TIF Clarifications and Background Growth

House Committee on Ways and Means

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TIF Statute and Rule

- Statute governing TIF can be found in two different titles – 24 and 32 V.S.A.
- TIF Rule (Rule #15-P04 Adopted May 6, 2015) provides 43 pages of supplemental information about TIF district administration
- Both statute and rule offer a process by which areas of ambiguity can be resolved:
  - The Secretary of the Agency of Commerce and Community Development is authorized to make decisions on areas of ambiguity
  - VEPC can provide recommendations to the Secretary on these issues in consultation with ACCD staff, the Department of Taxes, the Attorney General, and the State Treasurer's Office

Areas of Ambiguity

- Areas of ambiguity associated with TIF districts have included:
  - Allowable types of financing and payments
    - Interfund loans
    - Interest-only payments
    - Bond anticipation notes
    - Premium bonds
    - Other sources of funding
  - What constitutes a substantial change?
  - Allowable use of TIF increment or financing
    - Direct infrastructure
    - Related costs
  - TIF District Boundaries and Increment Calculation
  - And more!

What Type of Financing is Allowed?

- Some TIF districts use interfund loans to finance TIF district improvements
- Interfund loans allow a municipality to borrow from itself and potentially charge interest
- Act 80 of 2013 clarified that interfund loans can be used as a type of financing, but a municipality can't charge interest on those loans

What Type of Financing is Allowed?

- **Interest-only debt payments:** A new TIFs may not have yet generated enough increment to start making payments on bond principal and interest
  - Act 72 (2023) clarified that improvements "also means the funding of debt service interest payments for a period of up to two years, beginning on the date on which the first debt is incurred."
- **Bond anticipation notes:** These instruments allow a municipality to borrow in advance of indebtedness
  - Act 72 (2023): "Bond anticipation notes may be used as a method of financing; provided, however, that bond anticipation notes shall not be considered a first incurrence of debt pursuant to subsection 1894(a) of this subchapter"

Premium Bonds

- Premium bonds allow a municipality to sell bonds for an amount higher than the principal amount, usually by offering higher-than-market coupon interest rates.
- This allows the municipality to receive more money up front
- Should municipalities be allowed to offer premiums when they sell bonds? Should bond premiums count against the principal financing that VEPC authorized? Do changes in bond terms constitute a substantial change?

Other Sources of Funding

- TIF Districts can include other sources of funding to pay for incurred debt (e.g., parking garage revenue, development agreements) as a part of their financing plans
- Per TIF rule, these other sources of funding used to pay for district improvements must be accounted for in District Fund recordkeeping
- E.g., Champlain College Development Fee: the City of Burlington was supposed to place the development fee in their TIF District Fund but did not do so for 4 fiscal years. VEPC adjusted the Downtown TIF District education increment retention percentage down from 75% to 69% to compensate for missing revenue.
- Should these sources be required to be used first for debt payment and education tax increment last?

What Constitutes a Substantial Change?

- 24 V.S.A. 1901(2)(B) requires TIF districts to “submit any proposed substantial changes to be made to the approved tax increment district plan and approved financing plan to the Council for review, only after receiving approval for the substantial change through a vote of the municipal legislative body”
- What constitutes a <u>substantial change</u>?
  - TIF Rule offers several considerations for VEPC when deciding to approve or deny a substantial change request including:
    - Would the change cause the District Plan to violate any of the approval criteria including Location Criteria, Project Criteria, Purpose, Viability, Nexus or Proportionality
    - Would it change the cost of infrastructure (increase the liability) or the generation of revenue (reduce revenue) to a degree that adversely impacts fiscal viability
  - However, there is not a clear list of what constitutes a “substantial change” requiring VEPC review

Allowable Improvements

- The definition of “improvements” in 24 V.S.A. 1891(4), which outlines the allowable uses of TIF financing, refers to infrastructure that serves a public purpose:

(4) “Improvements” means the installation, new construction, or reconstruction of infrastructure that will serve a public purpose and fulfill the purpose of tax increment financing districts as stated in section 1893 of this subchapter, including utilities, transportation, public facilities and amenities, land and property acquisition and demolition, and site preparation. “Improvements” also means the funding of debt service interest payments for a period of up to two years, beginning on the date on which the first debt is incurred

- Water and sewer lines installed along a public road count as improvements
  - Do water and sewer hookups between a development and public infrastructure count as serving a public purpose?
  - What about site preparation specific to parcel that will be owned by a private party?

How Are Related Costs Treated?

- 24 V.S.A. 1891(6): Related costs are the expenses paid for by the municipality in the execution of the TIF district
- Two types of related costs:
  - *Restricted related costs:* include internal municipal operating costs, such as departmental or operating costs
    - Restricted costs can only be reimbursed using incremental *municipal* property tax revenue using incremental revenues not used to fund district debt
  - Other related costs can be paid for using education or municipal increment retained by the municipality for the TIF district
- Past area of ambiguity: What is a related cost that can be reimbursed by a municipality? What is the line for related costs between municipal and private development?

Keeping Tabs on Increment

- The municipal and education tax values of a parcel may differ due to municipal exemptions
- Some districts have had issues with the NEMRC TIF Module, which used the lower municipal taxable value for some parcels rather than Education Fund taxable value
- This error generated an incremental value that was too high, resulting in municipal payments to the Education Fund that were also too high
  - Error fixed by NEMRC for FY2025

What Happens if the Increment is Negative?

- In the early stages of a TIF district, there is a risk that the incremental property value of the district is negative (otherwise known as a decrement)
  - For example, a development may require bulldozing existing properties, or a major tenant could move out of a commercial parcel, decreasing its value
  - Are municipalities on the hook if property values decrease?
  - Act 72 of 2023 clarified that "in each year, a municipality shall remit not less than the aggregate tax due on the original taxable value to the Education Fund"

TIF District Parcels and Boundaries

- TIF Rule considers changes that are specifically related to parcels:
  - Separation of a parcel into two or more parcels inside the TIF
    - When wholly inside a TIF district, the OTV moves to the parcel that retains the SPAN number
  - Combinations of parcels
    - Determine one SPAN to continue and allow the OTV to continue to apply to each parcel. Additional SPANs should be marked inactive
  - Separation or combination of parcels not wholly within the district
    - Triggers a substantial change request
  - Act 72 (2023) added “no adjustments to the physical boundary lines of a district shall be made after the approval of a tax increment financing district plan”
    - Previously, TIF Rule provided guidance on adjustments of district boundaries

Background Growth Rates

Measuring Existing Growth

- Evaluating the impact of TIF programs depends on background growth rates present in a community before a TIF is adopted
- Grand List Growth
  - Total Listed Value
  - Education Property Tax
- US Census Bureau
  - Survey on new, privately-owned residential construction
  - Includes information on the number value of the new units permitted
    - There is a lag between when projects are permitted and when they are developed and get added to the Grand List
  - Permit data has challenges, particularly in Vermont due to its small sample size, however, these data track with other sources of data on Vermont construction

Growth in Total Listed Value

- Data from the Department of Taxes shows the long-term increase in the Grand List resulting from new development, controlled for value increases resulting from reappraisals
- Includes all types of development, including:
  - Housing
  - Commercial
  - Industrial
- Long-term averages show limited Grand List growth from all types of development
  - Of the 260 jurisdictions analyzed, 251 had a growth rate below 2%
  - 111 of the 260 had a growth rate below 1%

Table 1: **2004-2024 GL growth from Development**

2004-2024 Growth Rate	Number of Jurisdictions
<0%	5
0 - 0.5%	36
0.5% - 1%	108
1% - 1.5%	83
1.5% - 2%	19
More than 2%	9
Total	**260**

Source: Vermont Department of Taxes

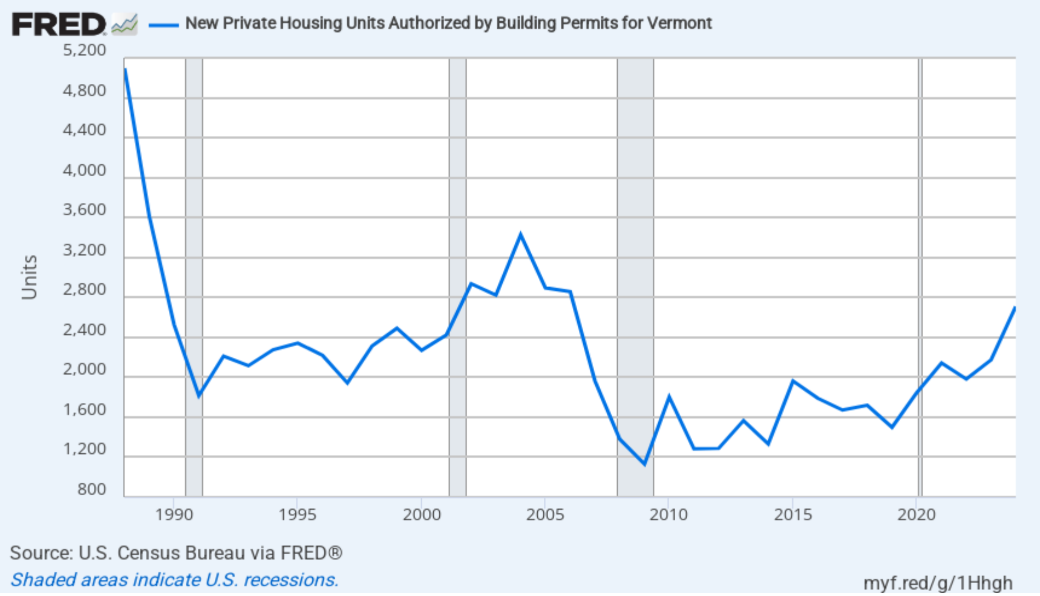
Growth in the Education Grand List

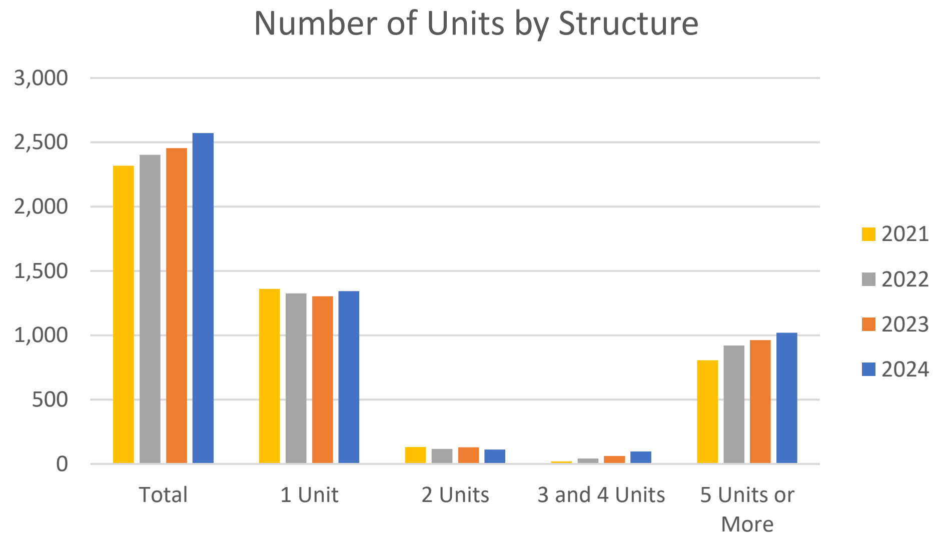
- The Education Grand List uses statewide fair market values, rather than local assessed values
- Growth in equalized education grand list value includes appreciation and new construction
- Some TIF districts, Hartford and Burlington Downtown were experiencing high rates of grand list growth before creation of a TIF district

Table 2: **Baseline Scenario Growth Assumptions**

City	Growth Rate	Period	OTV Year
St. Albans	2.23%	2003 through 2011 CLA Adjusted Growth TIF District	2012
Milton Town Core	3.50%	JFO assumption. Data indicated an unexplainable significant increase in TIF district grand list in the pre-TIF years.	2008
South Burlington	2.00%	2003 through 2011 CLA Adjusted Growth TIF District	2012
Hartford	6.31%	2003 through 2010 CLA Adjusted Growth TIF District	2011
Burlington Downtown	5.11%	2003 through 2010 CLA Adjusted Growth TIF District	2011
Barre City	1.06%	2003 through 2011 CLA Adjusted Growth TIF District	2012
Burlington Waterfront	3.52%	Burlington 1987 through 1996 overall grand list growth	1997
Killington	2.89%	Killington 2006 through 2023 overall grand list growth	2022

US Census Bureau Housing Unit Data

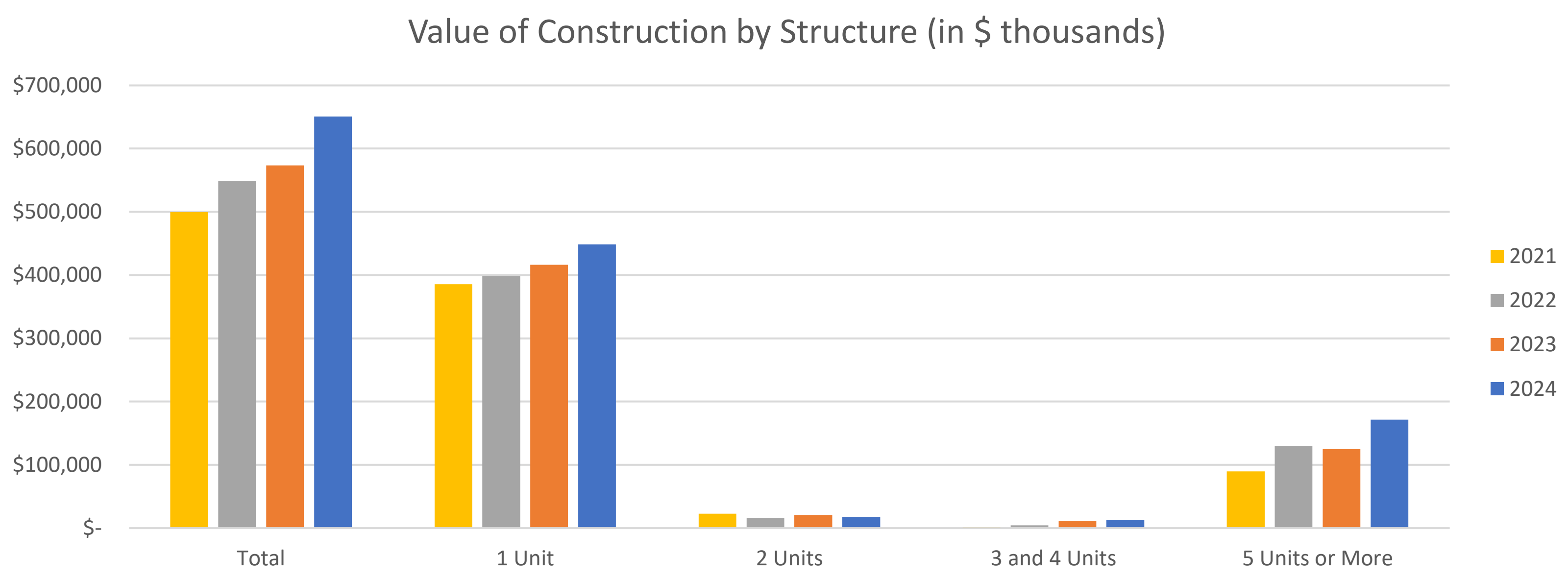




Source: US Census Building Permit Survey

- Overall, about 2,500 new housing units were permitted in 2024
- Permitting rates have increased from lows during the previous decade, but remain well below the goals set in the 2025 Housing Needs Assessment of 25,000 to 36,000 units created by 2029
- In the past few years, there has been an increase in number of new projects with 3 units or more, which are more likely to need infrastructure investment and could leverage a project-TIF type program

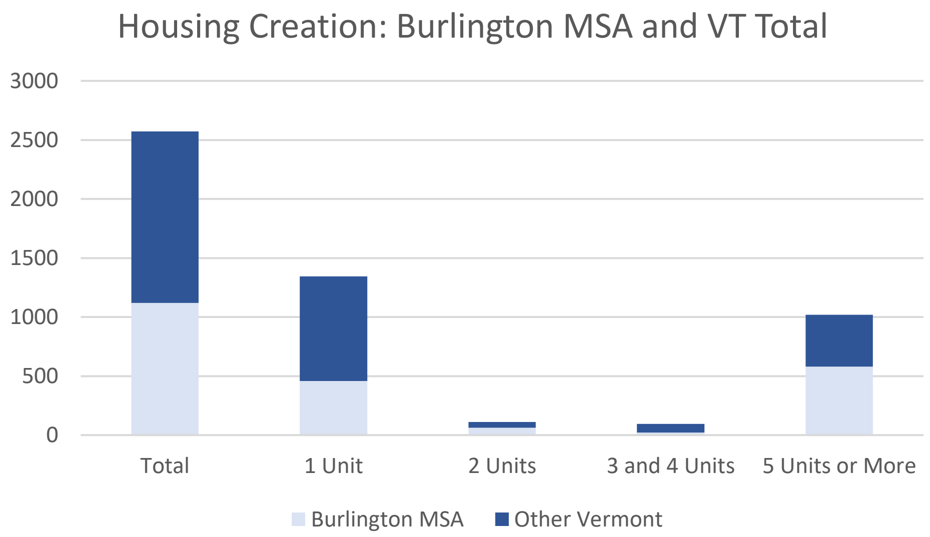
Fiscal Impacts to the State – Counterfactual



Source: US Census Building Permit Survey

- The value of construction in Vermont has increased substantially since the pandemic
  - In 2024, over $650 million in new, private construction in Vermont
  - Of that figure, $184 million came from projects with 3 or more units
  - Since 2021, a 30.2% increase in construction value overall and a 91.5% increase in construction value in projects with 5 or more units
- When evaluating the but-for of TIF, the cost of any forgone revenue increases with the median price of new construction

Fiscal Impacts to the State – Counterfactual



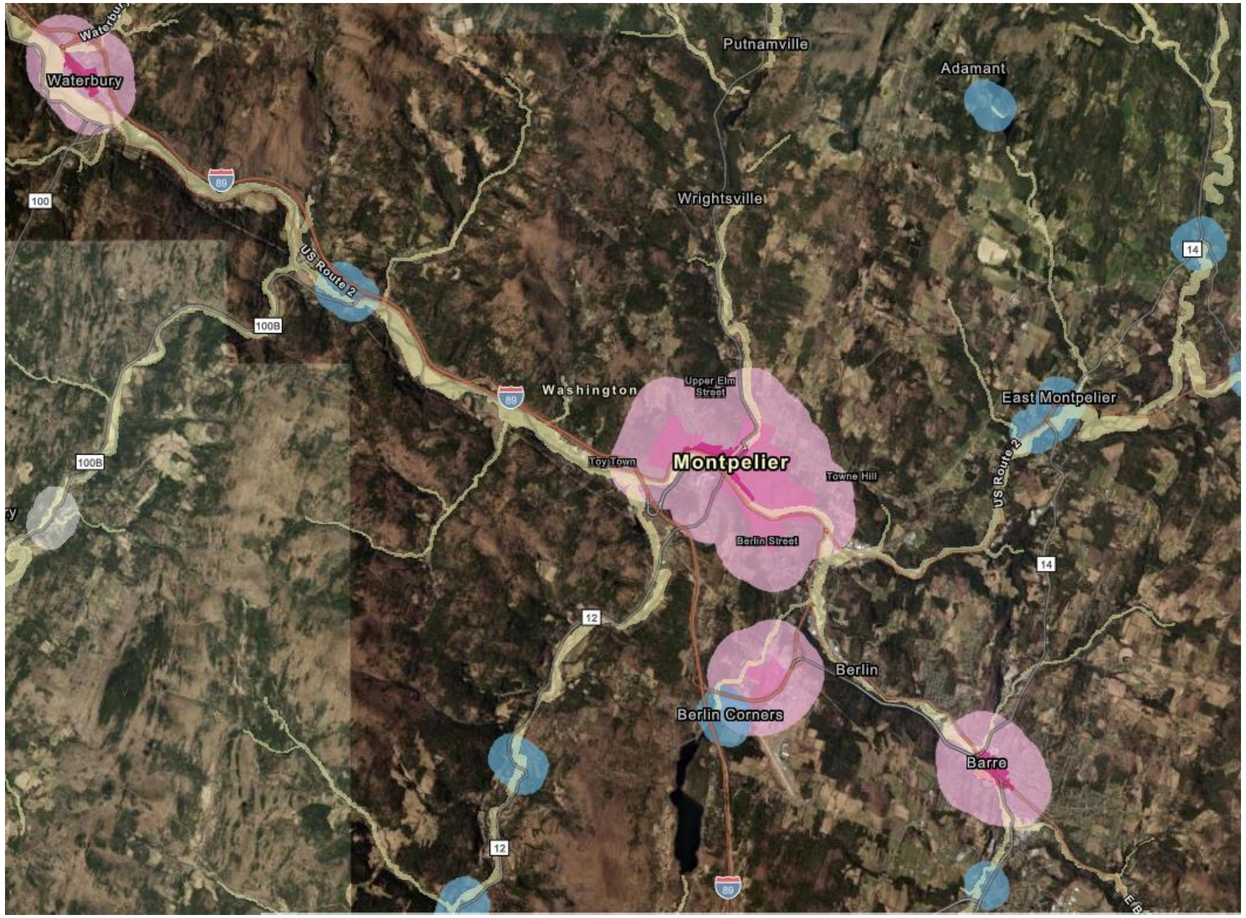
- In 2024, the Burlington Metropolitan Statistical Area (MSA) – Chittenden, Grand Isle, and Franklin County represented 43.5% of housing unit creation in the state
- The share of housing development within the Burlington MSA changes depending on the size of the development
  - The Burlington MSA represented 34% of single unit creation
  - It represented 56.8% of projects with 5 or more units

Housing Reforms and Exemptions

- Recent housing bills created exemptions from Act 250 jurisdiction
  - Act 47 (2023) increased the jurisdictional threshold for housing units from 10 to 25 in Designated Downtowns, Neighborhood Development Areas, Growth Centers, and Villages with zoning and subdivision regulations
    - Created Priority Housing Projects, which receive an Act 250 exemption for mixed income or mixed-use housing developments located in certain areas
  - Act 181 (2024) created Act 250 exemptions for housing projects in designated downtowns, projects of 75 units or less in Neighborhood Growth Centers or Neighborhood Development Areas, and projects of 50 units or less in Village Centers

Act 250 Housing Exemptions

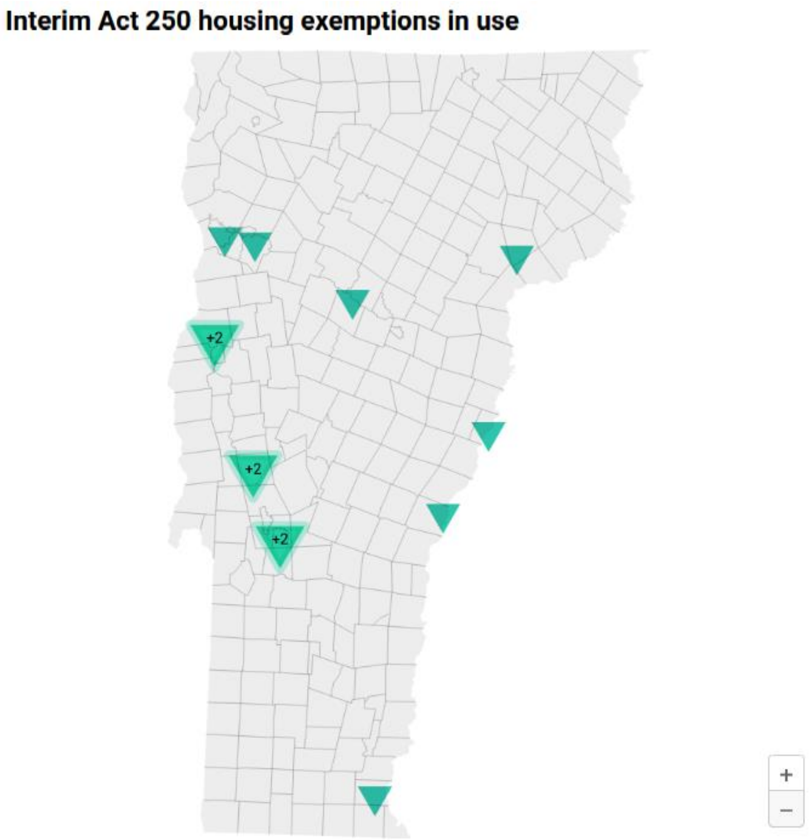
- The Land Use Review Board and Department of Housing and Community Development developed a map showing potential areas where housing may be built without triggering Act 250 review. On the map:
    - Dark Pink = Downtown District Area
        - Unlimited construction without Act 250 review
    - Medium Pink = Town and Growth Centers and Neighborhood Development Areas
        - Up to 75 units
    - Light Pink = Priority Housing Projects
        - Various exemptions depending on location
    - Light Blue = Village Centers and Buffer
        - Up to 50 units



Source: https://experience.arcgis.com/experience/d96022b7dce64945a326e7bf98a2f365/

Housing Reforms Impact

- Hard to know how many projects are constrained by regulatory barriers, cost barriers or both
- However, there are indications that regulatory reforms are having a positive effect



Source: Vermont Public; Act 250 Database, https://vtdigger.org/2024/12/11/vermont-loosened-act-250-rules-for-housing-heres-where-developers-are-responding/

Questions?