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1 Introduced by

2 Referred to Committee on

3 Date:

4 Subject: Authorizes temporary Wetland Rules relating to allowed uses for housing
5 projects in designated areas. Directs the Secretary of the Agency of Natural
6 Resources promulgate a Wetlands General Permit for Housing Projects, and
7 establish a Vermont Wetland Certification Process for Professional Wetland
8 Consultants. Requires project developers seeking to construct in accordance
9 with an allowed use under this bill to register with the Agency of Natural
10 Resources on or before January 1, 2030; requires commencement of
11 construction on or before September 1, 2030; and requires completion of all
12 earth disturbing activities and achieved final stabilization by December 1, 2031.

13 Statement of purpose of bill as introduced: The lack of housing causes demonstrable
14 harm to Vermont's residents, workers, and communities. Vermont's wetlands provide
15 critical ecological functions – flood storage, water quality, wildlife habitat, exemplary
16 natural communities. This bill initiates targeted, time-bound, wetlands permit process
17 changes intended to reduce regulatory burdens and expedite timelines associated with
18 wetland permitting for housing projects in designated areas without sacrificing
19 substantive protections.

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

21 Sec. 1. DEFINITIONS

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1 As used in this act:

2 (a) Access Infrastructure Servicing Residential Housing means necessary access roads
3 and driveways to provide access for the construction or use of the residential function of
4 a residential housing project.

5 (b) Linear Utility Servicing Residential Housing” means corridor-type utility
6 infrastructure constructed in a narrow alignment to provide utility service necessary for
7 construction or use of the residential function of a residential housing project. The term
8 shall include sewer laterals, septic force mains, electric, gas, water, and communications
9 lines.

10 (c) Mixed Use Project means a project that includes both residential uses and
11 nonresidential uses provided that the nonresidential uses are limited to retail, office,
12 services, artisan, and recreational or community facilities, do not include industrial uses,
13 and not less than 40 percent of the total gross floor area of all buildings within the project
14 is designated for dwelling units.

15 (d) Residential housing project means a project located on a single tract or multiple
16 contiguous tracts of land for the construction of one or more dwelling units and includes
17 access and utility infrastructure necessary for construction or use of the residential
18 function of the project. The term includes duplexes, emergency shelters, multiunit or
19 multifamily dwellings; and mixed use projects.

20 Sec. 2. WETLANDS AND ALLOWED USES RELATED TO HOUSING

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1 (a) The Secretary of the Agency of Natural Resources shall adopt rules in accordance with
2 Title 3 V.S.A. chapter 25 to establish allowed uses pursuant to 10 V.S.A. § 913(a) for
3 the construction of residential housing projects and related utilities in designated
4 areas, including draining, dredging, filling, grading, and vegetation clearing.

5 (b) The rules adopted under this section shall include:

6 (1) Provisions that implement or advance implementation of the net gain
7 requirements pursuant to 10 V.S.A. § 918; and

8 (2) Requirements for any allowed use adopted under this section, including the
9 following:

10 (A) The construction and installation of a residential housing project and linear
11 utility project shall be an allowed use provided that the project meets the location
12 requirements in this subsection (B) and (C).

13 (B) A residential housing project shall be located within an area:

14 (i) Designated under 24 V.S.A. chapter 76A as a Downtown Development
15 District, Village Center, New Town Center, Growth Center, or Neighborhood
16 Development Area;

17 (ii) Outside an area described in subdivision (B)(i) of this subdivision
18 (b)(2), and located along the extension or terminus of a public sewer or water
19 line available for connection that serves the designated area; or

20 (iii) Designated by the Land Use Review Board as Tier 1A or Tier 1B in
21 accordance with 10 V.S.A. §§ 6033-6034.

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1 (C) A residential housing project shall be served by public sewer infrastructure or
2 be located on soils adequate for wastewater disposal and capable of supporting
3 one or more wastewater systems to serve all proposed residential connections.

4 (D) A residential housing project may be constructed without a permit in a Class
5 II wetland that is not shown on the Vermont Significant Wetlands Inventory.

6 (E) No draining, dredging, filling, grading, or vegetation clearing will occur nor
7 will a residential housing project be located:

8 (i) Within a Class I wetland or its buffer zone; or

9 (ii) Within, or within 25 feet of, the mapped area of a Class II wetland shown
10 on the Vermont Significant Wetlands Inventory at the time of the residential
11 housing project's registration under subdivision (b)(2)(G) of this section.

12 (F) Notwithstanding subdivision (b)(2)(E)(ii) of this section, a linear utility or
13 access infrastructure servicing residential housing may cross the mapped area of a
14 Class II wetland or within 25 feet of the mapped area of a Class II wetland
15 provided:

16 (i) Crossing the wetland is practicably unavoidable;

17 (ii) The linear utility or access infrastructure is less than 5,000 square feet in
18 permanent impact cumulatively, or, before project construction commences,
19 offset credits have been purchased through the Vermont In Lieu Fee Program
20 at a ratio following the U.S. Army Corps of Engineers' New England District

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1 Compensatory Mitigation Standard Operating Procedures (April 26, 2024);
2 and
3 (iii)The linear utility or access infrastructure is designed, constructed, and
4 maintained in compliance with Best Management Practices for the Installation
5 of Linear Utilities and Access Infrastructure Servicing Residential Housing.
6 The best management practices shall be incorporated as enforceable
7 requirements in the rules adopted pursuant to this section.

8 (G) A project shall be registered with the Secretary on or before January 1, 2030,
9 in accordance with requirements established by the Secretary. The registrant shall
10 also notify the secretary in writing within thirty (30) days of after construction
11 commences.

12 Sec. 3. WETLAND GENERAL PERMIT FOR RESIDENTIAL HOUSING PROJECTS

13 (a) On or before July 1, 2029, the Secretary shall publish a draft wetlands general permit
14 pursuant to 10 V.S.A. § 913 for residential housing projects, and related utilities.

15 Prior to issuing the draft wetlands general permit, the Secretary shall provide an
16 opportunity for stakeholder engagement and public notice and comment and shall
17 convene at least two public meetings regarding draft general permit. No later than
18 January 1, 2030, the Secretary shall issue a final general permit for residential
19 housing projects and related utilities. At a minimum, the general permit shall:

20 (1)Include best management practices for wetland protection during and after
21 construction applicable to all projects authorized under the permit;

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- 1 (2) Authorize broader impact allowances for managed or highly degraded wetlands
2 where ecological function is demonstrably diminished, such as managed
3 wetlands, where defensible (e.g. agricultural wetlands dominated by reed-canary
4 grass fields); or highly degraded wetlands, where ecological function is
5 demonstrably diminished.
- 6 (3) Mitigation ratios for impacts to managed or degraded wetlands may be reduced
7 relative to those applicable to intact wetlands of equivalent classification.
- 8 (4) Authorize wetland impact allowances for linear utility and access crossings
9 consistent with the rules adopted under Sec. 2 of this act; and
- 10 (5) Authorize construction of residential housing projects and related utilities within
11 the outer 25 feet of the 50-foot buffer adjacent to wetlands that do not contain
12 significant natural communities, rare, threatened or endangered species habitat,
13 or protected wildlife functions.

14 Sec. 4. TRANSITION PERIOD

15 Any rule provision adopting an allowed use pursuant to Sec. 2 of this act shall expire on
16 January 1, 2030. Notwithstanding, a residential housing project registered with the
17 Secretary under the rules adopted pursuant to subdivision (b)(2)(F) of Sec. 2 of this act
18 may proceed as an allowed use if sufficient construction of the project has commenced on
19 or before September 1, 2030. For the purposes of this section, sufficient construction has
20 commenced when:

21 (a) All required State, local, and federal permits and authorizations for project

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1 construction have been issued; and

2 (b) On-site physical construction of the residential housing project has begun and is
3 proceeding in good faith, including completion of permanent project improvements,
4 such as building foundations, necessary utility infrastructure, or access roads required
5 to serve the project.

6 All construction on the project under this subsection shall be completed and the site shall
7 be stabilized no later than December 1, 2031.

8 Sec. 5. PROFESSIONAL WETLAND CONSULTANT CERTIFICATION

9 (a) On or before July 1, 2028, the Secretary shall establish a certification program for
10 professional wetland consultants engaged in wetland delineation and wetland
11 functions and values assessments for use in site-specific determinations made under
12 the rules adopted pursuant to 10 V.S.A. § 905b(17).

13 (b) The Secretary shall adopt rules establishing:

14 (1) Qualifications and experience requirements for certification under the
15 program;

16 (2) Application, certification, and renewal procedures;

17 (3) Professional standards governing wetland delineations and categorical
18 classifications, and wetland functions and values assessments prepared by a
19 certified individual; and

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1 (4) Procedures for Secretary review of delineations, categorical
2 classifications, and functions and values assessments prepared by a certified
3 individual.

4 (c) A wetland delineation or wetland functions and values assessment prepared by a
5 certified individual shall receive a rebuttable presumption of accuracy when
6 submitted to the Secretary for purposes of making site-specific determinations under
7 the rules adopted pursuant to 10 V.S.A. § 905b(17). The Secretary may rebut the
8 presumption upon demonstrating that the delineation or assessment is inconsistent
9 with accepted scientific methods, applicable regulatory standards, or observable site
10 conditions. The Secretary may conduct a site inspection or otherwise request
11 information necessary to evaluate a delineation or assessment, within 30 days of
12 submission unless the Secretary determines that field conditions are unsuitable for
13 evaluation. A delineation or assessment shall not receive the presumption of accuracy
14 under this section if reasonable access for such inspection is denied.

15 (d) The Secretary may deny, suspend, or revoke a certification for failure to comply with
16 program requirements established by rule.

17 Sec. 6. EFFECTIVE DATE

18 This act shall take effect upon passage.