

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to
3 which was referred Senate Bill No. 237 entitled “An act relating to promoting
4 affordable housing” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 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
12 Sec. 2. 24 V.S.A. § 4412 is amended to read:

13 § 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

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

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

18 * * *

19 (D) Bylaws shall designate appropriate districts and reasonable
20 regulations for multiunit or multifamily dwellings. No bylaw shall have the
21 effect of excluding these multiunit or multifamily dwellings from the

Commented [EC1]: The changes in this section were originally proposed by the Administration to be a mandatory program with an opt out. However, the Administration now wants them to be voluntary. Senate Econ took a hybrid approach and the section will not become effective for 3yrs so towns can have time to make the transition.

1 municipality. Within any regulatory district that allows multiunit residential
2 dwellings, no bylaw shall have the effect of prohibiting multiunit residential
3 dwellings of four or fewer units as an allowed, permitted use, or of
4 conditioning approval based on the character of the area.

Commented [EC2]: Overall, these changes seek to encourage greater density.

5 (E) Except for flood hazard and fluvial erosion area bylaws adopted
6 pursuant to section 4424 of this title, no bylaw shall have the effect of
7 excluding as a permitted use one accessory dwelling unit that is located within
8 or appurtenant to ~~an owner-occupied~~ a single-family dwelling on an owner-
9 occupied lot. A bylaw may require a single-family dwelling with an accessory
10 dwelling unit to be subject to the same review, dimensional, or other controls
11 as required for a single-family dwelling without an accessory dwelling unit.

Commented [EC3]: This section will not have the 3 yr extended effective date.

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

Commented [EC4]: This section changes the definition of accessory dwelling unit. It lifts the restrictions that the larger dwelling be owner occupied, that it be one bedroom, and that it be up to 30% of the size of the dwelling. It allows the unit to be up to 900sqft.

17 (i) The property has sufficient wastewater capacity.

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

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

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

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

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

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

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

9 ~~(III) an increase in the dimensions of the parking areas~~
10 regulates short-term rental units distinctly from residential rental units.

11 * * *

12 (2) Existing small lots. Any lot that is legally subdivided, is in
13 individual and separate and nonaffiliated ownership from surrounding
14 properties, and is in existence on the date of enactment of any bylaw, including
15 an interim bylaw, may be developed for the purposes permitted in the district
16 in which it is located, even though the small lot no longer conforms to
17 minimum lot size requirements of the new bylaw or interim bylaw.

18 (A) A municipality may prohibit development of a lot not served by
19 and able to connect to municipal sewer and water service if either of the
20 following applies:

21 (i) the lot is less than one-eighth acre in area; or

1 (ii) the lot has a width or depth dimension of less than 40 feet.

2 * * *

3 (b) ~~Inclusionary Growth~~ Inclusive development.

Commented [EC5]: Change suggested by DHCD

4 (1) Except in a municipality that has reported substantial municipal
5 constraints in accordance with subdivision (b)(2) of this section and
6 notwithstanding any existing bylaw other than flood hazard and fluvial erosion
7 area bylaws adopted pursuant to section 4424 of this title, the following land
8 development provisions shall apply in every municipality:

Commented [EC6]: This section eases restrictions on small scale development. The sections expand opportunities for small lots, duplexes, by right reviews of multiunit projects, and reduced parking minimums.

Commented [EC7]: This proposal came from the Administration. It was originally proposed to be mandatory, but then the Administration changed the proposal to be voluntary. SEDHGA did not want to make these sections voluntary, so decided to push the effective date out 3 yrs. This means that towns will have 3 years to voluntarily change their bylaws, but then after that it will be mandatory.

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

11 (i) 10,890 square feet or one-quarter acre within any regulatory
12 district allowing residential uses served by and able to connect to a water
13 system operated by a municipality; or

14 (ii) 5,400 square feet or one-eighth acre within any regulatory
15 district allowing residential uses served by and able to connect to a water and
16 sewer system operated by a municipality.

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

20 (C) No bylaw shall have the effect of prohibiting or requiring
21 conditional use approval for a two-unit dwelling on any lot within any

1 regulatory district allowing residential uses served by and able to connect to a
2 water and sewer system operated by a municipality to any greater extent than a
3 one-unit dwelling would be prohibited or restricted within such district with no
4 additional review, dimensional, or other controls than would be required for a
5 single-family dwelling without a second unit.

6 (D) When a bylaw establishes a parking minimum for residential
7 properties, each residential parking space that will be leased separately from
8 residential units shall count as two spaces for purposes of meeting the parking
9 minimum for any proposed development located within a half mile of a transit
10 stop. The parking space lease costs shall be reasonably proportional to the
11 production, operation, and maintenance cost of the space to reduce generalized
12 subsidy of leased spaces by other residents. A municipality may condition the
13 municipal land permit on continuation of the separate leasing of parking spaces
14 and residential units.

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

18 (A) The Substantial Municipal Constraint Report shall demonstrate
19 that:

20 (i) the municipality's bylaws comply with all of the requirements
21 of subsection (a) of this section; and

Commented [EC8]: This section allows a municipality to opt out of the requirements of the inclusive development section by filing a Substantial Municipal Constraint Report. If the town states that it cannot allow greater density because it has substantial constraints on it, it does not need to comply with the section.

1 (ii) the municipality has documented substantial municipal
2 constraints on its municipal water, municipal sewer, or other services that
3 prevent the adoption of bylaws that conform to the requirements of subdivision
4 (1) of this subsection (b).

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

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

19 (D) A municipality that has filed a Substantial Municipal Constraint
20 Report shall update the Report each time it updates its municipal plan or
21 bylaws. Failure to update the Report shall disqualify the municipality from the

1 incentives identified in subdivision (3) of this subsection (b) and may subject
2 the municipality to review by the Commissioner of Housing and Community
3 Development pursuant to section 4351 of this title.

4 (3) Incentives and funding.

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

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

18 (i) State funding for Municipal Water and Sewer Systems;

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

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

1 (iv) Neighborhood Development Area Historic Tax Credits under
2 32 V.S.A. § 5930cc.

3 (4) ~~A Pursuant to 27 V.S.A. § 545, in a municipality that has adopted~~
4 bylaws that comply with subdivision (1) of this subsection (b) ~~may adopt~~
5 ~~bylaws that allow land development that has been deeds may not be~~ restricted
6 by covenants, conditions, or restrictions ~~in that~~ conflict with the goals of this
7 chapter and duly adopted municipal policies. This subsection shall not affect
8 the enforceability of any existing deed restrictions.

9 Sec. 3. 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 running with
13 the land added after July 1, 2020 that prohibit or have the effect of prohibiting
14 land development allowed under the municipal bylaws in a municipality that
15 has adopted a bylaw in accordance with 24 V.S.A. § 4412(b)(3) shall not be
16 valid. This section shall not affect the enforceability of any property interest
17 held in whole or in part by a qualified organization or State agency as defined
18 in 10 V.S.A. § 6301a, including any restrictive easements, such as
19 conservation easements and historic preservation rights and interests defined in
20 10 V.S.A. § 822. This section shall not affect the enforceability of any
21 property interest that is restricted by a housing subsidy covenant as defined by

Commented [EC9]: Towns that adopt the inclusive development provisions get the extra protection against private contracts attempting to override the bylaws. The section includes recommended language from VHCB.

1 section 610 of this title and held in whole or in part by an eligible applicant as
2 defined in 10 V.S.A. § 303(4) or the Vermont Housing Finance Agency.

3 Sec. 4. 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 * * * Act 250 Downtown Exemption * * *

12 Sec. 5. 10 V.S.A. § 6001 is amended to read:

13 * * *

14 (27) “Mixed income **housing**” means a housing project in which the
15 following apply:

16 (A) Owner-occupied housing. At the ~~option of the applicant~~ time of
17 initial sale, owner-occupied housing may be characterized by either of the
18 following:

19 (i) ~~at least 15 percent of the housing units have a purchase price~~
20 ~~that at the time of first sale does not exceed 85 percent of the new construction.~~

Commented [EC10]: Technical correction from VHFA to reflect how they currently calculate affordable housing.

1 ~~targeted area purchase price limits established and published annually by the~~
2 ~~Vermont Housing Finance Agency; or~~

3 (ii) ~~at least 20 percent of the housing units have a purchase price~~
4 ~~that at the time of first sale does not exceed 90 percent of the new construction,~~
5 ~~targeted area purchase price limits established and published annually by the~~
6 ~~Vermont Housing Finance Agency~~ meet the requirements of affordable owner-
7 occupied housing under subdivision (29)(A) of this section, adjusted for the
8 number of bedrooms, as established and published annually by the Vermont
9 Housing Finance Agency.

10 (B) Rental housing. ~~At least 20 percent of the housing units that are~~
11 ~~rented constitute affordable housing and have a duration of affordability of For~~
12 ~~not less than 15 years~~ following the date that rental housing is initially placed
13 in service, at least 20 percent of the housing units meet the requirements of
14 affordable rental housing under subdivision (29)(B) of this section, adjusted for
15 the number of bedrooms, as established and published annually by the
16 Vermont Housing Finance Agency.

17 * * *

18 (35) “Priority housing project” means a discrete project located on a
19 single tract or multiple contiguous tracts of land that consists exclusively of:

20 (A) ~~mixed income housing or mixed use, or any combination thereof,~~
21 ~~and is located entirely within a designated downtown development district,~~

1 designated new town center, or designated growth center, ~~or designated village~~
2 ~~center that is also a designated neighborhood development area under~~
3 24 V.S.A. chapter 76A; ~~or~~

4 ~~(B) mixed income housing and is located entirely within a designated~~
5 ~~Vermont neighborhood or designated neighborhood development area under~~
6 ~~24 V.S.A. chapter 76A.~~

7 * * *

8 Sec. 6. 10 V.S.A. § 6081 is amended to read:

9 § 6081. PERMITS REQUIRED; EXEMPTIONS

10 * * *

11 (o) If a designation pursuant to 24 V.S.A. chapter 76A is removed,
12 subsection (a) of this section shall apply to any subsequent substantial change
13 to a ~~priority housing project~~ development or subdivision that was originally
14 exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title or subsection (p)
15 of this section on the basis of that designation.

16 (p)(1) No permit or permit amendment is required for any subdivision,
17 development, or change to a project that is located entirely within a downtown
18 development district designated pursuant to 24 V.S.A. § 2793, ~~if the change~~
19 ~~consists exclusively of any combination of mixed use and mixed income~~
20 ~~housing, and the cumulative changes within any continuous period of five~~
21 ~~years, commencing on or after the effective date of this subsection, remain~~

1 ~~below any applicable jurisdictional threshold specified in subdivision~~
2 ~~6001(3)(A)(iv)(I) of this title~~ or a neighborhood development area designated
3 pursuant to 24 V.S.A. § 2793e. Upon receiving notice and a copy of the permit
4 issued by an appropriate municipal panel pursuant to 24 V.S.A. § 4460(f), a
5 previously issued permit for a development or subdivision located in a
6 downtown development area or a new neighborhood is extinguished.

7 (2) No permit or permit amendment is required for a priority housing
8 project in a designated center other than a downtown development district if
9 the project remains below any applicable jurisdictional threshold specified in
10 subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions
11 of any existing permit or permit amendment issued under this chapter that
12 applies to the tract or tracts on which the project will be located. If such a
13 priority housing project will not comply with one or more of these conditions,
14 an application may be filed pursuant to section 6084 of this title.

15 * * *

16 (v) ~~A permit or permit amendment shall not be required for a development~~
17 ~~or subdivision in a designated downtown development district for which the~~
18 ~~District Commission has issued positive findings and conclusions under~~
19 ~~section 6086b of this title on all the criteria listed in that section. A person shall~~
20 ~~obtain new or amended findings and conclusions from the District Commission~~
21 ~~under section 6086b of this title prior to commencement of a material change,~~

1 ~~as defined in the rules of the Board, to a development or subdivision for which~~
2 ~~the District Commission has issued such findings and conclusions. A person~~
3 ~~may seek a jurisdictional opinion under section 6007 of this title concerning~~
4 ~~whether such a change is a material change. [Repealed.]~~

5 * * *

6 Sec. 7. REPEAL

7 The following are repealed:

8 (1) 10 V.S.A. § 6083a(d) (neighborhood development area fees).

9 (2) 10 V.S.A. § 6086b (downtown development).

10 Sec. 8. 24 V.S.A. § 4460 is amended to read:

11 § 4460. APPROPRIATE MUNICIPAL PANELS

12 * * *

13 (f)(1) This subsection shall apply to a subdivision or development that:

14 (A) was previously permitted pursuant to 10 V.S.A. chapter 151;

15 (B) is located in a downtown development district or neighborhood
16 development area designated pursuant to chapter 76A of this title; and

17 (C) has applied for a permit or permit amendment required by zoning
18 regulations or bylaws adopted pursuant to this subchapter.

19 (2) The appropriate municipal panel reviewing a municipal permit or
20 permit amendment pursuant to this subsection shall include conditions
21 contained within a permit previously issued pursuant to 10 V.S.A. chapter 151

Commented [EC11]: SEDHGA recognizes that this may be controversial, and the language may need to be tightened up; particularly the language in (A)-(E).

1 unless the panel determines that the permit condition pertains to any of the
2 following:

3 (A) the construction phase of the project that has already been
4 constructed;

5 (B) compliance with another State permit that has independent
6 jurisdiction;

7 (C) federal or State law that is no longer in effect or applicable;

8 (D) an issue that is addressed by municipal regulation and the project
9 will meet the municipal standards; or

10 (E) a physical or use condition that is no longer in effect or
11 applicable, or that will no longer be in effect or applicable once the new project
12 is approved.

13 (3) After issuing or amending a permit containing conditions pursuant to
14 this subsection, the appropriate municipal panel shall provide notice and a
15 copy of the permit to the Natural Resources Board.

16 (4) The appropriate municipal panel shall comply with the notice and
17 hearing requirements provided in subdivision 4464(a)(1) of this title. In
18 addition, notice shall be provided to those persons requiring notice under 10
19 V.S.A. § 6084(b) and shall explicitly reference the existing Act 250 permit.

Commented [EC12]: SEDHGA thought an appeal process may be needed in addition to the notice.

1 (5) The appropriate municipal panel’s decision shall be issued in accord
2 with subsection 4464(b) of this title and shall include specific findings with
3 respect to its determinations pursuant to subdivision (2) of this subsection.

4 (6) Any final action by the appropriate municipal panel affecting a
5 condition of a permit previously issued pursuant to 10 V.S.A. chapter 151 shall
6 be recorded in the municipal land records.

7 Sec. 9. 24 V.S.A. § 2792 is amended to read:

8 § 2792. Vermont Downtown Development Board

9 (a) A “Vermont Downtown Development Board,” also referred to as the
10 “State Board,” is created to administer the provisions of this chapter. The State
11 Board shall be composed of the following members or their designees:

12 * * *

13 (12) The executive director of the Vermont Housing and Conservation
14 Board or designee.

15 * * *

16 Sec. 10. 24 V.S.A. § 2793 is amended to read:

17 § 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

18 * * *

19 (b) Within 45 days of receipt of a completed application, the State Board
20 shall designate a downtown development district if the State Board finds in its
21 written decision that the municipality has:

1 (1) Demonstrated a commitment to protect and enhance the historic
2 character of the downtown through the adoption of a design review district,
3 through the adoption of an historic district, or through the adoption of
4 regulations that adequately regulate the physical form and scale of
5 development that the State Board determines substantially meet the historic
6 preservation requirements in subdivisions 4414(1)(E) and (F) of this title, ~~or~~
7 ~~through the creation of a development review board authorized to undertake~~
8 ~~local Act 250 reviews of municipal impacts pursuant to section 4420 of this~~
9 ~~title.~~

10 * * *

11 (4) A housing element in its plan in accordance with subdivision
12 4382(10) of this title that achieves the purposes of subdivision 4302(11) of this
13 title and that includes clear implementation steps for achieving mixed income
14 housing, including affordable housing, a timeline for implementation,
15 responsibility for each implementation step, and potential funding sources.

16 (5) Adopted one of the following to promote the availability of
17 affordable housing opportunities in the municipality:

18 (A) inclusionary zoning as provided in subdivision 4414(7) of this
19 title;

20 (B) a restricted housing trust fund with designated revenue streams;

Commented [EC13]: This language to address the concern that exempting downtowns and NDAs from Act 250, removes the incentive for priority housing. Downtowns and NDAs must address affordable housing under this provision.

1 (C) a ~~H~~housing ~~C~~ommission as provided in section 4433 of this
2 title; or

3 (D) impact fee exemptions or reductions for affordable housing as
4 provided in section 5205 of this title.

5 (c) A designation issued under this section shall be effective for eight years
6 and may be renewed on application by the municipality. The State Board also
7 shall review a community's designation four years after issuance or renewal
8 and may review compliance with the designation requirements at more
9 frequent intervals. Any community applying for renewal shall explain how the
10 designation under this section has furthered the goals of the town plan and
11 shall submit an approved town plan map that depicts the boundary of the
12 designated district. Beginning on July 1, 2022, any community under review
13 or seeking renewal shall comply with subdivisions (b)(4) and (5) of this
14 section. If at any time the State Board determines that the downtown
15 development district no longer meets the standards for designation established
16 in subsection (b) of this section, it may take any of the following actions:

17 (1) require corrective action;

18 (2) provide technical assistance through the Vermont Downtown
19 Program;

20 (3) limit eligibility for the benefits established in section 2794 of this
21 chapter without affecting any of the district's previously awarded benefits; or

Commented [EC14]: This is new language added to give towns time to adopt the new affordable housing requirements.

1 (4) remove the district's designation without affecting any of the district's
2 previously awarded benefits.

3 Sec. 11. 24 V.S.A. § 2793a. is amended to read:

4 § 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

5 * * *

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

9 * * *

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

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

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

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

20 * * *

21 Sec. 12. 24 V.S.A. § 2793e is amended to read:

1 § 2793e. NEIGHBORHOOD PLANNING AREAS; DESIGNATION OF
2 NEIGHBORHOOD DEVELOPMENT AREAS

3 * * *

4 (c) Application for designation of a neighborhood development area. The
5 State Board shall approve a neighborhood development area if the application
6 demonstrates and includes all of the following elements:

7 * * *

8 (5) The proposed neighborhood development area consists of those
9 portions of the neighborhood planning area that are appropriate for new and
10 infill housing, ~~excluding identified flood hazard and fluvial erosion areas~~
11 including only areas containing pre-existing development and areas suitable for
12 infill development as defined in §29-201 of the Vermont Flood Hazard Area
13 and River Corridor Rule. In determining what areas are most suitable for new
14 and infill housing, the municipality shall balance local goals for future land
15 use, the availability of land for housing within the neighborhood planning area,
16 and the smart growth principles. Based on those considerations, the
17 municipality shall select an area for neighborhood development area
18 designation that:

19 (A) Avoids or that minimizes to the extent feasible the inclusion of
20 “important natural resources” as defined in subdivision 2791(14) of this title
21 and flood hazard areas and river corridors. If an “important natural resource”

Commented [EC15]: SEDHGA included VNRC's proposed language on this section, but thought this was in SNRE's area of expertise.

1 is included within a proposed neighborhood development area, the applicant
2 shall identify the resource, explain why the resource was included, describe
3 any anticipated disturbance to such resource, and describe why the disturbance
4 cannot be avoided or minimized. If the neighborhood development area
5 includes flood hazard areas or river corridors, the local bylaws must contain
6 provisions consistent with the Agency of Natural Resources rules required
7 under 10 V.S.A. § 754(a) to ensure that new infill development within an
8 ~~existing settlement- neighborhood development area~~ occurs outside the
9 floodway, new development is elevated or floodproofed at least two feet above
10 Base Flood Elevation, or otherwise reasonably safe from flooding, and will not
11 cause or contribute to fluvial erosion hazards within the river corridor. If the
12 neighborhood development area includes flood hazard areas or river corridors,
13 local bylaws shall also contain provisions to protect river corridors outside of
14 the neighborhood development area consistent with the Agency of Natural
15 Resources model river corridor bylaws.

16 (B) Is served by planned or existing transportation infrastructure that
17 conforms with “complete streets” principles as described under 19 V.S.A.
18 § 309d and establishes pedestrian access directly to the downtown, village
19 center, or new town center.

20 (C) Is compatible with and will reinforce the character of adjacent
21 National Register Historic Districts, National or State Register Historic Sites,

1 and other significant cultural and natural resources identified by local or State
2 government.

3 (6) The neighborhood development area is served by:

4 (A) municipal sewer infrastructure; or

5 (B) a community or alternative wastewater system approved by the
6 Agency of Natural Resources.

7 (7) ~~The~~ Within the neighborhood development area, the municipal
8 bylaws allow as of right minimum lot sizes of one-quarter of an acre or less
9 and minimum net residential densities ~~within the neighborhood development~~
10 ~~area~~ greater than or equal to four single-family detached dwelling units per
11 acre, exclusive of accessory dwelling units, or no fewer than the average
12 existing density of the surrounding neighborhood, whichever is greater.

13 (A) The methodology for calculating density shall be established in
14 the guidelines developed by the Department pursuant to subsection 2792(d) of
15 this title.

16 (A)(B) Regulations that adequately regulate the physical form and
17 scale of development may be used to demonstrate compliance with this
18 requirement.

19 (B)(C) Development in the neighborhood development areas that is
20 lower than the minimum net residential density required by this subdivision (7)
21 shall not qualify for the benefits stated in subsections (f) and (g) of this section.

Commented [EC16]: DHCD suggested removing this phrase.

1 ~~The district coordinator shall determine whether development meets this~~
2 ~~minimum net residential density requirement in accordance with subsection (f)~~
3 ~~of this section.~~

4 (8) Local bylaws, regulations, and policies applicable to the
5 neighborhood development area substantially conform with neighborhood
6 design guidelines developed by the Department pursuant to section 2792 of
7 this title. These policies shall:

8 (A) ensure that all investments contribute to a built environment that
9 enhances the existing neighborhood character and supports pedestrian use;

10 (B) ensure sufficient residential ~~density~~ uses and building heights;

11 (C) minimize the required ~~lot sizes, setbacks, and parking~~
12 requirements, and street widths; and

13 (D) require conformance with “complete streets” principles as
14 described under 19 V.S.A. § 309d, street and pedestrian connectivity, and
15 street trees.

16 (9) Residents hold a right to utilize household energy conserving
17 devices.

18 (10) The application includes a map or maps that, at a minimum,
19 identify:

20 (A) “important natural resources” as defined in subdivision 2791(14)
21 of this title;

1 (B) existing slopes of 25 percent or steeper;

2 (C) public facilities, including public buildings, public spaces, sewer
3 or water services, roads, sidewalks, paths, transit, parking areas, parks, and
4 schools;

5 (D) planned public facilities, roads, or private development that is
6 permitted but not built;

7 (E) National Register Historic Districts, National or State Register
8 Historic Sites, and other significant cultural and natural resources identified by
9 local or State government;

10 (F) designated downtown, village center, new town center, or growth
11 center boundaries as approved under this chapter and their associated
12 neighborhood planning area in accordance with this section; and

13 (G) delineated areas of land appropriate for residential development
14 and redevelopment under the requirements of this section.

15 (11) The application includes the information and analysis required by
16 the Department’s guidelines under section 2792 of this title.

17 (12) A housing element in its plan in accordance with subdivision
18 4382(10) of this title that achieves the purposes of subdivision 4302(11) of this
19 title and that includes clear implementation steps for achieving mixed income
20 housing, including affordable housing, a timeline for implementation,
21 responsibility for each implementation step, and potential funding sources.

Commented [EC17]: Added to address incentive for priority housing, as stated above.

1 (13) The application includes information in the proposed neighborhood
2 development area that the municipality has adopted one of the following to
3 promote the availability of affordable housing opportunities in the
4 municipality:

5 (A) inclusionary zoning as provided in subdivision 4414(7) of this
6 title;

7 (B) a restricted housing trust fund with designated revenue streams;

8 (C) a Housing Commission as provided in section 4433 of this title;

9 or

10 (D) impact fee exemptions or reductions for affordable housing as
11 provided in section 5205 of this title.

12 * * *

13 (e) Length of designation. Initial designation of a neighborhood
14 development area shall be reviewed concurrently with the next periodic review
15 conducted of the underlying designated downtown, village center, new town
16 center, or growth center.

17 (1) The State Board, on its motion, may review compliance with the
18 designation requirements at more frequent intervals.

19 (2) If the underlying downtown, village center, new town center, or
20 growth center designation terminates, the neighborhood development area
21 designation also shall terminate.

1 (3) If at any time the State Board determines that the designated
2 neighborhood development area no longer meets the standards for designation
3 established in this section, it may take any of the following actions:

4 (A) require corrective action within a reasonable time frame;

5 (B) remove the neighborhood development area designation; or

6 (C) prospectively limit benefits authorized in this chapter.

7 (4) Action taken by the State Board under subdivision (3) of this
8 subsection shall not affect benefits already received by the municipality or a
9 land owner in the designated neighborhood development area.

10 (5) Beginning on July 1, 2022, any community under review or seeking
11 renewal shall comply with subdivisions (c)(12) and (13) of this section.

12 (f) Neighborhood development area incentives for developers. Once a
13 municipality has a designated neighborhood development area or has a
14 Vermont neighborhood designation pursuant to section 2793d of this title, ~~any~~
15 a proposed development within that area shall be eligible for each of the
16 benefits listed in this subsection. ~~These benefits shall accrue upon approval by~~
17 ~~the district coordinator, who shall review,~~ provided that the project meets the
18 density requirements set forth in subdivision (c)(7) of this section to determine
19 benefit eligibility and issue a jurisdictional opinion under 10 V.S.A. chapter
20 151 on whether the density requirements are met, as determined by the

Commented [EC18]: This is new language added to give towns time to adopt the new affordable housing requirements.

1 administrative officer, as defined in chapter 117 of this title. These benefits

2 are:

3 (1) ~~The~~ the application fee limit for wastewater applications stated in
4 3 V.S.A. § 2822(j)(4)(D); and

5 (2) ~~The application fee reduction for residential development stated in~~
6 ~~10 V.S.A. § 6083a(d).~~

7 ~~(3) The~~ the exclusion from the land gains tax provided by 32 V.S.A.
8 § 10002(p).

9 (g) Neighborhood development area incentives for municipalities. Once a
10 municipality has a designated neighborhood development area, it may receive:

11 (1) priority consideration for municipal planning grant funds; and

12 (2) training and technical assistance from the Department to support an
13 application for benefits from the Department.

14 (h) Alternative designation. If a municipality has completed all of the
15 planning and assessment steps of this section but has not requested designation
16 of a neighborhood development area, an owner of land within a neighborhood
17 planning area may apply to the State Board for neighborhood development
18 area designation status for a portion of land within the neighborhood planning
19 area. The applicant shall have the responsibility to demonstrate that all of the
20 requirements for a neighborhood development area designation have been
21 satisfied and to notify the municipality that the applicant is seeking the

1 designation. The State Board shall provide the municipality with at least 14
2 days' prior written notice of the Board's meeting to consider the application,
3 and the municipality shall submit to the State Board the municipality's
4 response, if any, to the application before or during that meeting. On approval
5 of a neighborhood development area designation under this subsection, the
6 applicant ~~may proceed to obtain a jurisdictional opinion from the district~~
7 ~~coordinator under subsection (f) of this section in order to obtain~~ shall be
8 eligible for the benefits granted to neighborhood development areas, subject to
9 approval by the administrative officer, as provided in subsection (f) of this
10 section.

11 * * * Tax Credits * * *

12 Sec. 13. 32 V.S.A. § 5930aa is amended to read:

13 § 5930aa. DEFINITIONS

14 As used in this subchapter:

15 (1) "Qualified applicant" means an owner or lessee of a qualified
16 building involving a qualified project, but does not include a State or federal
17 agency or a political subdivision of either; or an instrumentality of the United
18 States.

19 (2) "Qualified building" means a building built at least 30 years before
20 the date of application, located within a designated downtown, ~~or~~ village
21 center, or neighborhood development area, which, upon completion of the

1 project supported by the tax credit₂ will be an income-producing building not
2 used solely as a single-family residence. Churches and other buildings owned
3 by religious organization may be qualified buildings, but in no event shall tax
4 credits be used for religious worship.

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

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

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

15 (C) to redevelop a contaminated property in a designated downtown₂
16 ~~or~~ village center, or neighborhood development area under a plan approved by
17 the Secretary of Natural Resources pursuant to 10 V.S.A. § 6615a.

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

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

8 (6) “Qualified Flood Mitigation Project” means any combination of
9 structural and nonstructural changes to a building located within the flood
10 hazard area as mapped by the Federal Emergency Management Agency that
11 reduces or eliminates flood damage to the building or its contents. The project
12 shall comply with the municipality’s adopted flood hazard bylaw, if applicable,
13 and a certificate of completion shall be submitted by a registered engineer,
14 architect, qualified contractor, or qualified local official to the State Board.
15 Improvements to qualified buildings listed, or eligible for listing, in the State
16 or National Register of Historic Places shall be consistent with Secretary of the
17 Interior’s Standards for Rehabilitation, as determined by the Vermont Division
18 for Historic Preservation.

19 (7) “Qualified historic rehabilitation project” means an historic
20 rehabilitation project that has received federal certification for the
21 rehabilitation project.

1 ~~(7)~~(8) “Qualified project” means a qualified code improvement,
2 qualified façade improvement, or qualified historic rehabilitation project as
3 defined by this subchapter.

4 ~~(8)~~(9) “State Board” means the Vermont Downtown Development
5 Board established pursuant to 24 V.S.A. chapter 76A.

6 Sec. 14. 32 V.S.A. § 5930ee is amended to read:

7 § 5930ee. LIMITATIONS

8 Beginning in fiscal year 2010 and thereafter, the State Board may award tax
9 credits to all qualified applicants under this subchapter, provided that:

10 (1) the total amount of tax credits awarded annually, together with sales
11 tax reallocated under section 9819 of this title, does not exceed ~~\$2,600,000.00~~

12 ~~\$5,200,000.00~~ 4,000,000.00;

13 * * *

14 * * * Wastewater Connection Permits * * *

15 Sec. 15. 10 V.S.A. § 1974(9) is added to read:

16 (9) A person who receives an authorization from a municipality that
17 administers a program registered with the Secretary pursuant to section 1983 of
18 this title.

19 Sec. 16. 10 V.S.A. § 1983 is added to read:

20 § 1983. REGISTRATION FOR MUNICIPAL WASTEWATER SYSTEM

21 AND POTABLE WATER SUPPLY CONNECTIONS

Commented [EC19]: Original number was a placeholder included before the budget was proposed.

1 (a) A municipality may issue an approval for a connection or an existing
2 connection with a change in use to the municipal sanitary sewer collection line
3 via a sanitary sewer service line or a connection to a water main via a new
4 water service line in lieu of permits issued under this chapter, provided that the
5 municipality documents the following in a form prescribed by the Secretary:

6 (1) The municipality owns or has legal control over connections to a
7 public community water system permitted pursuant to chapter 56 of this title
8 and connections to a wastewater treatment facility permitted pursuant to
9 chapter 47 of this title.

10 (2) The municipality shall only issue authorizations for:

11 (A) a sanitary sewer service line that connects to the sanitary sewer
12 collection line that serves a single connection; and

13 (B) a water service line that connects to the water main that serves a
14 single connection.

15 (3) The building or structure connects to both the sanitary sewer
16 collection line and public community water system.

17 (4) The municipality issues approvals that comply with the technical
18 standards for sanitary sewer service lines and water service lines adopted by
19 the Secretary under this chapter.

1 regional planning commissions to assist municipalities in updating their
2 bylaws to include inclusionary housing bylaws.

3 (b) The sum of \$150,000.00 is appropriated to the Municipal and Regional
4 Planning Fund from the General Fund in fiscal year 2021 to be used by
5 municipal planning commissions to assist municipalities in updating their
6 bylaws to include inclusionary housing bylaws.

7 (c) The sum of \$50,000.00 is appropriated to Agency of Commerce and
8 Community Development from the General Fund in fiscal year 2021 to provide
9 training to builders and landlords on providing more middle-income housing.

10 * * * Effective Dates * * *

11 Sec. 26. EFFECTIVE DATES

12 This act shall take effect on July 1, 2020, except in Sec. 2 and Sec. 3 shall
13 take effect on July 1, 2023. In Sec. 2, 24 V.S.A. §4412(a)(1)(E) shall take
14 effect on July 1, 2020.

15
16
17
18 (Committee vote: _____)

19 _____
20 Senator _____

21 FOR THE COMMITTEE