

Housing Projects in Designated Centers: Statutory Changes since the 2002 Session
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SUMMARY

This document provides an overview of the statutory changes since 2002 to 10 V.S.A. chapter 151 (Act 250) concerning housing projects in designated centers. A chart of the numerical changes to the jurisdictional thresholds is set forth below, with the changes in the number of housing units in **bold**:

	<u>2002</u> Mixed income housing or mixed use in downtown development district	<u>2006</u> Mixed income housing or mixed use in downtown development district	<u>2008</u> Smart Growth and Mixed Income Housing Jurisdictional Thresholds	<u>2013</u> Smart Growth and Mixed Income Housing Jurisdictional Thresholds	<u>2014</u> Priority housing projects
Population of 20,000 or more	100 or more units	100 or more	NA	NA	NA
15,000 or more	NA*	NA	200 or more	200 or more	275 or more
10,000 or more but less than 20,000	50 or more	50 or more	NA	NA	NA
10,000 or more but less than 15,000	NA	NA	100 or more	100 or more	150 or more
6,000 or more but less than 10,000	NA	NA	50 or more	50 or more	75 or more
5,000 or more but less than 10,000	30 or more	30 or more	NA	NA	NA
Less than 5,000	20 or more	25 or more	NA	NA	NA
3,000 or more but less than 6,000	NA	NA	30 or more	30 or more	50 or more
Less than 3,000	NA	NA	25 or more	25 or more	25 or more

* NA indicates that the population threshold did not exist in that year

The definitions of “mixed income housing,” “mixed use,” and “affordable housing” also have changed since 2002. In 2002, mixed income housing was first defined as a project with 15 percent of the units being “affordable.” “Mixed use” was defined as both mixed income housing and a mix of space for retail, recreational, and other uses. And the “affordable housing” definition included both owner-occupied and rental housing in which an owner’s or renter’s gross annual household income was not more than 80 percent of the county median household income and for which the annual housing costs were not more than 30 percent of the gross annual household income.

In 2006, the “affordable housing” definition added the same 80 percent income restriction on gross annual household income for housing owned or rented in a “metropolitan statistical area” (an area defined by the federal government).

In 2008, the “mixed income housing” definition was altered to require that at least 15 percent of the owner-occupied units have a purchase price for the first sale not exceeding 85 percent of area purchase prices, *or* 20 percent of the units have a purchase price for the first sale not exceeding 90 percent of area purchase prices. The rental-housing component of “mixed income housing” also was changed to require that at a minimum 20 percent of rental units were rented by individuals with gross annual household incomes not exceeding 60 percent of county median or metropolitan statistical area incomes. The cost of that rental housing still could not exceed 30 percent of gross annual household income. Also, a 30-year affordability restriction was added to rental housing in “mixed income housing.”

In 2014, the “priority housing project” category was added, and the provisions relating to these projects are in effect today. A “priority housing project” includes mixed income housing and mixed use. The “mixed income housing” definition was amended to require that for rental housing, at a minimum, 20 percent of the units be “affordable” and the affordability must endure for 20 years, not 30 years.

Below, please find a more detailed description of the statutory changes regarding housing projects in designated centers since 2002.

STATUTORY CHANGES: 2002 to 2014

2002

No. 114. An act relating to the Vermont Downtown Development Board.

- At this time, Act 250’s “development” definition, as it related to housing projects, included all such projects if the construction involved ten units or more
- Act 114 also added new language that included within the definition of “development” a project consisting of “any combination of mixed income housing or mixed use” that was “located entirely within a downtown development district,” provided that the construction of such projects met the following jurisdictional thresholds:
 - *100 or more housing units, in a municipality with a population of 20,000 or more*

- *50 or more housing units in a municipality with a population of 10,000 or more but less than 20,000*
- *30 or more housing units in a municipality of 5,000 or more but less than 10,000*
- *20 or more housing units in a municipality of less than 5,000*
- This act also added definitions of “mixed income housing,” “mixed use,” and “affordable housing”
 - Mixed income housing: “a housing project in which at least 15 percent of the total housing units are affordable housing units.”
 - Mixed use: “construction of both mixed income housing and construction of space for any combination of retail, office, services, artisan, and recreational and community facilities, provided at least 40 percent of the gross floor area of the buildings involved is mixed income housing. ‘Mixed use’ does not include industrial use.”
 - Affordable housing:
 - Owner-occupied and rental housing in which owner’s or renter’s gross annual household income is not more than 80 percent of the county median household income and for which the annual housing costs are not more than 30 percent of gross annual household income

2006

No. 183. An act relating to creation of designated growth centers and downtown tax credit program.

- Act 183 created the “growth center” designation and added this growth center designation as a possible location for “mixed income housing or mixed use” projects that were added to the “development” definition in Act 114 of 2001; as set forth in Act 114, the projects were located only in downtown development districts
- This act changed the jurisdictional threshold for a “mixed income housing or mixed use” project as follows
 - For a municipality of less than 5,000, *changed from 20 to 25 or more housing units*
- This act also amended the definition of “affordable housing”
 - Affordable housing: For owned and rented housing in a municipality that is within a “metropolitan statistical area” (as defined by the United States Department of Housing and Urban Development), added a limit on gross annual household income of 80 percent of that area income

2008

No. 176. An act relating to municipal planning, creating Vermont neighborhoods, encouraging smart growth development, purchasing of mobile home parks, and landlord-tenant relations and state residential lead-based paint poisoning prevention.

- Act 176 added “Smart Growth Jurisdictional Thresholds” heading for subdivision relating to “mixed income housing or mixed use” projects, and changed the jurisdictional thresholds for construction of such projects to the following:
 - For a municipality with a population of 20,000 or more, *changed from 100 to 200 or more units and changed to a population of 15,000 or more*
 - For a municipality with a population of 10,000 or more but less than 20,000, *changed from 50 to 100 or more units and changed to a population of 10,000 or more but less than 15,000*
 - For a municipality of 5,000 or more but less than 10,000, *changed from 30 to 50 or more units and changed to a population of 6,000 or more but less than 10,000*
 - For a municipality of less than 5,000, *was changed from 25 to 30 or more units and changed to a population of 3,000 or more but less than 6,000*
- This act also added a new jurisdictional threshold of *25 or more units for a “mixed income housing or mixed use” project in a municipality with a population of less than 3,000*
- Act 176 added a new subdivision with the heading “Mixed Income Housing Jurisdictional Thresholds,” for projects consisting “exclusively of mixed income housing” that were “located entirely within a Vermont neighborhood”
 - These projects were considered “development” if they met the same “Smart Growth” thresholds set forth above in italics, including the *new* threshold of 25 or more units in municipalities with a population of less than 3,000
- This act also amended the definition of “mixed income housing” to include both owner occupied and rental housing
 - Mixed income housing:
 - For owner occupied housing, 15 percent of the units “have a purchase price which at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits” or “at least 20 percent of the housing units have a purchased price which at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits”
 - For rental housing, “[a]t least 20 percent of housing that is rented by the occupants whose gross annual household income does not exceed 60 percent of the county median income, or 60 percent of the standard metropolitan statistical area income if the municipality is located in such an area . . . and the total annual cost of the housing . . . is not more than 30 percent of the gross annual household income . . . and with a duration of affordability of no less than 30 years.”

2013

No. 59. An act relating to neighborhood planning and development for municipalities with designated centers.

- Act 59 created new “neighborhood development area” designation

- Mixed income housing projects under the “Mixed Income Housing Jurisdictional Thresholds” subdivision discussed above (see Act 176 of 2008) could be located within this new designation

2014

No. 147. An act relating to encouraging growth in designated centers and protecting natural resources.

- Act 147 added the “priority housing project” category with jurisdictional thresholds for municipalities with different populations; those thresholds are currently in effect
 - A priority housing project is “development” if the number of housing units in a project is as follows:
 - For a municipality of 15,000 or more, *changed from 200 to 275 or more units*
 - For a municipality of 10,000 or more but less than 15,000, *changed from 100 to 150 or more*
 - For a municipality of 6,000 or more but less than 10,000, *changed from 50 to 75 or more*
 - For a municipality of 3,000 or more but less than 6,000, *changed from 30 to 50 or more*
 - For a municipality of less than 3,000, threshold remained at *25 or more*
- The definition of “mixed income housing” was changed with respect to the rental housing component
 - Mixed income housing: For rental housing, at a minimum, 20 percent of the rental units are “affordable,” and that affordability must endure for 20 years instead of 30 years
- This act also added a definition of “priority housing project,” which currently is in statute
- The “Smart Growth Jurisdictional Thresholds” and “Mixed Income Housing Jurisdictional Thresholds” subdivisions were deleted