

Legislative Incentives for Encouraging Growth in Designated Areas and Protection of Natural Resources

- **Create a process for Act 250 off ramp in Designated Downtowns**

10 V.S.A. § 6001(3)(C) is amended to read:

(C) For the purposes of determining jurisdiction under subdivisions (3)(A) and (3)(B) of this section, the following shall apply:

(i) Incentive for Growth Inside Designated Areas. Notwithstanding subdivision (3)(A)(iv) of this section, ~~housing~~:

- (I) Housing units constructed by a person partially or completely outside a designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area shall not be counted to determine jurisdiction over housing units constructed by that person entirely within a designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area.
- (II) Improvements within a downtown development district designated under 24 V.S.A. § 2793 shall be exempt if there is compliance with a final jurisdictional opinion pursuant to 10 V.S.A. § 6007(c) that concludes that the improvements constitute a development or subdivision or a material change to a permitted project and that the requestor has demonstrated that:
 - a. The State Historic Preservation Officer has determined that the project will have no undue adverse impact on any historic site;
 - b. The project meets or exceeds energy codes or energy standards applicable pursuant to 10 V.S.A. § 6086(a)(9);
 - c. The Agency of Transportation has determined that the project will have no significant impact upon state transportation infrastructure;
 - d. The Department of Buildings and General Services has determined that the project will have no significant impact on any adjacent state property or facilities and their function;
 - e. The Agency of Natural Resources has determined that the project will have no significant impact upon any important natural resource other than primary agricultural soils; and
 - f. The Agency of Agriculture, Food and Markets has determined that any reduction in or conversion of primary agricultural soils from the project will be appropriately mitigated.

- **Reviews of off-ramp decisions should be on the record and not de novo:**

10 V.S.A. § 8504(h) is amended to read:

(h) De novo hearing. The environmental division, applying the substantive standards that were applicable before the tribunal appealed from, shall hold a de novo hearing on those issues which have been appealed, except in the case of:

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(3) an act or decision of the Natural Resources Board under subsection 6007(d) on the applicability of subsection 6001(3)(C)(i)(II) of this title, which shall be reviewed on the record created by the Board and shall be upheld unless the Board abused its discretion.

- **Ag mitigation: Ag agrees to 1:1 mitigation for Designated downtowns and any neighborhood development areas designated in association with a designated downtown.**

[Language for this item is already included in the Ag Bill]

- **Accelerate state permitting or lower permitting fees within designated areas (NOTE: would also respond to industrial developers' needs)**

- **Adjust the threshold criteria for sewer line extensions to clarify that funding only applies to projects in designated areas.**

Notwithstanding the definition of "Designated Growth Center" in Subchapter 500 of the Municipal Pollution Control Priority System Rule, that term shall mean "Growth center," as defined in 24 V.S.A. § 2791(12)(A).

- **Accelerating Approvals for Wastewater permitting: Self-certification of connection permits for WW, signed by a licensed engineer, submitted to ANR along with the capacity letter from the municipality. ANR would approve these administratively, without a site visit or other analysis.**

[Aaron: Could you draft this language?]

- **Modify the smart growth jurisdictional triggers for Act 250 in designated areas.**

10 V.S.A. § 6001(3)(B) is modified as follows:

(B)(i) Smart Growth Jurisdictional Thresholds. Notwithstanding the provisions of subdivision (3)(A) of this section, if a project consists exclusively of mixed income housing or mixed use, or any combination thereof, and is located entirely within a growth center designated pursuant to 24 V.S.A. 2793c or entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, "development" means:

(I) Construction of mixed income housing with ~~200~~ 275 or more housing units or a mixed use project with ~~200~~ or more housing units, in a municipality with a population of 15,000 or more.

(II) Construction of mixed income housing with ~~100~~ 150 or more housing units or a mixed use project with ~~100~~ or more housing units, in a municipality with a population of 10,000 or more but less than 15,000.

(III) Construction of mixed income housing with ~~50~~ 75 or more housing units or a mixed use project with ~~50~~ or more housing units, in a municipality with a population of 6,000 or more and less than 10,000.

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(ii) Mixed Income Housing Jurisdictional Thresholds. Notwithstanding the provisions of subdivision (3)(A) of this section, if a project consists exclusively of mixed income housing and is located entirely within a Vermont neighborhood designated pursuant to 24 V.S.A. Â§ 2793d or a neighborhood development area as defined in 24 V.S.A. Â§ 2791(16), "development" means:

(I) Construction of mixed income housing with ~~200~~ 275 or more housing units, in a municipality with a population of 15,000 or more.

(II) Construction of mixed income housing with ~~100~~ 150 or more housing units, in a municipality with a population of 10,000 or more but less than 15,000.

(III) Construction of mixed income housing with ~~50~~ 75 or more housing units, in a municipality with a population of 6,000 or more and less than 10,000.

(IV) Construction of mixed income housing with ~~30~~ 50 or more housing units, in a municipality with a population of 3,000 or more but less than 6,000.

(V) Construction of mixed income housing with 25 or more housing units, in a municipality with a population of less than 3,000.

[Note: We may also suggest modifying the definition of “mixed income housing” in 6001(27) and “mixed use” in 6001(28).]

- ***NRB/Act 250: allow more traffic congestion in designated areas, encourage multi-model transportation, promote clustered development, define existing settlement, encourage redevelopment of strip development***

[Aaron: Can you draft something regarding traffic congestion? VTrans’ Fair Share proposal will call for performance standards that are appropriate for the setting, but will not specifically address different standards in designated areas.]

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10 V.S.A. § 6001(16) is amended to read:

(16) “~~rural growth areas means lands which are not natural resources referred to in subdivisions 6086(a)(1)(A) through (F), subdivision 6086(a)(8)(A) and subdivisions 6086(a)(9)(B), (C), (D), (E)~~

~~and (K) of this title.~~ “Existing settlement” excludes strip development and means an area that constitutes at least one of the following:

(A) An existing community center, including or similar to a traditional Vermont center, which is compact in form and size and contains a mixture of uses that includes substantial residential components and that are within walking distance of each other; has significantly higher densities than densities that occur outside the center, is typically served by municipal infrastructure such as water, wastewater, sidewalks, paths, transit, parking areas, and public parks or greens.

(B) A designated center.

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10 V.S.A. § 6001(30) is amended to read:

(30) “Designated ~~growth~~-center” means a downtown development district, village center, new town center, growth center, or neighborhood development area designated by the Vermont downtown development board under the provisions of 24 V.S.A. chapter 76A.

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10 V.S.A. § 6001(37) is added to read:

(37) “Strip development” means linear commercial development outside an existing settlement and along a public highway that includes some or all of the following characteristics: broad road frontage, predominance of single-story buildings, limited reliance on shared highway access, lack of connection to any existing settlement except by highway, limited accessibility for pedestrians, and lack of coordination with surrounding land uses in terms of design, signs, lighting, and parking.

* * *

10 V.S.A. § 6086(a)(5) is amended to read:

(5) Will not cause unreasonable congestion or unsafe conditions with respect to use of ~~the~~ highways, trails, pedestrian and bicycle facilities, transit operations and facilities, waterways, railways, airports and airways, and other means of transportation, existing or proposed, and will provide transportation access and mobility for all users and reduce dependence upon automobiles by incorporating, as appropriate, transportation demand management strategies, and safe access and connections to nearby lands and facilities, including pedestrian, bicycle and transit networks and services.

* * *

10 V.S.A. § 6086(a)(9) is amended to read:

(9) Is in conformance with a duly adopted capability and development plan, and land use plan when adopted. However, the legislative findings of subdivisions 7(a)(1) through (19) of Act 85 of 1973 shall not be used as criteria in the consideration of applications by a district commission.

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~~(L) Rural growth areas. A permit will be granted for the development or subdivision of rural growth areas when it is demonstrated by the applicant that in addition to all other applicable criteria provision will be made in accordance with subdivisions (9)(A) "impact of growth," (G) "private utility service," (H) "costs of scattered development" and (J) "public utility services" of subsection (a) of this section for reasonable population densities, reasonable rates of growth, and the use of cluster planning and new community planning designed to economize on the cost of roads, utilities and land usage.~~
Settlement patterns. To promote Vermont's historic settlement pattern of compact village and urban centers separated by rural countryside, a development or subdivision outside an existing settlement shall not establish, extend or contribute to a pattern of strip development along public highways; shall promote an efficient use of land, energy, roads, utilities, and other supporting infrastructure, and shall be designed in a manner consistent with the planning goals set forth in 24 V.S.A. § 4302(c)(1). A development or subdivision proposed for an area in which a pattern of strip development has already been established shall incorporate compact site design, create or contribute to mixed uses in the immediate area, and provide appropriate connections to existing or planned transit, bicycle, and pedestrian networks.

[Proposed language regarding clustered development to be included in Ag Soils bill]

- **Including significant forest blocks and significant wildlife corridors in the list of 'important natural features' in Act 250 and provide a definition of both.**

[Proposed language coming soon]

- **Adding NDAs to §4471, Appeals to Environmental Division**

24 V.S.A. § 4471(e) is amended to read:

(e) Vermont neighborhood. Notwithstanding subsection (a) of this section, a determination by an appropriate municipal panel shall not be subject to appeal if the determination is that a proposed residential development within a designated downtown development district, designated growth center, ~~or~~ designated Vermont neighborhood, or designated neighborhood development area seeking conditional use approval will not result in an undue adverse effect on the character of the area affected, as provided in subdivision 4414(3)(A)(ii) of this title.

[Note: A similar correction is included in H 640 Technical Corrections bill]