned or controlled by a person.

Jurisdiction under this subdivision shall not apply unless the length of the road and any associated driveways in combination is greater than 2,000 feet. As used in this subdivision, “roads” shall include any new road or improvement to a Class IV road by a private person, including roads that will be transferred to or maintained by a municipality after their construction or improvement. For the purpose of determining the length of any road and associated driveways, the length of all other roads and driveways within the tract or tracts of land constructed within any continuous period of 10 years commencing after October 1, 2020 shall be included. This subdivision shall not apply to a State or municipal road, a utility corridor of an electric transmission or distribution company, a road used primarily for farming or forestry purposes, or a road located entirely in an enhanced village center, designated downtown, or



neighbor development area. The conversion of a road used for farming or forestry purposes that also meets the requirements of this subdivision shall constitute development.

Sec. 23. 10 V.S.A. § 127 is amended to read:

§ 127. RESOURCE MAPPING

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

(b) ~~The Secretary of Natural Resources~~ shall consider the ~~GIS-based~~ resource maps developed under subsection (a) of this section when providing evidence and recommendations to the Public Utility Commission under 30 V.S.A. § 248(b)(5) and when commenting on or providing recommendations under chapter 151 of this title to District Commissions on other projects.

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

**\* \* \* Forest Based Enterprises \* \* \***

Sec. 24. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

\* \* \*

(47) “Forest-based enterprise” means an enterprise that aggregates forest products from forestry operations and adds value through processing or marketing in the forest products supply chain or directly to consumers through retail sales. “Forest-based enterprise” includes sawmills; veneer mills; pulp mills; pellet mills; producers of firewood, woodchips, mulch and fuel wood; and log and pulp concentration yards. “Forest-based enterprise” does not include facilities that purchase, market, and resell finished goods, such as wood furniture, wood pellets, and milled lumber, without first receiving forest products from forestry operations.

(48) “Forest product” means logs, pulpwood, veneer wood, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, maple sap, and bark.

Sec. 25. 10 V.S.A. § 6086(c) is amended to read:

(c) Permit Conditions.

(1) A permit may contain such requirements and conditions as are allowable proper exercise of the police power and which that are appropriate within the respect to subdivisions (a)(1) through (10) of this section, including those set forth in 24 V.S.A. §§ 4414(4), 4424(a)(2), 4414(1)(D)(i), 4463(b), and 4464, the dedication of lands for public use, and the filing of bonds to insure ensure compliance. The requirements and conditions incorporated from Title 24 may be applied whether or not a local plan has been adopted. General requirements and conditions may be established by rule of the Natural Resources Board.

(2) Permit conditions on a forest-based enterprise.

(A) A permit condition that sets hours of operation for a forest-based enterprise shall only be imposed to mitigate an impact under subdivision (a)(1), (5), or (8) of this section.

(B) Unless an impact under subdivision (a)(1), (5), or (8) of this section would result, a permit issued to a forest-based enterprise shall allow the enterprise to ship and receive forest products

outside regular hours of operation. These permits shall allow for deliveries of forest products from forestry operations to the enterprise outside of permitted hours of operation, including nights, weekends, and holidays, for a minimum of 60 days per year.

(C) In making a determination under this subdivision (2) as to whether an impact exists, the District Commission shall consider the enterprise's role in sustaining forestland use and the impact of the permit condition on the forest-based enterprise. Conditions shall impose the minimum restriction necessary to address the undue adverse impact.

(3) Permit conditions on the delivery of wood heat fuels. A permit issued to a forest-based enterprise that produces wood chips, pellets, cord wood, or other fuel wood used for heat shall allow shipment of that fuel wood from the enterprise to the end user outside permitted hours of operation, including nights, weekends, and holidays, from October 1 through April 30 of each year.

Sec. 26. 10 V.S.A. § 6093 is amended to read:

§ 6093. MITIGATION OF PRIMARY AGRICULTURAL SOILS

\* \* \*

(c) Mitigation and offsets for forest-based enterprises. Notwithstanding any provision of this chapter to the contrary, a conversion of primary agricultural soils by a forest-based enterprise permitted under this chapter shall be entitled to a ratio of 1:1 protected acres to acres of affected primary agricultural soil.

**\* \* \* Municipal Response to Act 250 Requests \* \* \***

Sec. 27. 10 V.S.A. 6086(g) is added to read:

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

**\* \* \* Fish and Wildlife Billback Authority \* \* \***

Sec. 28. 10 V.S.A. § 6024 is amended to read:

§ 6024. INTRAGOVERNMENTAL COOPERATION

Other departments and agencies of State government shall cooperate with the Board and make available to it data, facilities, and personnel as may be needed to assist the Board in carrying out its duties and functions, except that the Agency of Natural Resources may participate in proceedings under this chapter to the extent that resources are available. There shall be established a regular schedule of project review that shall assure that all affected departments and agencies recognize and pursue their respective responsibilities. State employees whose job is to assist applicants in the permitting process established under this chapter, shall endeavor to assist all applicants regardless of the size and value of the projects involved.

Sec. 29. 10 V.S.A. 6094 is added to read:

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

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

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

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

**\* \* \* Enhanced Village Centers and Designation Appeals \* \* \***

Sec. 29. 24 V.S.A. § 2793a is amended to read:

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

\* \* \*

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

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

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

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

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

Sec. 30. 24 V.S.A. § 2798 is amended to read:

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

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

Sec. 31. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

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

(1) The following provisions of this title:

\* \* \*

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

\* \* \*

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

Sec. 32. 10 V.S.A. § 8504(o) is amended to read:

(o) With respect to review of an act or decision of the Secretary pursuant to 3 V.S.A. § 2809 or 10 V.S.A. § 6094, the Division may reverse the act or decision or amend an allocation of costs to an applicant only if the Division determines that the act, decision, or allocation was arbitrary, capricious, or an abuse of discretion. In the absence of such a determination, the Division shall require the applicant to pay the Secretary all costs assessed pursuant to 3 V.S.A. § 2809.

**\* \* \* Industrial Parks \* \* \***

Sec. 33. 10 V.S.A. § 6083a is amended to read:

§ 6083a. ACT 250 FEES

\* \* \*

(5) For projects involving the review of a master plan, the fee established in subdivision (1) of this section shall be due for any portion of the proposed project for which construction approval

is sought and a fee equivalent to \$0.10 per \$1,000.00 of total estimated construction costs in current dollars in addition to the fee established in subdivision (1) of this subsection for any portion of the project seeking construction approval shall be due for all other portions of the proposed project. If construction approval is sought in future permit applications, the fee established in subdivision (1) of this subsection shall be due, except to the extent that it is waived pursuant to subsection (f) of this section.

(6) In no event shall a permit application fee exceed \$165,000.00.

(b) Notwithstanding the provisions of subsection (a) of this section, there shall be a minimum fee of \$187.50 for original applications and \$62.50 for amendment applications, in addition to publication and recording costs. These costs shall be in addition to any other fee established by statute, unless otherwise expressly stated.

(c) Fees shall not be required for projects undertaken by municipal agencies or by State governmental agencies, except for publication and recording costs.

~~(d) Neighborhood development area fees. Fees for residential development in a Vermont neighborhood or neighborhood development area designated according to 24 V.S.A. § 2793e shall be no more than 50 percent of the fee otherwise charged under this section. The fee shall be paid within 30 days after the permit is issued or denied. [Repealed.]~~

(e) A written request for an application fee refund shall be submitted to the District Commission to which the fee was paid within 90 days of the withdrawal of the application.

\* \* \*

(4) District Commission decisions regarding application fee refunds may be appealed to the Natural Resources Board in accordance with Board rules.

\* \* \*

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

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

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

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

(C) Whether the applicant relies on any presumptions permitted under subsection 6086(d) of this title and has, at the time of the permit application, already obtained the permits necessary to trigger the presumptions. If a presumption is rebutted, the District Commission may require the applicant to pay the previously waived fee.

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

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



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

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

Sec. 34. 10 V.S.A. § 8503(b)(1) is amended to read:

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

**\*\*\* Environmental Studies \*\*\***

Sec. 35. VERMONT ENVIRONMENTAL APPEALS REVIEW

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

Sec. 36. STUDY ON THE ROLE OF THE NATURAL RESOURCES BOARD,  
COMPOSITION, AND ACT 250 PERMITTING

(a) On or before January 15, 2021, the Chair of the Natural Resources Board shall make recommendations to the House Committee on Natural Resources, Fish, and and the Senate Committees on Natural Resources and Energy on:

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

(2) The strengths and challenges of the current structure of the Natural Resources Board based on the stakeholder outreach.

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

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

Sec. 37. VERMONT REGIONAL AND MUNICIPAL PLANNING REVIEW

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

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

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

(3) How 10 V.S.A. chapter 151 should require the creation of Capability and Development maps.

If the recommendation is to require the creation of Capability and Development maps, the report shall identify the resources and land uses to be mapped and provide a schedule and budget for the proposed update.

(4) How Capability and Development Plan Findings, the Capability and Development Plan, and Capability and Development maps would be used in permitting under 10 V.S.A. chapter 151 and

how these would relate to the criteria considered under 10 V.S.A. § 6086(a). (5) Whether

designations of village centers, growth centers, and new town centers should be appealable. If

these designations are appealable, which tribunal should hear the appeal. (b) The Natural

Resources Board shall have a public comment period of at least 30 days on the draft report

required by subsection (a) of this section. The Board shall hold at least one public informational

meeting on the draft report. Notice provided by the Board shall include affected State agencies,

municipalities, regional planning commissions, the Vermont Planners Association, the Vermont

Planning and Development Association, and other interested persons.

(c) On or before December 15, 2021, the Natural Resources Board shall provide a final report to

the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on

Natural Resources and Energy. The final report shall incorporate recommendations from the

public engagement process under subsection (b) of this section and shall contain a response to

stakeholder comments as a part of the final report

\* \* \* Effective Dates \* \* \*

#### Sec. 38. EFFECTIVE DATES

(a) This act shall take effect upon passage, except that Sec. 34, 10 V.S.A. § 6086(a)(8), shall take effect on February 15, 2022.

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