

1 Sec. 1. 10 V.S.A. § 6093 is amended to read:

2 § 6093. MITIGATION OF PRIMARY AGRICULTURAL SOILS

3 (a) Mitigation for loss of primary agricultural soils. Suitable mitigation for
4 the conversion of primary agricultural soils necessary to satisfy subdivision
5 6086(a)(9)(B)(iv) of this title shall depend on where the project tract is located.

6 (1) Project located in certain designated areas. This subdivision applies
7 to projects located in the following areas designated under 24 V.S.A. chapter
8 76A: a downtown development district, a growth center, a new town center
9 designated on or before January 1, 2014, and a neighborhood development area
10 associated with a designated downtown development district. If the project
11 tract is located in one of these designated areas, an applicant who complies
12 with subdivision 6086(a)(9)(B)(iv) of this title shall deposit an offsite
13 mitigation fee into the Vermont Housing and Conservation Trust Fund
14 established under section 312 of this title for the purpose of preserving primary
15 agricultural soils of equal or greater value with the highest priority given to
16 preserving prime agricultural soils as defined by the U.S. Department of
17 Agriculture. Any required offsite mitigation fee shall be derived by:

18 (A) Determining the number of acres of primary agricultural soils
19 affected by the proposed development or subdivision.

20 (B) Multiplying the number of affected acres of primary agricultural
21 soils by a factor resulting in a ratio established as follows:

1 (i) For development or subdivision within a designated area
2 described in this subdivision (a)(1), the ratio shall be 1:1.

3 (ii) For residential construction that has a density of at least eight
4 units of housing per acre, of which at least eight units per acre or at least 40
5 percent of the units, on average, in the entire development or subdivision,
6 whichever is greater, meets the definition of affordable housing established in
7 this chapter, no mitigation shall be required, regardless of location in or outside
8 a designated area described in this subdivision (a)(1). However, all affordable
9 housing units shall be subject to housing subsidy covenants, as defined in 27
10 V.S.A. § 610, that preserve their affordability for a period of 99 years or
11 longer. As used in this section, housing that is rented shall be considered
12 affordable housing when its inhabitants have a gross annual household income
13 that does not exceed 60 percent of the county median income or 60 percent of
14 the standard metropolitan statistical area income if the municipality is located
15 in such an area.

16 (C) Multiplying the resulting product by a “price-per-acre” value,
17 which shall be based on the amount that the Secretary of Agriculture, Food and
18 Markets has determined to be the recent, per-acre cost to acquire conservation
19 easements for primary agricultural soils in the same geographic region as the
20 proposed development or subdivision.

1 (2) Project located outside certain designated areas. If the project tract is
2 not located in a designated area described in subdivision (1) of this subsection,
3 mitigation shall be provided on site in order to preserve primary agricultural
4 soils for present and future agricultural use, with special emphasis on
5 preserving prime agricultural soils. Preservation of primary agricultural soils
6 shall be accomplished through innovative land use design resulting in compact
7 development patterns that will maintain a sufficient acreage of primary
8 agricultural soils on the project tract capable of supporting or contributing to
9 an economic or commercial agricultural operation and shall be enforceable by
10 permit conditions issued by the District Commission. The number of acres of
11 primary agricultural soils to be preserved shall be derived by:

12 (A) Determining the number of acres of primary agricultural soils
13 affected by the proposed development or subdivision.

14 (B) Multiplying the number of affected acres of primary agricultural
15 soils by a factor based on the quality of those primary agricultural soils, and
16 other factors as the Secretary of Agriculture, Food and Markets may deem
17 relevant, including the soil's location; accessibility; tract size; existing
18 agricultural operations; water sources; drainage; slope; the presence of ledge or
19 protected wetlands; the infrastructure of the existing farm or municipality in
20 which the soils are located; and the NRCS rating system for Vermont soils.

1 This factor shall result in a ratio of no less than 2:1, but no more than 3:1,
2 protected acres to acres of impacted primary agricultural soils.

3 * * *

4 (4) Industrial parks.

5 (A) Notwithstanding any provision of this chapter to the contrary, a
6 conversion of primary agricultural soils located in an industrial park permitted
7 under this chapter and in existence as of January 1, 2006, shall be allowed to
8 pay a mitigation fee computed according to the provisions of subdivision (1) of
9 this subsection (a), except that it shall be entitled to a ratio of 1:1 protected
10 acres to acres of affected primary agricultural soil. If an industrial park is
11 developed to the fullest extent before any expansion, this ratio shall apply to
12 any contiguous expansion of such an industrial park that totals no more than 25
13 percent of the area of the park or no more than 10 acres, whichever is larger;
14 provided any expansion based on percentage does not exceed 50 acres. Any
15 expansion larger than that described in this subdivision shall be subject to the
16 mitigation provisions of this subsection at ratios that depend upon the location
17 of the expansion.

18 (B) In any application to a District Commission to amend a permit
19 for an existing industrial park, the most efficient and full use of land shall be
20 allowed consistent with all applicable criteria of subsection 6086(a) of this
21 title. Industrial park expansions and industrial park infill shall not be subject to

1 requirements established in subdivision 6086(a)(9)(B)(iii) or 6086(a)(9)(C)(iii)
2 of this title.

3 (5) Notwithstanding any provision of this chapter to the contrary, a
4 development or subdivision of primary agricultural soils by a State-owned
5 airport shall not be required to conduct mitigation or pay a mitigation fee under
6 this section if:

7 (A)(i) the development or subdivision is the result of land
8 acquisition, improvement, or maintenance authorized under 5 V.S.A. chapter
9 15, subchapter 6; or

10 (ii) the development or subdivision was authorized under the
11 Federal Aviation Administration airport master plan for the State-owned
12 airport; and

13 (B) the State-owned airport obtains any permit or permit amendment
14 that may be required under this chapter for the development or subdivision.

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16 Sec. 2. EFFECTIVE DATE

17 Sec. 1 of this act shall take effect on passage, and apply to development or
18 subdivision of land by a State-owned airport that commenced after the
19 effective date of this act.