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S.237

Senator Bray moves that the bill be amended as follows:

First: In Sec. 2, 24 V.S.A. § 4412, by striking out subsection (b) in its entirety.

Second: By striking out Sec. 3, 27 V.S.A. § 545, in its entirety and inserting in lieu thereof the following:

Sec. 3. REPORT ON INCREASING HOUSING DENSITY

On or before January 15, 2021, the Department of Housing and Community Development shall report to the House Committees on General, Housing, and Military Affairs and on Natural Resources, Fish, and Wildlife and to the Senate Committees Economic Development, Housing, and General Affairs and on Natural Resources and Energy with legislative recommendations to enhance the availability of affordable housing. The report shall consider factors to reduce costs, including increasing housing density while providing municipalities flexible options to achieve the density goals; reducing energy costs through conservation and efficiency; and reducing transportation costs. The housing density recommendations may provide for performance targets or average density increases and methods for determining housing density in order to measure progress. The Department shall consult with stakeholders and consider the incorporation of the findings and recommendations of the Zoning for Great Neighborhoods program.

1 Third: By striking out Sec. 4, Report On Substantial Municipal Constraints,
2 in its entirety and inserting in lieu thereof the following:

3 Sec. 4. 24 V.S.A. § 2798 is amended to read:

4 § 2798. DESIGNATION DECISIONS; NONAPPEAL APPEAL

5 (a) The A person aggrieved by a designation decisions decision of the State
6 Board under this chapter are not subject to appeal section 2793 or 2793e of this
7 title may appeal to the Natural Resources Board established under 10 V.S.A.
8 chapter 151 within 30 days of the decision.

9 (b) The Natural Resources Board shall conduct a de novo hearing on the
10 decision under appeal and shall proceed in accordance with the contested case
11 requirements of the Vermont Administrative Procedure Act. The Natural
12 Resources Board shall issue a final decision within 90 days of the filing of the
13 appeal. The provisions of 10 V.S.A. § 6024 regarding assistance to the Natural
14 Resources Board from other departments and agencies of the State shall apply
15 to appeals under this section.

16 Fourth: In Sec. 6, 10 V.S.A. § 6081(p)(1), by striking out the words “Upon
17 receiving notice and a copy of the permit issued by an appropriate municipal
18 panel pursuant to 24 V.S.A. § 4460(f), a previously issued permit for a
19 development or subdivision located in a downtown development area or a
20 neighborhood development area is extinguished” and inserting in lieu thereof

1 the following: “Existing permits in these areas may seek to be released from
2 jurisdiction pursuant to section 6090(c) of this title”

3 Fifth: In Sec. 8, 24 V.S.A. § 4460, in its entirety and inserting in lieu
4 thereof the following:

5 * * * Act 250 Release from Jurisdiction * * *

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

7 § 6090. RECORDING; DURATION AND REVOCATION OF PERMITS

8 * * *

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

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

14 (A) One of the following is true:

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

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

20 (iii) the land is located in a designated downtown or neighborhood
21 development area that is exempt from this chapter.

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

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

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

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

19 (4) The District Commission shall evaluate the conditions in the existing
20 permit and determine whether the permit conditions are still necessary to
21 mitigate impacts under the criteria of section 6086(a). If the District

1 Commission finds that the permit conditions are still necessary, it shall deny
2 the application or approve the application on the condition that the necessary
3 conditions are added to the land’s municipal permit.

4 Seventh: In Sec. 12, 24 V.S.A. 2793e(c)(7), by striking it out in its entirety.

5 Eighth: By striking out Secs. 14 (10 V.S.A. § 1974(9), 15(10 V.S.A.
6 § 1983), and 16 (Study of Subdivision regulations in authorized municipalities)
7 in their entireties and inserting in lieu thereof the following:

8 * * * Wastewater and Potable Water Supply Connections * * *

9 Sec. 14. 10 V.S.A. § 1972 is amended to read:

10 § 1972. DEFINITIONS

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

12 * * *

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

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

20 (13) “Sanitary sewer service line” means piping and associated
21 components that conveys wastewater from a building or structure or

1 campground to a wastewater treatment facility, to an indirect discharge system,
2 or to the leachfield of a soil-based wastewater system of less than 6,500
3 gallons per day. Sanitary sewer service lines also include piping that conveys
4 wastewater from a building or structure or campground to a sanitary sewer
5 collection line.

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

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

12 Sec. 15. 10 V.S.A. § 1974(9) is added to read:

13 § 1974. EXEMPTIONS

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

16 * * *

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

20 Sec. 16. 10 V.S.A. § 1983 is added to read:

21 § 1983. REGISTRATION FOR MUNICIPAL WASTEWATER SYSTEM

1 AND POTABLE WATER SUPPLY CONNECTIONS

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

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

11 (A) a public community water system permitted pursuant to chapter
12 56 of this title; and

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

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

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

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

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

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

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

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

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

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

17 Sec. 16a. STUDY OF SUBDIVISION REGULATIONS IN AUTHORIZED
18 MUNICIPALITIES

19 The Agency of Natural Resources' Wastewater and Potable Water Supply
20 Technical Advisory Committee shall report to the House Committee on
21 Natural Resources, Fish, and Wildlife and the Senate Committee on Natural

1 Resources and Energy on whether municipalities authorized under 10 V.S.A. §
2 1983 should also have jurisdiction to issue wastewater and potable water
3 supply permits instead of the Agency of Natural Resources for subdivisions
4 when the lot is served by municipal water and sewer.

5 Ninth: By striking out Secs. 23 (Implementation) and 24 (Effective dates)
6 in their entireties and inserting in lieu thereof the following:

7 * * * Act 250 Criterion 1(D) * * *

8 Sec. 23. 10 V.S.A. § 6001 is amended to read:

9 § 6001. DEFINITIONS

10 * * *

11 (6) ~~“Floodway” means the channel of a watercourse which is expected to~~
12 ~~flood on an average of at least once every 100 years and the adjacent land areas~~
13 ~~which are required to carry and discharge the flood of the watercourse, as~~
14 ~~determined by the Secretary of Natural Resources with full consideration given~~
15 ~~to upstream impoundments and flood control projects. “Flood hazard area” has~~
16 the same meaning as under section 752 of this title.

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

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Sec. 24. 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) 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) 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. 25. 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 subsection, “motor vehicle” shall not include all-terrain vehicles or snowmobiles.

1 Sec. 26. 10 V.S.A. § 6001 is amended to read:

2 § 6001. DEFINITIONS

3 * * *

4 (38) “Recreational trail” has the same meaning as “trails” in subdivision
5 442(3) of this title.

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

10 Sec. 27. 10 V.S.A. § 6001(3)(A) is amended to read:

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

12 * * *

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

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

19 (II) For purposes of this subdivision (ix), involved land
20 includes:

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

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

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

9 Sec. 28. 10 V.S.A. § 6001(3)(C) is amended to read:

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

12 * * *

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

19 Sec. 29. 10 V.S.A. § 6081 is amended to read:

20 § 6081. PERMITS REQUIRED; EXEMPTIONS

21 * * *

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

6 (z) Until January 1, 2022, no permit is required for a Vermont trails system
7 trail recognized pursuant to chapter 20 of this title if the trail was in existence
8 prior to July 1, 2020.

9 Sec. 30. RECREATIONAL TRAILS RECOMMENDATIONS AND
10 REPORT

11 On or before December 15, 2020, the Agency of Natural Resources shall
12 report to the House Committee on Natural Resources, Fish, and Wildlife and to
13 the Senate Committee on Natural Resource and Energy with legislative
14 recommendations for a best management practices driven program for
15 Vermont trails system trails that is administered by the Agency of Natural
16 Resources. The report shall include recommendations for revisions to
17 10 V.S.A. chapter 20, including revisions to mapping, legislative authority to
18 administer the program, potential funding sources, staffing needs, and whether
19 to include other recreational trails. The Agency of Natural Resources shall
20 consult with stakeholders on the proposed program, including the Vermont

1 Trail Alliance, the Forest Partnership, and the Vermont Agency of
2 Transportation.

3 Sec. 31. PROSPECTIVE REPEAL

4 10 V.S.A. § 6001(3)(A)(xi) shall be repealed on January 1, 2022.

5 * * * Forest Blocks * * *

6 Sec. 32. 10 V.S.A. § 6001 is amended to read:

7 § 6001. DEFINITIONS

8 * * *

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

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

19 (42) “Fragmentation” means the division or conversion of a forest block
20 or connecting habitat by the separation of a parcel into two or more parcels; the
21 construction, conversion, relocation, or enlargement of any building or other

1 structure, or of any mining, excavation, or landfill; and any change in the use
2 of any building or other structure, or land, or extension of use of land.

3 However, fragmentation does not include the division or conversion of a forest
4 block or connecting habitat by a recreational trail or by improvements
5 constructed for farming, logging, or forestry purposes below the elevation of
6 2,500 feet.

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

9 Sec. 33. 10 V.S.A. § 6086(a)(8) is amended to read:

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

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

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

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

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

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

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

11 Sec. 34. CRITERION 8(C) RULEMAKING

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

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

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

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

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

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

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

10 (A) appropriate ratios for compensation;

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

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

14 (b) The Board shall convene a working group to provide input to the rule
15 prior to pre-filing with the Interagency Committee on Administrative Rules.

16 The Board shall convene the working group on or before September 1, 2020.

17 (c) The Board shall file a final proposed rule with the Secretary of State
18 and Legislative Committee on Administrative Rules on or before September 1,
19 2021.

20 * * * The Road Rule * * *

21 Sec. 35. 10 V.S.A. 6001(3)(A) is amended to read:

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

2 * * *

3 (x) The construction of a road or roads and any associated
4 driveways to provide access to or within a tract of land of more than one acre
5 owned or controlled by a person. For the purposes of determining jurisdiction
6 under this subdivision, any new development or subdivision on a parcel of land
7 that will be provided access by the road and associated driveways is land
8 involved in the construction of the road. Jurisdiction under this subdivision
9 shall not apply unless the length of the road and any associated driveways in
10 combination is greater than 2,000 feet. As used in this subdivision, “roads”
11 shall include any new road or improvement to a Class IV road by a private
12 person, including roads that will be transferred to or maintained by a
13 municipality after their construction or improvement. For the purpose of
14 determining the length of any road and associated driveways, the length of all
15 other roads and driveways within the tract of land constructed within any
16 continuous period of 10 years commencing after July 1, 2020 shall be
17 included. This subdivision shall not apply to a State or municipal road, a
18 utility corridor of an electric transmission or distribution company, a road used
19 primarily for farming or forestry purposes, **or a road in a designated downtown**
20 **or neighbor development area.** The conversion of a road used for farming or

1 forestry purposes that also meets the requirements of this subdivision shall
2 constitute development.

3 Sec. 36. 10 V.S.A. § 127 is amended to read:

4 § 127. RESOURCE MAPPING

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

13 (b) The Secretary ~~of Natural Resources~~ shall consider the ~~GIS-based~~
14 resource maps developed under subsection (a) of this section when providing
15 evidence and recommendations to the Public Utility Commission under
16 30 V.S.A. § 248(b)(5) and when commenting on or providing
17 recommendations under chapter 151 of this title to District Commissions on
18 other projects.

19 (c) The Secretary shall establish and maintain written procedures that
20 include a process and science-based criteria for updating resource maps
21 developed under subsection (a) of this section. Before establishing or revising

1 these procedures, the Secretary shall provide opportunities for affected parties
2 and the public to submit relevant information and recommendations.

3 * * * Wood Product Manufacturer * * *

4 Sec. 37. 10 V.S.A. § 6001 is amended to read:

5 § 6001. DEFINITIONS

6 * * *

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

16 (46) “Wood product” means logs, pulpwood, veneer wood, bolt wood,
17 wood chips, stud wood, poles, pilings, biomass, fuel wood, maple sap, and
18 bark.

19 Sec. 38. 10 V.S.A. § 6086(c) is amended to read:

20 (c)(1) A permit may contain such requirements and conditions as are
21 allowable proper exercise of the police power and which are appropriate within

1 the respect to subdivisions (a)(1) through (10) of this section, including those
2 set forth in 24 V.S.A. §§ 4414(4), 4424(a)(2), 4414(1)(D)(i), 4463(b), and
3 4464, the dedication of lands for public use, and the filing of bonds to insure
4 compliance. The requirements and conditions incorporated from Title 24 may
5 be applied whether or not a local plan has been adopted. General requirements
6 and conditions may be established by rule of the Natural Resources Board.

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

8 (A) A permit condition that sets hours of operation for a wood
9 products manufacturer shall only be imposed to mitigate an impact under
10 subdivision (a)(1), (5), or (8) of this section.

11 (B) If an adverse impact under subdivisions (a)(1), (5), or (8) of this
12 section would result, a permit with conditions shall allow the manufacturer to
13 operate while mitigating these impacts. A permit with conditions that mitigate
14 these impacts shall allow for deliveries of wood products from forestry
15 operations to the manufacturer outside of permitted hours of operation,
16 including nights, weekends, and holidays, for the number of days demonstrated
17 by the manufacturer as necessary to enable business operations, not to exceed
18 90 days per year.

19 (3) Permit with conditions on the delivery of wood heat fuels. A permit
20 with conditions issued to a wood products manufacturer that produces wood
21 chips, pellets, cord wood, or other fuel wood used for heat shall allow

1 shipment of that fuel wood from the manufacturer to the end user outside
2 permitted hours of operation, including nights, weekends, and holidays, from
3 October 1 through April 30 of each year. Permits with conditions shall
4 mitigate the undue adverse impacts while enabling the operations of the
5 manufacturer.

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

11 * * * Municipal Response to Act 250 Requests * * *

12 Sec. 39. 10 V.S.A. 6086(g) is added to read:

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

17 * * * Fish and Wildlife Billback Authority * * *

18 Sec. 40. 10 V.S.A. 6094 is added to read:

19 § 6094. ALLOCATION OF COSTS; DEPARTMENT OF FISH AND
20 WILDLIFE

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

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

14 (c) An applicant to which costs are allocated under this section may
15 petition the District Commission to review the costs allocated. The District
16 Commission shall conduct a hearing to determine reasonableness of the costs.
17 The District Commission shall consider the size and complexity of the project
18 and may revise the cost allocations if determined unreasonable.

19 (d) District Commission decisions regarding the reasonableness of fees
20 may be appealed, by the Department or the applicant, to the Natural Resources
21 Board in accordance with rules adopted by the Board.

1 Sec. 41. EFFECTIVE DATES

2 This act shall take effect on July 1, 2020, except that Sec. 36, 10 V.S.A.

3 § 6086(a)(8), shall be effective on September 15, 2021.

DRAFT