

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General, Housing, and Military Affairs to which was
3 referred Senate Bill No. 237 entitled “An act relating to promoting affordable
4 housing” respectfully reports that it has considered the same and recommends
5 that the House propose to the Senate that the bill be amended by striking out all
6 after the enacting clause and inserting in lieu thereof the following:

7 * * * Municipal Zoning * * *

8 Sec. 1. 24 V.S.A. § 4382 is amended to read:

9 § 4382. THE PLAN FOR A MUNICIPALITY

10 (a) A plan for a municipality may be consistent with the goals established
11 in section 4302 of this title and compatible with approved plans of other
12 municipalities in the region and with the regional plan and shall include the
13 following:

14 * * *

15 (4) A utility and facility plan, consisting of a map and statement of
16 present and prospective community facilities and public utilities showing
17 existing and proposed educational, recreational, and other public sites;
18 buildings and facilities, including hospitals, libraries, power generating plants
19 and transmission lines; water supply, lines, facilities, and service areas;
20 sewage disposal, lines, facilities, and service areas; refuse disposal, storm
21 drainage, and other similar facilities and activities; and recommendations to

1 meet future needs for community facilities and services, with indications of
2 priority of need, costs, and method of financing.

3 * * *

4 (10) A housing element that shall include a recommended program for
5 addressing low and moderate income persons' housing needs as identified by
6 the regional planning commission pursuant to subdivision 4348a(a)(9) of this
7 title. The program ~~should account for permitted accessory dwelling units, as~~
8 ~~defined in subdivision 4412(1)(E)~~ shall comply with the requirements of
9 section 4412 of this title, ~~which~~ to provide affordable housing.

10 * * *

11 Sec. 2. 24 V.S.A. § 4412 is amended to read:

12 § 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

13 (a) Notwithstanding any existing bylaw, the following land development
14 provisions shall apply in every municipality:

15 (1) Equal treatment of housing and required provisions for affordable
16 housing.

17 * * *

18 (E) Except for flood hazard and fluvial erosion area bylaws adopted
19 pursuant to section 4424 of this title, no bylaw shall have the effect of
20 excluding as a permitted use one accessory dwelling unit that is located within
21 or appurtenant to ~~an owner-occupied~~ a single-family dwelling on an owner-

1 occupied lot. A bylaw may require a single-family dwelling with an accessory
2 dwelling unit to be subject to the same review, dimensional, or other controls
3 as required for a single-family dwelling without an accessory dwelling unit.

4 An accessory dwelling unit means ~~an efficiency or one-bedroom apartment a~~
5 distinct unit that is clearly subordinate to a single-family dwelling, and has
6 facilities and provisions for independent living, including sleeping, food
7 preparation, and sanitation, provided there is compliance with all the
8 following:

9 (i) The property has sufficient wastewater capacity.

10 (ii) The unit does not exceed 30 percent of the total habitable floor
11 area of the single-family dwelling or 900 square feet, whichever is greater.

12 ~~(iii) Applicable setback, coverage, and parking requirements~~
13 ~~specified in the bylaws are met.~~

14 (F) Nothing in subdivision (a)(1)(E) of this section shall be construed
15 to prohibit:

16 (i) a bylaw that is less restrictive of accessory dwelling units; or

17 (ii) a bylaw that ~~requires conditional use review for one or more of~~
18 ~~the following that is involved in creation of an accessory dwelling unit:~~

19 ~~(I) a new accessory structure;~~

20 ~~(II) an increase in the height or floor area of the existing~~
21 ~~dwelling; or~~

1 (A) No bylaw shall have the effect of prohibiting the creation of
2 residential lots of at least:

3 (i) 5,400 square feet or one-eighth acre within any regulatory
4 district allowing residential uses served by and able to connect to a sewer
5 system operated by a municipality;

6 (ii) four dwelling units per acre within any regulatory district
7 allowing residential uses served by and able to connect to a water system
8 operated by a municipality; or

9 (iii) eight dwelling units per acre within any regulatory district
10 allowing residential uses served by and able to connect to a water and sewer
11 system operated by a municipality.

12 (B) The appropriate municipal panel or administrative officer, as
13 applicable, shall condition any subdivision approval on obtaining a State
14 wastewater permit pursuant to 10 V.S.A. chapter 64.

15 (C) Nothing in this subdivision (b)(1) shall be construed to:

16 (i) prohibit a minimum lot frontage requirement less than or equal
17 to 40 feet;

18 (ii) allow subdivision of land for residential lots that, once
19 established, would result in prohibited land development within mapped and
20 regulated flood hazard, fluvial erosion, or river corridor areas;

1 (iii) allow subdivision for residential lots that, once established,
2 would result in prohibited land development within mapped and regulated
3 natural resource constraints;

4 (iv) allow water or sewer connection to lines or mapped service
5 areas limited by municipal ordinance due to system capacity constraints
6 disclosed in a plan, policy, or ordinance.

7 (v) allow the subdivision of residential lots in municipalities with
8 areas designated pursuant to chapter 76A of this title outside of the following
9 areas:

10 (I) a quarter-mile radius of a designated village center;

11 (II) a half-mile radius of a designated downtown;

12 (III) a neighborhood development area;

13 (IV) a designated growth center;

14 (V) a half-mile radius of a new town center.

15 (D) No bylaw shall have the effect of prohibiting or requiring
16 conditional use approval for a two-unit dwelling on any lot within any
17 regulatory district allowing residential uses served by and able to connect to a
18 water and sewer system operated by a municipality to any greater extent than a
19 one-unit dwelling would be prohibited or restricted within such district with no
20 additional review, dimensional, or other controls than would be required for a
21 single-family dwelling without a second unit.

1 (E) When a bylaw establishes a parking minimum for residential
2 properties, each residential parking space that will be leased separately from
3 residential units shall count as two spaces for purposes of meeting the parking
4 minimum for any proposed development located within areas subject to the
5 inclusive development provisions of this subdivision (b)(1). The parking space
6 lease costs shall be reasonably proportional to the production, operation, and
7 maintenance cost of the space to reduce generalized subsidy of leased spaces
8 by other residents. A municipality may condition the municipal land use
9 permit on continuation of the separate leasing of parking spaces and residential
10 units.

11 (2) A municipality may opt out of the requirements of subdivision (1) of
12 this subsection by filing a Substantial Municipal Constraint Report with the
13 Department of Housing and Community Development.

14 (A) The Substantial Municipal Constraint Report shall demonstrate
15 that:

16 (i) the municipality’s bylaws comply with all of the requirements
17 of subsection (a) of this section; and

18 (ii) the municipality has documented substantial municipal
19 constraints on its municipal water, municipal sewer, stormwater,
20 transportation, emergency services, schools, or other services that prevent the

1 adoption of bylaws that conform to the requirements of subdivision (1) of this
2 subsection (b).

3 (B) On or before January 1, 2021, the Department of Housing and
4 Community Development shall provide a template and guidance on the form
5 and content of the Substantial Municipal Constraint Report.

6 (C) The Department of Housing and Community Development shall
7 post all Substantial Municipal Constraint Reports on the Department’s website,
8 and shall promptly provide a copy to the municipality’s regional planning
9 commission, the State program directors for municipal water and sewer
10 funding, the Vermont Community Development Board, the Vermont
11 Downtown Development Board, the Vermont Housing and Conservation
12 Board, and the Natural Resources Board, as well as any person requesting
13 notice. Any person may provide comment on the municipality’s report to the
14 Commissioner of Housing and Development within 60 days of the filing. The
15 Department shall post all comments with the Report on the Department’s
16 website.

17 (D) A municipality that has filed a Substantial Municipal Constraint
18 Report shall update the Report each time it updates its municipal plan or
19 bylaws. Failure to update the Report shall disqualify the municipality from the
20 incentives identified in subdivision (3) of this subsection (b) and may subject

1 the municipality to review by the Commissioner of Housing and Community
2 Development pursuant to section 4351 of this title.

3 (3) Incentives and funding.

4 (A) On or before July 1, 2021, any municipality that requests
5 technical assistance from a regional planning commission to update local
6 bylaws to address inclusionary growth as described in subdivision (1) of this
7 subsection (b) shall receive priority technical assistance through additional
8 funding made available to the applicable regional planning commission by
9 section 4306 of this title or municipal funding made available through the
10 Municipal Planning Grant Program established by section 4306 of this title and
11 may use resources developed by the Department of Housing and Community
12 Development to assist with the updates.

13 (B) The following State funding programs shall prioritize funding in
14 municipalities that have updated their bylaws to comply with this subsection or
15 are actively pursuing actions that will bring their bylaws into compliance with
16 this section:

17 (i) State funding for municipal water and sewer systems;

18 (ii) Municipal Planning Grants under section 4306 of this title;

19 (iii) Vermont Community Development Program under 10 V.S.A.
20 chapter 29, subchapter 1; and

1 (iii) Traffic on roads and highways in the vicinity.

2 (iv) Bylaws and ordinances then in effect.

3 (v) Utilization of renewable energy resources.

4 * * *

5 (E) A multiunit dwelling project consisting of four or fewer units
6 located in a district allowing multiunit dwellings may not be denied solely due
7 to an undue adverse effect on the character of the area affected.

8 * * *

9 Sec. 4. 27 V.S.A. § 545 is added to read:

10 § 545. COVENANTS, CONDITIONS, AND RESTRICTIONS OF
11 SUBSTANTIAL PUBLIC INTEREST

12 Deed restrictions, covenants, or similar binding agreements added after
13 July 1, 2020 that prohibit or have the effect of prohibiting land development
14 allowed under the municipal bylaws in a municipality that has adopted a bylaw
15 in accordance with 24 V.S.A. § 4412(b)(1) shall not be valid. This section
16 shall not affect the enforceability of any property interest held in whole or in
17 part by a qualified organization or State agency as defined in 10 V.S.A.
18 § 6301a, including any restrictive easements, such as conservation easements
19 and historic preservation rights and interests defined in 10 V.S.A. § 822. This
20 section shall not affect the enforceability of any property interest that is
21 restricted by a housing subsidy covenant as defined by section 610 of this title

1 and held in whole or in part by an eligible applicant as defined in 10 V.S.A.
2 § 303(4) or the Vermont Housing Finance Agency.

3 Sec. 5. REPORT ON SUBSTANTIAL MUNICIPAL CONSTRAINTS

4 On or before January 15, 2023, the Department of Housing and Community
5 Development shall report to the General Assembly on any Substantial
6 Municipal Constraint Reports received. The report shall address the number of
7 municipalities that have reported substantial municipal constraints, the nature
8 of the constraints, the impact on the development of housing in those
9 municipalities, and any steps the Department recommends towards reducing or
10 eliminating constraints.

11 **Sec. 6. 24 V.S.A. § 4453 is amended to read:**

12 § 4453. CHALLENGES TO HOUSING PROVISIONS IN BYLAWS

13 The Attorney General or a designee shall investigate when there is a
14 complaint that a bylaw or its manner of administration violates subdivision
15 4412(a)(1) of this title, relating to equal treatment of housing and adequate
16 provision of affordable housing. Upon determining that a violation has
17 occurred, the Attorney General may file an action in the Environmental
18 Division to challenge the validity of the bylaw or its manner of administration.
19 In this action, the municipality shall have the burden of proof to establish by a
20 preponderance of the evidence that the challenged bylaw or its manner of
21 administration does not violate the provisions of subdivision 4412(a)(1) of this

1 title. If the Division finds the bylaw or its administration to be in violation, it
2 shall grant the municipality a reasonable period of time to correct the violation
3 and may extend that time. If the violation continues after that time, the
4 Division shall order the municipality to grant all requested permits and
5 certificates of occupancy for housing relating to the area of continuing
6 violation.

7 Sec. 6. 24 V.S.A. § 2291 is amended to read:

8 § 2291. ENUMERATION OF POWERS

9 For the purpose of promoting the public health, safety, welfare, and
10 convenience, a town, city, or incorporated village shall have the following
11 powers:

12 * * *

13 (29) To regulate by means of an ordinance or bylaw the operation of
14 short-term rentals within the municipality, provided that the ordinance or
15 bylaw does not adversely impact the availability of long-term rental housing.
16 As used in this subdivision, “short-term rental” means a furnished house,
17 condominium, or other dwelling room or self-contained dwelling unit rented to
18 the transient, traveling, or vacationing public for a period of fewer than
19 30 consecutive days and for more than 14 days per calendar year.

20 * * * Tax Credits * * *

21 Sec. 7. 24 V.S.A. § 2793a. is amended to read:

1 § 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

2 * * *

3 (c) A village center designated by the State Board pursuant to
4 subsection (a) of this section is eligible for the following development
5 incentives and benefits:

6 * * *

7 (4) ~~The following State tax credits for projects located in a designated~~
8 ~~village center:~~

9 (A) ~~A State historic rehabilitation tax credit of ten percent under 32~~
10 ~~V.S.A. § 5930cc(a) that meets the requirements for the federal rehabilitation~~
11 ~~tax credit.~~

12 (B) ~~A State façade improvement tax credit of 25 percent under 32~~
13 ~~V.S.A. § 5930cc(b).~~

14 (C) ~~A State code improvement tax credit of 50 percent under 32~~
15 ~~V.S.A. § 5930cc(e) The Downtown and Village Center Tax Credit Program~~
16 ~~described in 32 V.S.A. § 5930aa et seq.~~

17 * * *

18 Sec. 8. 32 V.S.A. § 5930aa is amended to read:

19 § 5930aa. DEFINITIONS

20 As used in this subchapter:

1 (1) “Qualified applicant” means an owner or lessee of a qualified
2 building involving a qualified project, but does not include a State or federal
3 agency or a political subdivision of either; or an instrumentality of the United
4 States.

5 (2) “Qualified building” means a building built at least 30 years before
6 the date of application, located within a designated downtown ~~or~~ village
7 center, or neighborhood development area, which, upon completion of the
8 project supported by the tax credit, will be an income-producing building not
9 used solely as a single-family residence. Churches and other buildings owned
10 by religious organization may be qualified buildings, but in no event shall tax
11 credits be used for religious worship.

12 (3) “Qualified code improvement project” means a project:

13 (A) to install or improve platform lifts suitable for transporting
14 personal mobility devices, limited use or limited application elevators,
15 elevators, sprinkler systems, and capital improvements in a qualified building,
16 and the installations or improvements are required to bring the building into
17 compliance with the statutory requirements and rules regarding fire prevention,
18 life safety, and electrical, plumbing, and accessibility codes as determined by
19 the Department of Public Safety;

20 (B) to abate lead paint conditions or other substances hazardous to
21 human health or safety in a qualified building; or

1 (C) to redevelop a contaminated property in a designated downtown,
2 ~~or~~ village center, or neighborhood development area under a plan approved by
3 the Secretary of Natural Resources pursuant to 10 V.S.A. § 6615a.

4 (4) “Qualified expenditures” means construction-related expenses of the
5 taxpayer directly related to the project for which the tax credit is sought but
6 excluding any expenses related to a private residence.

7 (5) “Qualified façade improvement project” means the rehabilitation of
8 the façade of a qualified building that contributes to the integrity of the
9 designated downtown ~~or~~, designated village center, or neighborhood
10 development area. Façade improvements to qualified buildings listed, or
11 eligible for listing, in the State or National Register of Historic Places must be
12 consistent with Secretary of the Interior Standards, as determined by the
13 Vermont Division for Historic Preservation.

14 (6) “Qualified Flood Mitigation Project” means any combination of
15 structural and nonstructural changes to a building located within an area
16 subject to the Flood Hazard Area and River Corridor Rule or within the flood
17 hazard area as mapped by the Federal Emergency Management Agency that
18 reduces or eliminates flood damage to the building or its contents. The project
19 shall comply with the municipality’s adopted flood hazard and river corridor
20 bylaw, if applicable, and a certificate of completion shall be submitted by a
21 registered engineer, architect, qualified contractor, or qualified local official to

1 the State Board. Improvements to qualified buildings listed, or eligible for
2 listing, in the State or National Register of Historic Places shall be consistent
3 with Secretary of the Interior’s Standards for Rehabilitation, as determined by
4 the Vermont Division for Historic Preservation.

5 (7) “Qualified historic rehabilitation project” means an historic
6 rehabilitation project that has received federal certification for the
7 rehabilitation project.

8 ~~(7)~~(8) “Qualified project” means a qualified code improvement,
9 qualified façade improvement, or qualified historic rehabilitation project as
10 defined by this subchapter.

11 ~~(8)~~(9) “State Board” means the Vermont Downtown Development
12 Board established pursuant to 24 V.S.A. chapter 76A.

13 Sec. 9. 32 V.S.A. § 5930cc is amended to read:

14 § 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX

15 CREDITS

16 * * *

17 (d) Flood Mitigation Tax Credit. The qualified applicant of a qualified
18 flood mitigation project shall be entitled, upon the approval of the State Board,
19 to claim against the taxpayer’s State individual income tax, State corporate
20 income tax, or bank franchise or insurance premiums tax liability a credit of
21 50 percent of qualified expenditures up to a maximum tax credit of \$75,000.00.

* * * Mobile Home Parks * * *

Sec. 10. MOBILE HOME PARK INFRASTRUCTURE

(a) The Department of Environmental Conservation shall:

(1) assist the Town of Brattleboro and the Tri-Park Cooperative in the implementation of the Tri-Park Master Plan and Deerfield River & Lower Connecticut River Tactical Basin Plan, including through restructuring of State Revolving Loans RF1-104 and RF3-163 and additional loans to the extent possible, to allow for improvements to wastewater and stormwater infrastructure needs;

(2) provide similar assistance to the extent possible to similarly situated mobile home parks that also have infrastructure needs; and

(3) identify statutory and programmatic changes necessary to assist in the implementation of the plans and to improve access and terms by mobile home parks and other small communities to the Clean Water Revolving Loan Fund, Water Infrastructure Sponsorship Program and the Drinking Water State Revolving Fund.

(b) On or before January 15, 2021, the Department shall report on actions taken and recommendations for statutory or programmatic changes to the Senate Committees on Economic Development, Housing and General Affairs and on Institutions and to the House Committees on General, Housing, and Military Affairs and on Corrections and Institutions.

1 Sec. 11. 10 V.S.A. § 10 is amended to read:

2 § 10. VERMONT STATE TREASURER; CREDIT FACILITY FOR LOCAL
3 INVESTMENTS

4 (a) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary,
5 the Vermont State Treasurer shall have the authority to establish a credit
6 facility of up to 10 percent of the State’s average cash balance on terms
7 acceptable to the Treasurer and consistent with prudent investment principles
8 and guidelines pursuant to 32 V.S.A. § 433(b)–(c) and the Uniform Prudent
9 Investor Act, 14A V.S.A. chapter 9.

10 (b) ~~The amount authorized in subsection (a) of this section shall include all~~
11 ~~credit facilities authorized by the General Assembly and established by the~~
12 ~~Treasurer, and the renewal or replacement of those credit facilities. The~~
13 Treasurer may use amounts available under this section to provide financing
14 for infrastructure projects in Vermont mobile home parks and may modify the
15 terms of such financing in his or her discretion as is necessary to promote the
16 availability of mobile home park housing and to protect the interests of the
17 State.

18 * * * Implementation of Incentives * * *

19 Sec. 12. IMPLEMENTATION

20 The incentives and funding established in 24 V.S.A. §4412(b)(3) shall be
21 available immediately to municipalities that adopt bylaws to comply with

1 24 V.S.A. §4412(b)(1) prior to the effective date of July 1, 2023.

2 * * * Effective Dates * * *

3 Sec. 13. EFFECTIVE DATES

4 This act shall take effect on December 1, 2020, except in Sec. 2, 24 V.S.A.

5 § 4412(b) shall take effect on July 1, 2023.

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12 (Committee vote: _____)

13

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Representative _____

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FOR THE COMMITTEE