

PROPOSALS FOR HOUSING DEVELOPMENT AND UNIT REHABILITATION

Fundamentally, the most effective way to address homelessness in the long term is to generate more housing units. In addition to unit creation, this bill intends to remove barriers to improving and expanding the existing shelter system, where those in housing transition can receive shelter and services, reducing reliance on less effective and more costly hotel housing. This bill also seeks to enable hotels, hospitals, dorms, and other suitable building conversions to shelters and to temporary and permanent affordable housing, as well as other forms of supportive housing connected with the services Vermonters need on their path to housing permanency. The overarching and primary objective of this bill is to create more housing units and to reinvest in neglected neighborhoods.

Specifically, this Bill includes reforms in the following areas:

- *Change to Act 250 jurisdiction and triggers to encourage more density where we have the infrastructure and incentive to grow while continuing to protect greenspace outside of those areas.*
- *Appeals reform for housing development to narrow the scope of appeals, and to require more “skin in the game” for folks trying to appeal housing development.*
- *Adjustments to municipal zoning practices that currently inhibit unit generation. These updates are focused on encouraging infill and missing middle development.*
- *Adjustments to state & local permitting jurisdiction to allow for and encourage the conversion of hotels/motels into permanent residential units.*
- *Tax incentives to encourage investment in blighted structures in neglected neighborhoods and communities with the aim of revitalizing our economic centers and bringing housing to them.*
- *A set of budget items focused on continuing to invest in funding unit generation – a continuation of the efforts of the past several years, but with the recognition of a far tighter budget picture.*

NEW UNIT CREATION: Allow for additional housing in areas prepared for growth, and reduce the timeline and costs associated with homebuilding.

- **Statewide Land-use reforms:**

- Act 250 Trigger (10 units x 5 miles x 5 years) reform:
 - Tier 1: Full Act 250 exemption for housing or mixed-use development in all State Designated areas (Downtowns, Village Centers, Growth Centers, New Town Centers, and Neighborhood Development Areas), and ½ mile radius outside of those designated areas.
 - Tier 2: Land outside designated areas but “served” or “feasibly served” by water/wastewater, and with regionally approved municipal zoning; raise unit constraint to 30, reduce year constraint to 2 years, remove mileage (encourage density) and instead use the project itself as the geographic boundary constraint.
 - Note if asked: project boundary determined by District Commissions
 - Tier 3: All other areas; maintain current Act 250 jurisdiction, reduce “years” constraint to 2 years.
- Municipal Delegation
 - municipalities with high quality bylaws and other statutorily authorized ordinances that are functionally equivalent to the criteria of Act 250 can pursue an agreement with the Natural Resources Board (NRB) to delegate review of development to the municipality and exempting development within the municipality from Act 250 review.
 - NRB to develop guidelines in coordination with RPCs and ACCD
- Allow District commissions to issue Act 250 permit contingent upon receiving other ANR/DEC or other permits. Intent: allow permit to not need amendment after other permits received.

- **Appeals/Public comment periods, state and local:**

- Narrow the scope of appeals. Possible language could be as follows:

- “Sec. 6. 24 V.S.A. § 4465 is amended to read:

§ 4465. APPEALS OF DECISIONS OF THE ADMINISTRATIVE OFFICER

(d) For the purposes of this subdivision, an appeal shall not include the following:

(1) any residential and mixed-use development containing up to 25 dwelling units within areas served by municipal sewer and water.

(2) any permitted residential and mixed-use development that does not require conditional use review. Development requiring conditional use review may still be appealed.”

- Update 24 VSA 4465 (b)(4) to change the “10 person” appeal to become a 10 percent appeal (i.e. require 10% of the municipality to sign the petition rather than any 10 people):

“(b) For the purposes of this chapter, an interested person means any one of the following:”

...

“(4) Any ~~ten~~ persons equal to a minimum of 10 percent of the most recent U.S. Census Bureau population estimate of the municipality who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.”

- Geographic narrowing of appeals:

- If a project is located in an area that is municipally zoned for housing and is located within a state designated area, no residential or mixed-use development shall be appealed.

- Financial liability for appealing party (i.e. Appeal Bond)

- In order to appeal a housing project, an appealing party must either pay an appeal bond or file a motion to waive the appeal bond. The appeal bond is money that is held by the court for the following purposes:

- to compensate the permit applicant for at least half of reasonable associated costs incurred by the permit applicant as a direct result of the appeal if the appeal is denied but found to be non-frivolous (a frivolous appeal is one which would not have a reasonable chance of success such as an appeal that is unsupported by any evidence),
- to compensate the permit applicant for all reasonable associated costs incurred by the permit applicant as a direct result of the appeal as well as additional injury if the appeal is denied and found to be frivolous,

or returned to the appealing party if the appeal is successful. A motion to waive the appeal bond will be allowed if the party is indigent and has non-frivolous grounds for appeal.

- **Municipal Zoning / Development Review Boards**

- Timelines for DRBs or other governing body

- The board shall issue a decision on the issuance of a housing permit within 60 days of an application being submitted, unless substantial information is lacking such that a decision cannot be reached.
 - Parking:
 - **Tandem parking** must be allowed to count toward residential parking space requirements (where tandem parking is defined as a narrow parking space that can accommodate two or more vehicles parked in a single-file line).
 - **Parking space size standards:** a municipality must define a parking space as no larger than a 8 feet by 16 feet for the purpose of residential parking.
 - **Existing non-conforming parking:** Municipalities must allow non-conforming parking which is in existence as of the passage of this law to remain and count toward the parking requirement of an existing residential building if new residential units are added to the building.
 - Municipalities must allow excess parking spaces at an adjacent lot to count toward the parking requirement of a residential building.
 - **Municipal Planning Grant additional one-time funding**
 - Additional Funding: \$250k one-time state general funds
 - Funding to assist municipalities adjust bylaws and zoning to align with Act 47, State Designation Program reform, and Act 250 reform.
 - **Zoning for Mental Health or Recovery facilities:**

Update § 4413. Limitations on municipal bylaws as follows:

(a)(1) The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

(A) State- or community-owned, ~~and~~ -operated, ~~or~~ -funded institutions or ~~and~~ facilities, or institutions or facilities which may be privately held, but serve a public function;

(B) public and private schools and other educational institutions certified by the Agency of Education;

(C) churches and other places of worship, convents, and parish houses;

(D) public and private hospitals;

(E) regional solid waste management facilities certified under 10 V.S.A. chapter 159;

(F) hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a; and

(G) emergency shelters~~;~~

(2) Except for State-owned and -operated institutions and facilities, a municipality may regulate each of the land uses listed in subdivision (1) of this subsection for compliance with the National Flood Insurance Program and for compliance with a municipal

ordinance or bylaw regulating development in a flood hazard area or river corridor, consistent with the requirements of subdivision 2291(25) and section 4424 of this title. These regulations shall not have the effect of interfering with the intended functional use.

(3) For purposes of this subsection, regulating the daily or seasonal hours of operation of an emergency shelter shall constitute interfering with the intended functional use.

- **Permitting for Hotel Conversions:** the following changes to statute are intended to allow motel/hotel properties to be converted into permanent housing under municipal zoning and exempt it from Act 250 jurisdiction.
 - Change to 24 V.S.A. Chapter 117 § 4413:

(a)(1) The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use: . . .

...

(I) Hotels and Motels converted to permanent affordable housing developments.
 - Change to Act 250 AKA 10 V.S.A. Chapter 151 § 6001 (3)(D):

(D) The word “development” does not include: . . .

...

(IX) Hotels and Motels converted to permanent affordable housing developments as defined by 24 V.S.A. § 4303 (2).

- **Act 47 Items**

- Clarify density standard: Clarify that the max & min lot size is 8,712sq/ft (1/5 acre) where municipal sewer and water and sewer are available. Possible language change could be as follows:

Sec. 2. 24 V.S.A. § 4412 is amended to read:
§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS
“(12) In any area served by municipal sewer and water infrastructure that allows residential development, bylaws shall establish lot and building dimensional standards that allow five or more dwelling units per acre for each allowed residential use, **with said standard being applied on a proportional basis, allowing one unit for every one-fifth of an acre. Any lot that is smaller than one acre but by a variance of no more than 10% shall be treated as one acre for the purposes of this subsection.**~~and~~ Density and minimum lot size standards for multiunit dwellings shall not be more restrictive than those required for single-family dwellings.”
- Increase density standard such that 4-units is by right on said 8,712 sq/ft (1/5 acre) lot where municipal water and sewer are available.
 - Currently in statute as passed in Act 47 any district that is served by MSW infrastructure that allows residential development, multi-unit dwellings with four or fewer units shall be permitted use, unless that district specifically requires multiunit structures to have more than 4 dwellings.
- Clarify “Affordability Density Bonus” is meant to round up to the nearest whole unit. (ie: 40% bonus density on 4 units is 1.6 units. This will clarify for municipalities that they need to allow for 6 units in the example given and in this instance 6 units is by right and does not require state plan approval.
 - In areas serve by MSW infrastructure that allows residential development, bylaws shall permit any affordable housing development, as defined in subdivision 4303(2) of the title, including

mixed use development, to exceed density limitations for residential developments by an additional 40 percent, which shall include exceeding max height limitations by one floor, provided that the structure complies with the VT Fire and Building Safety Code.

- Allow secondary dwelling structure – currently if a lot has a duplex with a detached building such as a garage in which the other dwelling could be converted to add a 3rd unit, municipalities aren't allowing it because they interpret the law as only allowing for a single structure.
- Lot Coverage
 - Municipalities must allow for lot coverage of at least 50% in areas served by municipal water and sewer.
 - Allow for 20% lot coverage bonus on lots that allow access to new or subdivided lots without road frontage to encourage infill development on “spaghetti lots” (spaghetti lots are long, narrow lots, for example – 80ft of road frontage with 300ft of depth).
 - Allow for out of compliance lot coverage lots if new building lots are created through subdivision for more housing where water and sewer exist.

- **Judiciary Policy Changes**

- Set timelines for review of appeals on housing projects- Appeal shall be heard within 60 days of filing. Decision provided 90 days from close of the hearing.
- Require an appealing party to demonstrate an “injury in fact” sufficient to maintain an appeal as a threshold issue of standing.

HOUSING STOCK REINVESTMENT: Incentivize unit revitalization for small-scale property owners, developers, investors, and landlords, and provide tools to keep people housed to slow the rate of newly homeless households due to housing stock atrophy.

- **Tax Incentives**

- Eliminate the annual cap of the State Downtown & Village Center tax credit program.
 - any project that meets the program guidelines & criteria will receive the appropriate credits.
- Property Transfer Tax Exemption for rehab of properties for mixed-income residential use.
 - Estimated annual impact to PTT revenue: \$300,000-\$500,000
 - Included are the following requirements:
 - the property will be used as principal residences and not as short-term rentals as defined under 18 V.S.A. § 4301(a)(14);
 - landlords will either provide alternative housing for tenants at the same rent, or that the property has been unoccupied either by a tenant's choice or for 60 days prior to application.
- Property Tax Valuation Freeze
 - 5-year property tax valuation freeze (state portion of property tax) for the rehabilitation of blighted properties within *New Market Tax Credit Qualified Census Tracts* to be rehabbed/converted for mixed-income residential use.

- **Housing Investments**

- **Vermont Housing Improvement Program (VHIP)**
 - Additional Funding: \$6M one-time appropriation of state general funds
 - Increase Commercial Conversion Cap: Increase commercial conversion cap in the program from \$50k/unit to \$70k/unit
 - Remove the term “grants” and replace with “forgivable loans” in each instance throughout the bill
 - Add: “The Department may utilize a reasonable percentage of program appropriations to administer the program”
 - Add: “The Department may cooperate with and subgrant funds to State agencies and political subdivisions and public and private organizations in order to carry out the purposes of subsection (a) of this section.”

- **Manufactured Home Improvement and Repair Program (MHIR)**
 - Additional Funding: \$2M one-time appropriation of state general funds
 - Clarify the grant structure (DHCD program, can subgrant for outreach/program assistance to entities such VSHA and CVOEO, etc.)
 - Add: “DHCD may utilize a reasonable percentage of program appropriations to administer the program”

- **Healthy Homes Initiative**
 - Additional Funding: \$1M one-time appropriation of state general funds

- **Establish a Housing Infrastructure Revolving Loan Fund**
 - One-Time appropriation of state general funds of \$8M
 - A state funded and operated revolving loan fund to be administered by VHFA that would be available to developers of residential units or the municipality of jurisdiction to fund infrastructure (including, water, sewer, stormwater, roads, sewer, and other related infrastructure) that will serve the construction of housing and mixed-use developments. Interest rates shall be capped at 1.5%. This revolving loan fund would create lower financing barriers for these projects and would allow less front-end financing.

- **\$5M additional one-time state general funds for VHFA’s Missing Middle Income Homeownership Development Program with the follow program changes:**
 - Change the name to “Vermont Affordable Home Development Program”
 - Adjust subsidy retention requirements to allow the program to revolve (including retroactively for all funds appropriated to the program):
 - Current statute requires 33% of program funding to be used to develop shared equity homes, while the remaining homes could utilize an alternative subsidy retention model. There were two options for subsidy retention under the original program model: The Agency includes conditions in the subsidy, or uses another legal mechanism, to ensure that, to the extent the home value has risen, the amount of the subsidy remains with the home to offset the cost to future homebuyers; or (B) the subsidy is subject to a housing subsidy covenant, as defined in 27 V.S.A. § 610, that preserves the affordability of the home for a period of 99 years or longer.
 - Requested change to the statute language as follows: The Agency includes conditions in the subsidy, or uses another legal mechanism, to ensure that, to the extent the home value has risen, the amount of the subsidy remains with the home to offset the cost to future income-eligible homebuyers; or the agency recapture the subsidy upon sale of the home and use it for future awards under this program; or (B) the subsidy is subject to a housing subsidy covenant, as defined in 27 V.S.A. § 610, that preserves the affordability of the home for a period of 99 years or longer.

- **Vermont State University Housing Development**

- \$2.5M one-time state general funds
- Rehabilitation of 50 units on the Johnson campus (formerly the “College Apartments) to be made available to rent to the general public at HUD Fair Market Rent.