

Senator Bray et al. Summary of S.237 and SNRE Proposals of Amendment to S.237, as now on floor

last updated June 21, 2020

Proposed changes to S.237 are in **bold** after each section. Section numbers assume the amendments from Economic Development, Finance, and Appropriations have been adopted.

Sec. 1 requires a municipal plan map to include water supply and sewer disposal lines, facilities, and service areas. It also requires the plan to comply with the housing requirements of 24 V.S.A. § 4412. **No change.**

Sec. 2 makes numerous changes to 24 V.S.A. § 4412

(a) includes:

- In a district that allows multiunit dwellings, a municipality must allow up to four units per dwelling.
- Amends the definition of accessory dwelling unit (ADU) by removing the requirements that it has to be owner occupied and that it has to be one bedroom or fewer. It also allows the size of the ADUs to be 30 percent of the single-family dwelling or 900 square feet, whichever is greater.
- Prohibits municipalities from banning development on existing lots 1/8 acre in size if able to connect to municipal sewer and water.

(b) includes:

- Establishes Inclusive Development provisions. These provisions are voluntary until they go into effect on July 1, 2023. A municipality may opt out of these requirements by filing a Substantial Municipal Constraint Report.
- A municipality cannot prevent the creation of lots 1/4 acre or larger if able to connect to municipal water or 1/8 acre or larger if able to connect to municipal water and sewer.
- Must condition subdivision approval on receiving State wastewater permit.
- Duplexes are required to go through the same review as single-family units.
- Parking spaces that are leased separately from housing units shall count as double towards the parking minimum if located within 1/2 mile of a transit stop.
- Municipalities that comply with the Inclusive Development provisions are eligible for incentives including priority funding and tax credits. Also, a municipality that has adopted the provisions may enforce the language in Sec. 3, which invalidates deed restrictions that conflict with the provisions.

No change.

Sec. 3 invalidates restrictive deeds and covenants that prohibit land development allowed under the Inclusive Development provisions of § 4412. It includes language so conservation easements and housing subsidy covenants are not unintentionally preempted. **No change.**

Sec. 4 requires the Dept. of Housing and Community Development to report back to the General Assembly by January 15, 2023 on a Substantial Municipal Constraint Reports received. **No change.**

Sec. 5 amends a few definitions in Act 250. It makes technical corrections to "mixed income housing" in order to reflect VFHA's current practice. It strikes the references in "priority housing project" to Downtown Development Districts (DDD) and Neighborhood Development Areas (NDAs). **No change.**

Sec. 6 makes multiple changes to Act 250 to exempt DDDs and NDAs from Act 250 and allows existing Act 250 permits in those areas to be extinguished.

Strikes reference to automatic extinguishment of existing permits and add reference to new language in Sec. 8. See below. Existing permits may apply to be released from permit (same as extinguish), but District Commission decides.

Sec. 7 repeals two sections of Act 250 related to DDDs and NDAs. **No change.**

Sec. 8 requires municipal panels to add existing Act 250 permit conditions to the municipal land use permit for a development, unless the conditions are no longer needed.

Strikes and replaces with new section that allows land to apply to be released from Act 250 jurisdiction. A person may apply to the District Commission if the land would no longer fall under Act 250 jurisdiction but for the existing permit on the land. This would include if the use of land no longer triggers jurisdiction, the town has adopted permanent zoning and subdivision bylaws since the permit was issued (and is therefore now a 10-acre town), or if located within a downtown or neighborhood development area. District Commission decides.

Sec. 9 adds the executive director of the Vermont Housing and Conservation Board as a member of the Vermont Downtown Development Board. **No change.**

Sec. 10 amends the requirements for a Downtown Development District by striking the references to Act 250 and by requiring an additional housing element to promote affordable housing. **No change.**

Sec. 11 condenses the references to the Downtown and Village Center Tax Credit Program in the Village Center Designation statute. **No change.**

Sec. 12 amends the Neighborhood Development Area statutes in multiple ways. It strikes the references to Act 250. It requires an additional housing element to promote affordable housing. It also amends the requirement that the NDA not include areas that are in flood hazard areas or river corridors unless the area contains preexisting development and is suitable for infill.

Small change- strike amendment in (c)(7) to return to current law.

Sec. 13 and 13a amends the Downtown and Village Center Tax Credit Program. Extends the program to include NDAs and qualified flood mitigation projects. **No change.**

Sec. 14 exempts a person who receives a wastewater connection permit from the municipality from needing a State permit.

Sec. 15 states that a municipality may issue wastewater connection permits if the municipality owns a public water system.

Sec. 16 and 16a requires ANR to report back to the General Assembly on whether municipalities should have jurisdiction to issue subdivision permits.

Rewrites Sec. 14-16 based on language drafted by Leg Council and ANR. Does not change substance but corrects issues with existing delegation statute. Allows for connections without a permit, fee, or administrative review time, while still requiring appropriate technical standards, professional certification, and ANR oversight. ANR to report on allowing the same provisions for subdivisions.

===== EVERYTHING ABOVE THIS LINE is now the pending question in the Senate=====

Secs. 17-22 are not related to land use. **No changes.**

Sec. 23 allows the incentives for the Inclusive Development provisions to be available immediately for towns that comply before July 1, 2023. **No change.**

Sec. 24 EFFECTIVE DATES – states that the bill goes into effect on July 1, 2020, except for the Inclusive Development provisions which are effective July 1, 2023.

Strikes in order to add new Act 250 language. Effective dates added to end of amendment.

BEGIN – New Act 250 amendments

===== EVERYTHING BELOW THIS LINE in RED was ruled non-germane=====

Sec. 24-25 Criterion 1(D). In Act 250's floodway criterion, changes "floodway" to "flood hazard area" and "floodway fringe" to "river corridor" to match ANR's definitions.

Sec. 26-32 Trails. Adds new temporary jurisdictional trigger for Vermont Trail System (VTS) trails. Requires ANR to recommend new regulation program for trails by Dec. 15, 2020. VTS trails in existence as of July 1, 2020 do not need an Act 250 permit until January 1, 2022.

Sec. 33-37 Forest Blocks. Adds new Criterion 8(C) to address undue adverse impact on forest blocks and connecting habitat, which requires avoid, minimize, mitigate fragmentation. Adds the Road Rule as a new jurisdictional trigger which extends Act 250 jurisdiction to new private roads and driveways over 2000 feet in length. Adds new definitions. Requires NRB to adopt rules. Requires ANR to add forest blocks to resource maps.

Sec. 38-39 Permit condition flexibility for wood products manufacturers. Allows wood products manufacturers to amend their permit conditions related to hours of operation for limited time during the year.

Sec. 40 Municipal Response to Act 250 permits. Requires municipalities to respond to requests related to impacts under Criterion 6&7 within 90 days or it is presumed the project doesn't have an unreasonable burden under those criteria.

Sec. 41-42. Billback Authority. Gives the Dept of Fish and Wildlife ability to bill applicants for costs of personnel and services expended by the Dept. on a Act 250 major permit.

Sec. 43-44 Designation Appeal. Designations of Downtown Development Districts and Neighborhood Development Areas may be appealed to NRB.

Sec. 45 Effective Dates. July 1, 2020, except new Criterion 8 is Sept. 15, 2021 due to rulemaking.

This version drawn from original document VT LEG #348958 v.1 – thanks to Ellen Czajkowski