

1 S.133

2 Introduced by Senators Ram Hinsdale, Chittenden and Clarkson

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; land use; municipal zoning; Act 250;
6 sawmills; brownfields

7 Statement of purpose of bill as introduced: This bill proposes to make multiple
8 changes related to municipal zoning, the State land use and development law,
9 and brownfields.

10 An act relating to land use, housing, and brownfields

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 * * * Municipal Zoning * * *

13 Sec. 1. 24 V.S.A. § 4412(15) and (16) are added to read:

14 (15) Notwithstanding any other provision of law to the contrary, no
15 zoning or subdivision bylaw shall have the effect of prohibiting related
16 occupants from constructing additional dwelling units on the same parcel.

17 (16) If an area of a municipality has been zoned for industrial use, but is
18 later changed to allow residential development, the area shall allow five or
19 more units per acre.

1 Sec. 2. 24 V.S.A. § 4303 is amended to read:

2 § 4303. DEFINITIONS

3 The following definitions shall apply throughout this chapter unless the
4 context otherwise requires:

5 * * *

6 (42)(A) An area “served by municipal sewer and water infrastructure”
7 means an area adjacent to a road with water and sewer lines where there is
8 capacity or capacity is being added imminently to accommodate housing and
9 is:

10 (i) an area where residential connections and expansions are
11 available to municipal water and direct and indirect discharge wastewater
12 systems and not prohibited by:

13 (I) State regulations or permits;

14 (II) identified capacity constraints; or

15 (III) municipally adopted service and capacity agreements; or

16 (ii) an area established by the municipality by ordinance or bylaw
17 where residential connections and expansions are available to municipal water
18 and direct and indirect discharge wastewater systems and which may exclude:

19 (I) flood hazard or inundation areas as established by statute,

20 river corridors or fluvial erosion areas as established by statute, shorelands,

21 areas within a zoning district or overlay district the purpose of which is natural

1 resource protection, and wherever year-round residential development is not
2 allowed;

3 (II) areas with identified service limits established by State
4 regulations or permits, identified capacity constraints, or municipally adopted
5 service and capacity agreements;

6 (III) areas served by sewer and water to address an identified
7 community-scale public health hazard or environmental hazard;

8 (IV) areas serving a mobile home park that is not within an area
9 planned for year-round residential growth;

10 (V) areas serving an industrial site or park;

11 (VI) areas where service lines are located to serve the areas
12 described in subdivisions (III)–(V) of this subdivision (ii), but no connections
13 or expansions are permitted; or

14 (VII) areas that, through an approved Planned Unit
15 Development under section 4417 of this title or Transfer of Development
16 Rights under section 4423 of this title, prohibit year-round residential
17 development.

18 (B) Municipally adopted areas served by municipal sewer and water
19 infrastructure that limit sewer and water connections and expansions shall not
20 result in the unequal treatment of housing by discriminating against a year-
21 round residential use or housing type otherwise allowed in this chapter.

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(I) Municipal or regional planning commission staff or other contracted capacity adequate to support coordinated comprehensive and capital planning, development review, and zoning administration in the Tier 1A area.

* * *

Sec. 6. 10 V.S.A. § 6033 is amended to read:

§ 6033. REGIONAL PLAN FUTURE LAND USE MAP REVIEW

* * *

(c) To obtain a Tier 1B area status under this section the regional planning commission shall demonstrate to the Board that the municipalities with Tier 1B areas meet the following requirements as included in subdivision 24 V.S.A. § 4348a(a)(12)(C):

(1) The municipality has not requested to opt out to have the area mapped for Tier 1B. A municipality may request to opt out of Tier 1B area status by submitting a resolution passed by the municipality to the relevant regional planning commission and the Board.

* * *

(6) The municipality has municipal staff, municipal officials, or regional planning commission staff or other contracted capacity adequate to support development review and zoning administration in the Tier 1B area.

1 section 6615 of this title. The Program shall be administered by the Secretary
2 who shall:

3 * * *

4 (c) When conducting any review required by this subchapter, the Secretary
5 shall prioritize the review of remediation at a site that contains housing or that
6 is planned for the construction or rehabilitation of single-family or multi-
7 family housing.

8 Sec. 12. BROWNFIELDS PROCESS IMPROVEMENT; REPORT

9 On or before November 1, 2025, the Secretary of Natural Resources shall
10 report to the House Committees on Environment and on General and Housing
11 and the Senate Committees on Economic Development, Housing and General
12 Affairs and on Natural Resources and Energy with proposals to make the
13 Program established pursuant to 10 V.S.A. chapter 159, subchapter 3
14 (brownfields reuse and liability limitation) substantially more efficient. At a
15 minimum, the report shall include both of the following:

16 (1) A survey of stakeholders in the brownfields program to identify
17 areas that present challenges to the redevelopment of contaminated properties,
18 with a focus on redevelopment for housing. The Secretary shall provide
19 recommendations to resolve these challenges.

20 (2) An analysis of strengths and weaknesses of implementing a licensed
21 site professional program within the State. The Secretary shall make a

1 recommendation on whether such a program should be implemented. If the
2 Secretary recommends implementation, the report shall include any changes to
3 statute or budget needed to implement this program.

4 * * * Wetlands * * *

5 Sec. 13. 10 V.S.A. § 902 is amended to read:

6 § 902. DEFINITIONS

7 Wherever used or referred to in this chapter, unless a different meaning
8 clearly appears from the context:

9 * * *

10 (7) “Class II wetland” means a wetland other than a Class I or Class III
11 wetland that:

12 (A) is a mapped wetland identified on the Vermont significant
13 wetlands inventory maps; or

14 (B) is an unmapped wetland that the Secretary determines to merit
15 protection, pursuant to section 914 of this title, based upon an evaluation of the
16 extent to which it serves the functions and values set forth in subdivision
17 905b(18)(A) of this title and the rules of the Department.

18 (8) “Class III wetland” means a wetland that is neither a Class I wetland
19 nor a Class II wetland.

20 (9) “Buffer zone” means an area contiguous to a significant wetland that
21 protects the wetland’s functions and values.

1 (A) ~~The~~ Except as provided in subdivision (B) of this subdivision (9):

2 (i) the buffer zone for a Class I wetland shall extend at least 100
3 feet from the border of the wetland, unless the Department determines
4 otherwise under section 915 of this title. ~~The; and~~

5 (ii) the buffer zone for a Class II wetland shall extend at least 50
6 feet from the border of the wetland unless the Secretary determines otherwise
7 under section 914 of this title.

8 (B) The buffer zone of a Class II wetland shall be 25 feet when the
9 wetland is located in:

10 (i) an industrial park, as that term is defined in subdivision 212(7)
11 of this title, that is permitted under chapter 151 of this title;

12 (ii) designated centers designated under 24 V.S.A. chapter 76A;

13 (iii) Tier 1A and Tier 1B areas approved by the Land Use Review
14 Board; or

15 (iv) locations meeting the requirements established in subsection
16 6081(z) of this title as eligible for an interim exemption from the permit or
17 permit amendment requirements of chapter 151 of this title.

18 (10) ~~“Panel” means the Water Resources Panel of the Agency of Natural~~
19 ~~Resources.~~

20 (11) ~~“Significant wetland” means any Class I or Class II wetland.~~

1 ~~(12)~~(11) “Secretary” means the Secretary of Natural Resources or the
2 Secretary’s authorized representative.

3 ~~(13)~~(12) “Dam removal” has the same meaning as in section 1080 of
4 this title.

5 Sec. 14. 10 V.S.A. § 913 is amended to read:

6 § 913. PROHIBITION

7 (a) Except for allowed uses adopted by the Department by rule, no person
8 shall conduct or allow to be conducted an activity in a significant wetland or
9 buffer zone of a significant wetland except in compliance with a permit,
10 conditional use determination, or order issued by the Secretary.

11 (b) A permit shall not be required under this section for:

12 (1) any activity that occurred before the effective date of this section
13 unless the activity occurred within:

14 (A) an area identified as a wetland on the Vermont significant
15 wetlands inventory maps;

16 (B) a wetland that was contiguous to an area identified as a wetland
17 on the Vermont significant wetlands inventory maps; or

18 (C) the buffer zone of a wetland referred to in subdivision (A) or (B)
19 of this subdivision (1);

20 (2) any construction within a wetland that is identified on the Vermont
21 significant wetlands inventory maps or within the buffer zone of such a

1 wetland, provided that the construction was completed prior to February 23,
2 1992, and no action for which a permit is required under the rules of the
3 Department was taken or caused to be taken on or after February 23, 1992; or

4 (3) any construction or activity in an unmapped Class II wetland located
5 in:

6 (A) an industrial park, as that term is defined in subdivision
7 212(7) of this title, that is permitted under chapter 151 of this title;

8 (B) designated centers designated under 24 V.S.A. chapter 76A;

9 (C) Tier 1A and Tier 1B areas approved by the Land Use Review
10 Board; or

11 (D) locations meeting the requirements established in subsection
12 6081(z) of this title as eligible for an interim exemption from the permit or
13 permit amendment requirements of chapter 151 of this title.

14 Sec. 15. 10 V.S.A. § 914 is amended to read:

15 § 914. WETLANDS DETERMINATIONS

16 (a) The Secretary may, upon a petition or on ~~his or her~~ the Secretary's own
17 motion, determine whether any wetland is a Class II or Class III wetland. ~~Such~~
18 The Secretary's determinations shall be based on an evaluation of the functions
19 and values set forth in subdivision 905b(18)(A) of this title and the rules of the
20 Department.

1 (b) The Secretary may establish the necessary width of the buffer zone of
2 any Class II wetland as part of any wetland determination pursuant to the rules
3 of the Department, except that buffer zone of a Class II wetland shall be 25
4 feet when the wetland is located in:

5 (1) an industrial park, as that term is defined in subdivision 212(7) of
6 this title, that is permitted under chapter 151 of this title;

7 (2) designated centers designated under 24 V.S.A. chapter 76A;

8 (3) Tier 1A and Tier 1B areas approved by the Land Use Review Board;

9 or

10 (4) locations meeting the requirements established in subsection 6081(z)
11 of this title as eligible for an interim exemption from the permit or permit
12 amendment requirements of chapter 151 of this title.

13 * * *

14 Sec. 16. 10 V.S.A. § 918 is amended to read:

15 § 918. NET GAIN OF WETLANDS; STATE GOAL; RULEMAKING

16 (a) On or before July 1, ~~2025~~ 2026, the Secretary of Natural Resources
17 shall amend the Vermont Wetlands Rules pursuant to 3 V.S.A. chapter 25 to
18 clarify that the goal of wetlands regulation and management in the State is the
19 net gain of wetlands to be achieved through protection of existing wetlands and
20 restoration of wetlands that were previously adversely affected. ~~This condition~~

1 ~~shall not apply to wetland, river, and flood plain restoration projects, including~~
2 ~~dam removals.~~

3 (b)(1) The Vermont Wetlands Rules shall prioritize the protection of
4 existing intact wetlands from adverse effects.

5 (2) Where a permitted activity in a wetland will cause more than 5,000
6 square feet of adverse effects that cannot be avoided, the Secretary shall
7 mandate that the permit applicant restore, enhance, or create wetlands or
8 buffers to compensate for the adverse effects on a wetland. The amount of
9 wetlands to be restored, enhanced, or created shall be calculated, at a
10 minimum, by determining the acreage or square footage of wetlands
11 permanently drained or filled as a result of the permitted activity and
12 multiplying that acreage or square footage by two, to result in a ratio of 2:1
13 restoration to wetland loss, except that a ratio of 1:1 restoration to wetland loss
14 shall apply in:

15 (A) an industrial park, as that term is defined in subdivision 212(7) of
16 this title, that is permitted under chapter 151 of this title;

17 (B) designated centers designated under 24 V.S.A. chapter 76A;

18 (C) Tier 1A and Tier 1B areas approved by the Land Use Review

19 Board; or

1 through wetlands, river, and floodplain restoration projects, including dam
2 removals;

3 (3) the number of site visits and technical assistance calls conducted by
4 the Agency of Natural Resources, the number of permits processed by the
5 Agency, and any enforcement actions that were taken by the Agency or the
6 Office of the Attorney General in the previous year for violations of this
7 chapter; and

8 (4) an updated mitigation summary of the extent of wetlands restored
9 on-site compared with compensation performed off-site, in-lieu fees paid, or
10 conservation.

11 * * *

12 (c) On or before December 15, 2025, the Agency of Natural Resources
13 shall publish on its website and submit to the House Committee on
14 Environment and to the Senate Committee on Natural Resources and Energy
15 wetland guidance on the mitigation and compensation sequence contemplated
16 in the Vermont Wetland Rules subsections 9.5(b) and (c). The guidance shall
17 clearly identify the process applicants should follow and the information and
18 proof necessary to demonstrate a project has practicably avoided and
19 minimized wetland impacts and is eligible for mitigation during the State
20 wetland permit application process.

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* * * Effective Date * * *

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Sec. 18. EFFECTIVE DATE

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This act shall take effect on July 1, 2025.