

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 Senate Bill No. 100 entitled “An act relating to housing opportunities made for
4 everyone” respectfully reports that it has considered the same and recommends
5 that the bill be amended as follows:

6 First: In Sec. 2, 24 V.S.A. § 4412, in subdivision (12), by striking out the
7 word “four” and inserting in lieu thereof five

8 Second: By striking out Sec. 6, 24 V.S.A. § 4465, in its entirety and
9 inserting in lieu thereof a new Sec. 6 to read as follows:

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

11 § 4465. APPEALS OF DECISIONS OF THE ADMINISTRATIVE OFFICER

12 (a) An interested person may appeal any decision or act taken by the
13 administrative officer in any municipality by filing a notice of appeal with the
14 secretary of the board of adjustment or development review board of that
15 municipality or with the clerk of that municipality if no such secretary has been
16 elected. This notice of appeal must be filed within 15 days ~~of~~ following the
17 date of that decision or act, and a copy of the notice of appeal shall be filed
18 with the administrative officer.

19 (b) ~~For the purposes of~~ As used in this chapter, an “interested person”
20 means any one of the following:

1 (1) A person owning title to property, or a municipality or solid waste
2 management district empowered to condemn it or an interest in it, affected by a
3 bylaw, who alleges that the bylaw imposes on the property unreasonable or
4 inappropriate restrictions of present or potential use under the particular
5 circumstances of the case.

6 (2) The municipality that has a plan or a bylaw at issue in an appeal
7 brought under this chapter or any municipality that adjoins that municipality.

8 (3) A person owning or occupying property in the immediate
9 neighborhood of a property that is the subject of any decision or act taken
10 under this chapter, who can demonstrate a physical or environmental impact on
11 the person's interest under the criteria reviewed, and who alleges that the
12 decision or act, if confirmed, will not be in accord with the policies, purposes,
13 or terms of the plan or bylaw of that municipality.

14 (4) Any ~~ten~~ 10 persons who allege a common injury to a particularized
15 interest protected by this chapter, who may be any combination of voters or
16 real property owners within a municipality listed in subdivision (2) of this
17 subsection who, by signed petition to the appropriate municipal panel of a
18 municipality, the plan or a bylaw of which is at issue in any appeal brought
19 under this title, allege that any relief requested by a person under this title, if
20 granted, will not be in accord with the policies, purposes, or terms of the plan
21 or bylaw of that municipality. For purposes of this subdivision, a

1 particularized interest shall not include the character of the area affected. This
2 petition to the appropriate municipal panel must designate one person to serve
3 as the representative of the petitioners regarding all matters related to the
4 appeal.

5 (5) Any department and administrative subdivision of this State owning
6 property or any interest in property within a municipality listed in subdivision
7 (2) of this subsection, and the Agency of Commerce and Community
8 Development of this State.

9 * * *

10 Third: By striking out Sec. 13, 24 V.S.A. § 3101(a), and its reader
11 assistance heading in their entirety and inserting in lieu thereof the following:

12 * * * Energy Codes * * *

13 Sec. 13. 24 V.S.A. § 3101(a) is amended to read:

14 (a) The mayor and board of aldermen of a city, the selectboard of a town,
15 or the trustees of an incorporated village, may, in accordance with this chapter,
16 establish codes and regulations for the construction, maintenance, repair, and
17 alteration of buildings and other structures within the municipality. Such
18 codes and regulations may include provisions relating to building materials,
19 structural design, passageways, stairways and exits, heating systems, fire
20 protection procedures, and such other matters as may be reasonably necessary
21 for the health, safety, and welfare of the public, but excluding electrical

1 installations subject to regulation under 26 V.S.A. chapter 15. Any energy
2 codes and regulations adopted after July 1, 2023 shall not be more restrictive
3 than the Residential Building Energy Standards or the stretch code adopted
4 under 30 V.S.A. § 51 or the Commercial Building Energy Standards adopted
5 under 30 V.S.A. § 53, except where enabled by a municipal charter.

6 Fourth: By striking out Sec. 16, 10 V.S.A. § 6001, in its entirety and
7 inserting in lieu thereof a new Sec. 16 to read as follows:

8 Sec. 16. 10 V.S.A. § 6001 is amended to read:

9 § 6001. DEFINITIONS

10 * * *

11 (3)(A) “Development” means each of the following:

12 * * *

13 (iv) The construction of housing projects such as cooperatives,
14 condominiums, or dwellings, or construction ~~or maintenance~~ of mobile homes
15 or mobile home parks, with 10 or more units, constructed or maintained on a
16 tract or tracts of land, owned or controlled by a person, within a radius of five
17 miles of any point on any involved land and within any continuous period of
18 five years. However:

19 * * *

20 (xi) Until July 1, 2026, the construction of housing projects such
21 as cooperatives, condominiums, dwellings, or mobile homes, with 25 or more

1 units, constructed or maintained on a tract or tracts of land, located entirely
2 within a designated downtown development district, a designated
3 neighborhood development area, or a designated growth center, owned or
4 controlled by a person, within a radius of five miles of any point on any
5 involved land and within any continuous period of five years.

6 * * *

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

8 * * *

9 (viii)(I) The construction of a priority housing project in a
10 municipality with a population of 10,000 or more.

11 (II) If the construction of a priority housing project in this
12 subdivision (3)(D)(viii) involves demolition of one or more buildings that are
13 listed or eligible to be listed on the State or National Register of Historic
14 Places, this exemption shall not apply unless the Division for Historic
15 Preservation has made the determination described in subdivision (A)(iv)(I)(ff)
16 of this subdivision (3) and any imposed conditions are enforceable in the
17 manner set forth in that subdivision.

18 (III) Notwithstanding any other provision of law to the
19 contrary, until July 1, 2026, the construction of a priority housing project
20 located entirely within a designated downtown development district,
21 designated neighborhood development area, or a designated growth center.

* * *

Fifth: By adding a new Sec. 16a. to read as follows:

Sec. 16a. 10 V.S.A. § 6086b is amended to read:

§ 6086b. DOWNTOWN DEVELOPMENT; FINDINGS; MASTER PLAN

PERMITS

(a) Findings and conclusions. Notwithstanding any provision of this chapter to the contrary, each of the following shall apply to a development or subdivision that is completely within a downtown development district designated under 24 V.S.A. chapter 76A and for which a permit or permit amendment would otherwise be required under this chapter:

(1) In lieu of obtaining a permit or permit amendment, a person may request findings and conclusions from the District Commission, which shall approve the request if it finds that the development or subdivision will meet subdivisions 6086(a)(1) (air and water pollution), (2) (sufficient water available), (3) (burden on existing water supply), (4) (soil erosion), (5) (traffic), (8) (aesthetics, historic sites, rare and irreplaceable natural areas), (8)(A) (endangered species; necessary wildlife habitat), (9)(B) (primary agricultural soils), (9)(C) (productive forest soils), (9)(F) (energy conservation), and (9)(K) (public facilities, services, and lands) of this title.

* * *

(b) Master plan permits.

1 (1) Any municipality within which a downtown development district or
2 neighborhood development area has been formally designated pursuant to
3 24 V.S.A. chapter 76A may apply to the District Commission for a master plan
4 permit for that area or any portion of that area pursuant to the rules of the
5 Board. Municipalities making an application under this subdivision are not
6 required to exercise ownership of or control over the affected property.

7 (2) Subsequent development of an individual lot within the area of the
8 master plan permit that requires a permit under this chapter shall take the form
9 of a permit amendment.

10 (3) In neighborhood development areas, subsequent master plan permit
11 amendments may only be issued for development that is housing.

12 (4) In approving a master plan permit and amendments, the District
13 Commission may include specific conditions that an applicant for an individual
14 project permit will be required to meet.

15 (5) For a master plan permit issued pursuant to this section, an
16 application for an amendment may use the findings issued in the master plan
17 permit as a rebuttable presumption to comply within any applicable criteria
18 under subsection 6086(a) of this title.

19 Sixth: By adding a new Sec. 16b. to read as follows:

20 Sec. 16b. ACT 250 EXEMPTION REQUIREMENTS

1 In order to qualify for the exemption established in 10 V.S.A. § 6001
2 (3)(A)(xi) and (3)(D)(viii)(III), a person shall apply for a jurisdictional opinion
3 under 10 V.S.A. § 6007 by July 1, 2026. The jurisdictional opinion shall
4 require the project to substantially complete construction by June 30, 2029 in
5 order to remain exempt.

6 Seventh: By striking out Sec. 17, 10 V.S.A. § 6081, in its entirety and
7 inserting in lieu thereof the following:

8 * * * Enhanced Village Centers * * *

9 Sec. 17. 24 V.S.A. § 2793a is amended to read:

10 § 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

11 * * *

12 (e)(1) A village center designated by the State Board pursuant to subsection
13 (a) of this section is eligible to apply to the State Board to receive an enhanced
14 designation. This enhanced designation allows a priority housing project with
15 50 or fewer units located entirely within the village center to be exempt from
16 10 V.S.A. chapter 151.

17 (2) To receive enhanced designation under this subsection, a village
18 center shall have:

19 (A) duly adopted permanent zoning and subdivision bylaws;

(B) at least one of the following: municipal sewer infrastructure, a community or alternative wastewater system approved by the Agency of Natural Resources, or a public community water system; and

(C) adequate municipal staff to support coordinated comprehensive
and capital planning, development review, and zoning administration.

Sec. 17a. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(y) Notwithstanding any other provision of law to the contrary, until July 1, 2026, no permit or permit amendment is required for a priority housing project with 50 or fewer units that is located entirely within a village center that has received enhanced designation under 24 V.S.A. § 2793a(e).

Sec. 17b. 24 V.S.A. § 2793e is amended to read:

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

* * *

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

* * *

1 (6) The neighborhood development area is served by at least one of the
2 following:

3 (A) municipal sewer infrastructure;

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

6 (C) a public community water system.

7 * * *

8 Eighth: By striking out Secs. 24 and 25 and their reader assistance heading
9 in their entirety and inserting in lieu thereof the following:

10 * * * Building energy code study committee * * *

11 Sec. 24. FINDINGS

12 The General Assembly finds that:

13 (1) Vermont established the Residential Building Energy Standards
14 (RBES) in 1997 and the Commercial Building Energy Standards (CBES) in
15 2007. The Public Service Department is responsible for adopting and updating
16 these codes regularly but does not have the capacity to administer or enforce
17 them.

18 (2) The RBES and CBES are mandatory, but while municipalities with
19 building departments handle some aspects of review and inspection, there is no
20 State agency or office designated to interpret, administer, and enforce them.

1 (3) The Division of Fire Safety in the Department of Public Safety is
2 responsible for development, administration, and enforcement of building
3 codes but does not currently have expertise or capacity to add administration or
4 enforcement of energy codes in buildings.

5 (4) Studies in recent years show compliance with the RBES at about 54
6 percent and CBES at about 87 percent, with both rates declining. Both codes
7 are scheduled to become more stringent with the goal of “net-zero ready” by
8 2030.

9 (5) In December 2022, the U.S. Department of Energy issued the
10 Bipartisan Infrastructure Law: Resilient and Efficient Codes Implementation
11 Funding Opportunity Announcement. The first \$45 million of a five-year \$225
12 million program is available in 2023. Vermont’s increased code compliance
13 plans should include contingencies for this potential funding.

14 Sec. 25. ENERGY CODE COMPLIANCE; STUDY COMMITTEE

15 (a) Creation. There is created the Building Energy Code Study Committee
16 to recommend strategies for increasing compliance with the Residential
17 Building Energy Standards (RBES) and Commercial Building Energy
18 Standards (CBES).

19 (b) Membership. The Committee shall have 15 members with applicable
20 expertise, to include program design and implementation, building code
21 administration and enforcement, and Vermont’s construction industry. The

1 Speaker of the House shall appoint three members, including up to one
2 legislator. The Committee on Committees shall appoint two members,
3 including up to one legislator. The remaining members shall be the following:

4 (1) the Commissioner of Public Service, or designee;

5 (2) the Director of Fire Safety, or designee;

6 (3) a representative of Efficiency Vermont;

7 (4) a representative of American Institute of Architects–Vermont;

8 (5) a representative of the Vermont Builders and Remodelers

9 Association;

10 (6) a representative the Burlington Electric Department;

11 (7) a representative of Vermont Gas Systems;

12 (8) a representative of the Association of General Contractors of

13 Vermont;

14 (9) a representative of the Vermont League of Cities and Towns; and

15 (10) a representative from a regional planning commission.

16 (c) Powers and duties. The Committee shall consider and recommend
17 strategies to increase awareness of and compliance with the RBES and CBES,
18 including designation of the Division of Fire Safety (DFS) in the Department
19 of Public Safety as the statewide authority having jurisdiction for
20 administration, interpretation, and enforcement, in conjunction with DFS'
21 existing jurisdiction, over building codes.

1 (d) Assistance. The Committee shall have the administrative, technical,
2 and legal assistance of the Department of Public Service. The Department
3 shall hire a third-party consultant to assist and staff the Committee which may
4 be funded by monies appropriated by the General Assembly or any grant
5 funding received.

6 (e) Report. On or before December 1, 2023, the Committee shall submit a
7 written report to the General Assembly with its findings and recommendations
8 for legislative action.

9 (f) Meetings.

10 (1) The Department of Public Service shall call the first meeting of the
11 Committee to occur on or before July 15, 2023.

12 (2) The Committee shall elect a chair from among its members at the
13 first meeting.

14 (3) A majority of the membership shall constitute a quorum.

15 (4) The final meeting shall be held on or before October 31, 2023. The
16 Committee shall cease to exist on December 1, 2023.

17 (g) Compensation and reimbursement.

18 (1) For attendance at meetings during adjournment of the General
19 Assembly, a legislative member of the Committee serving in the legislator's
20 capacity as a legislator shall be entitled to per diem compensation and

1 reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than six
2 meetings.

3 (2) Other members of the Committee who are not otherwise
4 compensated by their employer shall be entitled to per diem compensation and
5 reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more
6 than six meetings.

7 (3) The payments under this subsection (g) shall be made from monies
8 appropriated by the General Assembly or any grant funding received.

9 Sec. 25a. STUDY COMMITTEE; APPROPRIATION

10 The sum of \$125,000.00 is appropriated from the General Fund to the
11 Department of Public Service in fiscal year 2024 for the purpose of hiring the
12 consultant described in Sec. 25(d) of this act and to pay the Committee
13 member per diem compensation.

14
15
16
17
18 (Committee vote: _____)

19 _____
20 Senator _____

21 FOR THE COMMITTEE