more units per acre.

19

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

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	<u>is</u> :
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,

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-

round residential use or housing type otherwise allowed in this chapter.

1	Sec. 3. REPORT; INCLUSIONARY ZONING TOOL
2	On or before January 15, 2026, the Commissioner of Housing and
3	Community Development shall report to the Senate Committee on Economic
4	Development, Housing and General Affairs and the House Committee on
5	Environment on the development of a density algorithm for calculating
6	inclusionary zoning unit amounts that can be used in municipalities with
7	inclusionary zoning.
8	Sec. 4. MINIMAL DESIGN STANDARDS REPORT
9	On or before July 1, 2026, the Commissioner of Housing and Community
10	Development shall report to the Senate Committee on Economic Development,
11	Housing and General Affairs and the House Committee on Environment on
12	whether the State should adopt minimal design standards for construction that
13	could be used to reduce municipal permit processing. The Commissioner may
14	review what other states, including Maine, have done.
15	* * * Act 250 * * *
16	Sec. 5. 10 V.S.A. § 6034 is amended to read:
17	§ 6034. TIER 1A AREA STATUS
18	* * *
19	(b) Tier 1A area status requirements.
20	(1) To obtain a Tier 1A area status under this section, a municipality
21	shall demonstrate to the Board that it has each of the following:

1	* * *
2	(I) Municipal or regional planning commission staff or other
3	contracted capacity adequate to support coordinated comprehensive and capital
4	planning, development review, and zoning administration in the Tier 1A area.
5	* * *
6	Sec. 6. 10 V.S.A. § 6033 is amended to read:
7	§ 6033. REGIONAL PLAN FUTURE LAND USE MAP REVIEW
8	* * *
9	(c) To obtain a Tier 1B area status under this section the regional planning
10	commission shall demonstrate to the Board that the municipalities with Tier 1B
11	areas meet the following requirements as included in subdivision 24 V.S.A.
12	§ 4348a(a)(12)(C):
13	(1) The municipality has <u>not</u> requested to <u>opt out to</u> have the area
14	mapped for Tier 1B. A municipality may request to opt out of Tier 1B area
15	status by submitting a resolution passed by the municipality to the relevant
16	regional planning commission and the Board.
17	* * *
18	(6) The municipality has municipal staff, municipal officials, or <u>regional</u>
19	planning commission staff or other contracted capacity adequate to support
20	development review and zoning administration in the Tier 1B area.

1	Sec. 7. 10 V.S.A. § 8504 is amended to read:
2	§ 8504. APPEALS TO THE ENVIRONMENTAL DIVISION
3	* * *
4	(f) Stays.
5	(1) The filing of an appeal shall automatically stay the act or decision in
6	the following situations:
7	(A) acts or decisions involving stream alteration permits or shoreline
8	encroachment permits issued by the Secretary;
9	(B) the denial of interested person status by a board of adjustment,
10	planning commission, or development review board.
11	(2) Upon petition by a party or upon its own motion for a stay of an act
12	or decision, the Environmental Division shall perform the initial review of the
13	request and may grant a stay. Any decision under this subsection to issue a
14	stay shall be subject to appeal to the Supreme Court according to the Rules of
15	Appellate Procedure.
16	(3) The filing of an appeal shall not stay an act or decision pursuant to
17	chapter 151 of this title and 24 V.S.A. chapter 117.
18	* * *
19	Sec. 8. 10 V.S.A. § 6081 is amended to read:
20	§ 6081. PERMITS REQUIRED; EXEMPTIONS
21	* * *

1	(ee) No permit or permit amendment shall be required for either:
2	(1) a sawmill that produces 3.5 million board feet or less annually; or
3	(2) an operation that involves the primary processing of forest products
4	of commercial value and that annually produces:
5	(A) 3,500 cords or less of firewood or cordwood; or
6	(B) 10,000 tons or less of bole wood, whole tree chips, or wood
7	pellets.
8	Sec. 9. REPEAL
9	10 V.S.A. § 6084(g) is repealed.
10	* * * Brownfields * * *
11	Sec. 10. 10 V.S.A. § 6604c is amended to read:
12	§ 6604c. MANAGEMENT OF DEVELOPMENT SOILS
13	(a) Management of development soils. Notwithstanding any other
14	requirements of this chapter to the contrary, development soils may be
15	managed at a location permitted pursuant to an insignificant waste event
16	approval authorization issued pursuant to the Solid Waste Management Rules
17	that contains, at a minimum, the following:
18	(1) the development soils are generated from a hazardous materials site
19	managed pursuant to a corrective action plan or a soil management plan
20	approved by the Secretary;

1	(2) the development soils have been tested for arsenic, lead, and
2	polyaromatic hydrocarbons pursuant to a monitoring plan approved by the
3	Secretary that ensures that the soils do not leach above groundwater
4	enforcement standards;
5	(3) the location where the soils are managed is appropriate for the
6	amount and type of material being managed;
7	(4) the soils are capped in a manner approved by the Secretary;
8	(5) any activity that may disturb the development soils at the permitted
9	location is done pursuant to a soil management plan approved by the Secretary;
10	<u>and</u>
11	(6) the permittee files a record notice of where the soils are managed in
12	the land records.
13	* * *
14	Sec. 11. 10 V.S.A. § 6641 is amended to read:
15	§ 6641. BROWNFIELD PROPERTY CLEANUP PROGRAM; CREATION;
16	POWERS
17	(a) There is created the Brownfield Property Cleanup Program to enable
18	certain interested parties to request the assistance of the Secretary to review
19	and oversee work plans for investigating, abating, removing, remediating, and

monitoring a property in exchange for protection from certain liabilities under

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 <u>mapped</u> 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

protects the wetland's functions and values.

21

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	<u>in:</u>
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	<u>or</u>
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	(D) locations meeting the requirements established in subsection
2	6081(z) of this title as eligible for an interim exemption from the permit or
3	permit amendment requirements of chapter 151 of this title.
4	(3) Establishment of a buffer zone contiguous to a wetland shall not
5	substitute for the restoration, enhancement, or creation of wetlands. Adverse
6	impacts to wetland buffers shall be compensated for based on the effects of the
7	impact on wetland function.
8	* * *
9	Sec. 17. 10 V.S.A. § 919 is amended to read:
10	§ 919. WETLANDS PROGRAM REPORTS
11	(a) On or before April 30, 2025, and annually thereafter, the Secretary of
12	Natural Resources shall submit to the House Committee on Environment and
13	Energy and to the Senate Committee on Natural Resources and Energy a report
14	on annual losses and gains of significant wetlands in the State. The report shall
15	include:
16	(1) the location and acreage of Class II wetland and buffer losses
17	permitted by the Agency in accordance with section 913 of this title, for which
18	construction of the permitted project has commenced;
19	(2) the acreage of Class II wetlands and buffers gained through permit-
20	related enhancement and restoration, and an estimate of wetlands gained

wetland permit application process.

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

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1 * * * Effective Date * *	: *
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- 2 Sec. 18. EFFECTIVE DATE
- This act shall take effect on July 1, 2025.