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# State of Vermont Qualified Allocation Plan

IRC Section 42 Housing Credit Program

32 VSA 5930u Vermont Affordable Housing Tax Credit Program

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## 1. Program Guidance and Priorities

### 1.1 Introduction

The purpose of this Qualified Allocation Plan (QAP) is to set forth the process and criteria under which specific housing developments will be selected to receive [Housing Credits](#):

1. Federal Low Income Housing Tax Credit (LIHTC), including:
  - a. 9% "[Ceiling Credits](#)" or "Allocated" or "70% Present Value"
  - b. 4% "[Bond Credits](#)" or "automatic credits" or "30% Present Value"
2. Vermont Tax Credits for Affordable Housing, including:
  - a. Rental Housing Tax Credits
  - b. Homeownership Tax Credits
  - c. Down payment Assistance Tax Credits

In accordance with the requirements of [Section 42](#) of the Internal Revenue Code, this QAP describes the application and allocation process. Priorities are set by the requirements of the statutory law and the housing needs of Vermont, as determined by the Joint Committee on Tax Credits (~~JCTC~~), adopted by the Vermont Housing Finance Agency (VHFA) Board of Commissioners, and approved by the Governor.

Congress established the federal Housing Credit program as part of the Tax Reform Act of 1986. It offers a ten-year federal income tax credit to owners of rental housing who make specific percentages of their rental housing available for occupancy by low-income residents for at least 15 years. This housing must be available for [General Public Use](#). The credits provide an incentive for the development, acquisition, and rehabilitation of low-income housing, allowing owners, developers, and/or investors to reduce their federal tax liability in exchange for the provision of eligible low-income rental housing.

VHFA has administered the federal and state [Housing Credit](#) programs since its inception. Per Executive Order 32-10, an advisory Joint Committee on Tax Credits reviews and recommends allocation policies for use when the VHFA Board of Commissioners awards both federal and state Housing Credits. The Joint Committee is comprised of the Commissioner of the Department of Housing and Community Development ("DHCD"), the Executive Director of VHFA, the Executive Director of the Vermont State Housing Authority ("VSHA"), the Executive Director of the Vermont Housing and Conservation Board ("VHCB"), and one additional member representing housing interests appointed by the Governor. A designee can fill any of these positions.

The Vermont tax credit for affordable housing was created in 2000 and is governed by 32 VSA § 5930u and the requirements outlined in this plan. Allocations of state credits for rental housing are intended to supplement eligible federal low-income housing tax credit rental projects as described in this plan. Allocation of these credits and those to facilitate homeownership are described at the end of this plan.

The appendices at the end of this Allocation Plan and application materials list the policies that will guide the [Housing Credit](#) sponsor/applicants.

## 1.2 Summary of Program Guidance

The requirements of the federal Low Income Housing Credit program include the requirement to create a QAP that reflects a number of federal priorities according to [Section 42](#). These include:

- [Community revitalization](#);
- Serving tenants with special housing needs, those on public housing waiting lists and individuals with children; and
- Projects intended for eventual tenant ownership.

Additionally, [Section 42](#) requires the QAP must consider the project need, location, historic nature, energy efficiency, and the sponsor and project characteristics. States must give preference among selected projects to those serving the lowest income tenants and to those serving qualified tenants (those persons at or below the maximum income limits set by law) for the longest period. There are no requirements as to the relative weight of the various project characteristics.

Vermont's QAP intends to embrace the best affordable housing practices and allocate resources in as effective and efficient a manner as possible. The QAP aligns with the State's overarching housing policies as outlined in the HUD-required Consolidated Plan (ConPlan) and other State policies. The HUD Consolidated Plan, which guides the use of Federal housing funds, is designed to help states assess their affordable housing and community development needs and to guide investment decisions that reflect market conditions.

The Vermont ConPlan highlights three guiding principles, which help define the policies and priorities of the allocation of federal and state [Housing Credits](#) described in this QAP:

- The first principle is achieving the perpetual affordability of housing resources and investments.
- The second principle is promoting development in State designated downtowns, village centers, neighborhood development areas, and other areas that are consistent with the state's historic settlement pattern and "Smart Growth" – including designated new town centers and growth centers.
- The third principle is to link our homeless assistance activities with permanent housing through systems, practices, and initiatives that are informed by data and proven approaches.

Under all circumstances, the State is committed and obligated to ensure that any project funded, and those entities responsible for administering such funds, must affirmatively further fair housing, work towards overcoming illegal housing discrimination, and broaden housing options for all people.

The ConPlan additionally calls out three specific housing-related goals:

- Increase the supply and quality of affordable housing.
- Decrease the number of people experiencing homelessness.
- Strengthen communities and improve the quality of life of Vermonters.

The intention of this QAP and [Housing Credit](#) awards is to meet the ConPlan's goals by setting high threshold requirements of all Housing Credit applications and a stringent prioritization process. In addition to this process, the VHFA Board of Commissioners may take into account other qualitative factors such as but not limited to: overall housing and community development impacts especially

proposals that in its judgement will have a transformational impact in a community; the need to serve all regions of Vermont; developments which can meet the goals of “moving to opportunity” especially in communities that are demonstrably not economically integrated and have little or no affordable rental housing opportunities for lower income households; efficient use of public resources and project cost; serving the greatest public good; and Sponsor conformance with E.O. 3-73 ([Appendix 3](#)) in making its final decision for the award of Housing Credits.

### 1.3 Credits Available to Projects

1. Per project limit: No project shall receive an initial award greater than 30% of the total housing tax [Ceiling Credits](#) available. The VHFA Board can waive this limit for projects which would result in (i) the loss of considerable federal funding; (ii) the displacement of a large number of low income households; or (iii) the continued presence of significant health hazards.
2. Using [Ceiling Credits](#) in age-specific housing: Awards to age-specific projects shall be limited to no more than 30% of the available Ceiling Credits to award. Only age-specific projects that provide [Service-Enriched Housing](#) directly to residents to allow them to age in place and avoid nursing home care or other institutional utilization will be considered. Other age-specific housing will be considered for Ceiling Credits when it leverages new rental assistance or significant other subsidies for the lowest income households.

General occupancy and age-specific projects will not be separately evaluated, and there is no requirement that an age-specific housing development will receive an award annually. All projects will be ranked according to the degree to which they meet the evaluation criteria in the QAP. To the extent that multiple applications for age-specific projects cumulatively total more than 30% of the [Ceiling Credits](#), staff will recommend age-specific projects that collectively utilize up to 30% of the available credit ceiling and will recommend the balance of the credit ceiling for general occupancy projects.

In evaluating competing age-specific projects, VHFA will seek input from the Agency of Human Services (AHS) as to which proposal will have the most benefits in terms of serving the most frail or disabled residents and support AHS’s long term care goals.

3. [Basis Boost](#): The tax credit program allows the state to provide a specific incentive for projects it deems of high priority and otherwise might not be feasible, called the Basis Boost. The Basis Boost will be automatically applied to projects using [Bond Credits](#) for buildings within a [Qualified Census Tract](#) (QCT) or [Difficult to Develop Area](#) (DDA).

For [Ceiling Credit](#) project applicants, VHFA will evaluate the need for the state designated basis boost. [Basis Boost](#) shall be available for projects that meet one of the following State community development goals. For Basis Boost categories that have a maximum per year, projects will be prioritized in order of the evaluation criteria that they meet. Projects should not assume an award of Basis Boost prior to conferring with VHFA staff. The eligible projects are as follows:

- a. One project per year that proposes utilizing Historic Tax Credits as described in the Internal Revenue Code Section 47(a)(2) and is also located in a [Designated Downtown](#) or [Village Center](#).

- b. Any project in one or more buildings of 49 units or less which dedicates at least 15% of its [Housing Credit](#) units 1) as [Housing with Services for the Homeless \(Housing with Services\)](#) or [Service-Enriched Housing](#); or 2) to be occupied by clients of a [Human Service Agency](#) as evidenced through a memorandum of understanding or master lease to provide Housing with Services or Service-Enriched Housing as defined herein.

A Sponsor can satisfy this requirement as to [Housing with Services](#) by having the owner/Sponsor provide Housing with Services directly or by entering into a new memorandum of understanding or master lease with respect to other units already in its portfolio that are not already dedicated to Housing with Services equal to 15% of the [Housing Credit](#) units in the proposed project. Planned new developments which “come on-line” in the same year and that provide Housing with Services also can be used to satisfy this requirement.

- c. Additionally, certain high priority projects designated by VHFA as requiring an increase in the credit amount to be financially feasible may be eligible for the [Basis Boost](#).
4. Supplemental Enhancement Pool: At the discretion of the Board of Commissioners, a pool of additional credits may be created to assist projects after their awards to meet needs incurred due to unforeseen circumstances. That pool shall not exceed 5% of the total [Ceiling Credits](#) available to award, but can be less than that amount at the discretion of the Board of Commissioners. Requests for enhancements may be granted by staff. Requests shall not exceed 5% of the project’s original award. Staff may reduce the enhancement to a proportional amount of the available pool for enhancements authorized by the Board of Commissioners. Projects that receive a maximum award of 30% of the available ceiling are eligible for a supplemental increase. The [Developer Fee](#) may not be increased if the project is receiving additional [Housing Credits](#).
  5. As permitted by [Section 42](#), VHFA may issue less than the maximum credit allocation otherwise supportable by the project’s eligible basis. Allocation of [Housing Credits](#) to a project in an amount less than requested may be permitted, with conditions that the gap thereby created be filled by another funding source on or before a specified date. This reduction will be used only in very limited circumstances, with the agreement of the applicant, and not be applied across the board to every applicant. In all cases, any funding gap must be filled in time to meet the absolute deadline or an earlier deadline as staff imposes in the [Reservation Certificate](#) / [Binding Rate Agreement](#).

#### 1.4 Determining Ceiling Credits Available

A target of up to two years’ worth of [Ceiling Credits](#) may be awarded via [Letters of Intent](#) (this amount may be adjusted from time to time by the VHFA Board). The VHFA Board may decide to award credits in excess of two years’ worth in two limited circumstances:

1. If a development is bringing in substantial new resources to the state that are considered, in VHFA Staff’s determination, essential to the financial strength and viability of the development, and which require an award of credits as a precondition to or create a competitive benefit for applying for that resource. Substantial new resources shall not include sources that receive annual appropriations, i.e., HOME, Community Development Block Grants, and state funds. For purposes of this exception, “substantial” is defined as at least 40% of a project’s total cost, including non-capital contributions such as funding for services or rental assistance; or

2. If funds are awarded to a project from the [Delayed Project Set-Aside](#).

Within the above practice, two types of [Ceiling Credits](#) applications benefit from a “set aside” of available Ceiling Credits:

1. [Section 42](#) requires that at least 10% of the [Ceiling Credits](#) be set aside for qualified non-profit organizations (or wholly owned affiliates of those organizations) that:
  - a. Qualify as a [Nonprofit Sponsor](#);
  - b. Qualify as [Nonprofit Material Participation](#); or
  - c. Have exempt purposes, including the fostering of low-income housing.
2. In Vermont, there is one additional set aside of [Ceiling Credits](#): Up to 30% of the available ceiling may be used for projects meeting the definition of [Delayed Project Set-Aside](#).

### 1.5 Communication and Transparency

Applicants and related parties are permitted and encouraged to contact VHFA staff with any questions, including those relating to the QAP rules, procedures, and applications. Similarly, letters of support from local officials and service providers submitted in connection with an application are encouraged and should be directed to VHFA staff. It is acknowledged that applicants may be working with members of the VHFA Board of Commissioners in their normal course of business while applying for other funding sources for projects.



## 2. Application Process

Applying for and receiving any type of credits involves completing several steps, each with submission requirements. While setting VHFA's annual Board of Commissioners meeting schedule, VHFA shall set deadlines for submission of applications annually. Thereafter, the application steps are outlined in the Submission Timing Table ([Appendix 2](#)). Essential features of this process include:

### 2.1. Pre-Application Meeting

The Sponsor must schedule a site visit and pre-application meeting with VHFA staff to discuss the proposed housing development ~~at least 90 days~~ prior to submission of an application. Before this meeting, the Sponsor will have had discussions with other applicable funding agencies that are shown in the draft pro-forma to discuss the availability of such funding, the timing of their award cycles, the reasonableness of the amount requested, and the compatibility of the funding source with the proposed development. No formal application for these other funding sources needs to be submitted at the time of the [Housing Credit](#) pre-application meeting. The pre-application meeting deadlines will be set annually and published by VHFA staff.

The pre-application allows VHFA staff to provide feedback to Sponsors on what, if any, changes might be considered to make the development better able to meet the goals of the QAP. VHFA Staff may also recommend other funding sources to consider. It also allows VHFA staff to see how compatible the proposal is with VHCBA/VHFA Building Design Standards, Universal Design and Adaptable and Visitable Standards, Underwriting Standards, additional funding sources, and current evaluation criteria in the QAP.

During the meeting, Sponsors should provide the following:

- An option agreement or other evidence of site control or identified site
- Site plan
- Preliminary building plans
- Evidence of compatibility with Zoning
- Draft Proforma

### 2.2. Full Application

VHFA is required by [Section 42](#) to assure that each project that receives an award of [Housing Credit](#) substantiates its viability and need for Housing Credits. A complete VHFA application and Housing Credit Application Supplement ([Appendix 2](#)), including all required attachments and payment of required fees, are required by the application deadline set and published by staff.

### 2.3. VHFA Board Approval

The VHFA Board of Commissioners will vote on approving [Housing Credits](#) for specific proposals. In general, Staff will notify developers of the timing of this expected meeting ~~and timing of an application deadline in the months prior to the meeting~~. Staff may, at its discretion, choose to have another subsequent allocation meeting at any time if VHFA receives an application from a project for the [Delayed Project Set-Aside](#).

At any allocation meeting, conditions may be imposed by the Board in addition to conditions that Staff recommends. Additional conditions may include, but are not limited to, requiring the Sponsor to:

- Seek alternative funding sources different from or in addition to those shown in the pro forma;
- Make design changes or the addition of other features or amenities;
- Provide documentation of representations made by the Sponsor;
- Change the fee structure of optional services, or to the services themselves;
- Change the tenant income mix or rent structure; and
- Bring the project back before the VHFA Board after some conditions have been satisfied.

#### 2.4. Letter of Intent

The Sponsor may receive a [Letter of Intent](#) to provide a [conditional](#) award of [Housing Credits](#) ~~after VHFA Board approval early in the development process.~~ ~~early in the development process.~~ This letter ~~can~~ ~~may~~ provide assurance to the developer ~~for~~ ~~of~~ a significant piece of a project's funding sources, ~~presuming the development is constructed as proposed at time of approval.~~

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Any significant change in a proposal, once ~~the project is approved by the VHFA Board a Letter of Intent has been issued, will~~ ~~will~~ ~~potentially~~ jeopardize the award of credits, and staff, in consultation with the VHFA Board, may require the credits to be returned. A significant change will mean any significant deviation in project characteristics including:

- Any reduction in the number of bedrooms per unit or square footage of units;
- A change in the number of total units;
- Increase in rents (other than because of the annual increase in the published [Tax Credit Rents](#));
- Significant changes to the proposed land use and project density;
- Reducing the number of units of [Housing with Services](#) or housing dedicated to the [Homeless](#);
- Loss of site control; or
- Any change that, had it been in the original proposal, might have resulted in a different evaluation of the project.

Any project re-applying for credits under the [Delayed Project Set-Aside](#) (if staff determines the project is substantially the same as the original application) must meet project thresholds described in "Full Application" herein. It will not be re-considered for conformance with the "Evaluation Criteria" section of the Plan, having received that comparative evaluation already.

Any previous phase of a project receiving [Ceiling Credits](#) must be complete, occupied, and in the first year of the credit compliance period by the application date of a subsequent Ceiling Credit phase.

#### 2.5. Reservation Certificate / Binding Rate Agreement / Advanced Binding Commitment

VHFA staff will issue a [Reservation Certificate](#), [Binding Rate Agreement](#), or an [Advanced Binding Commitment](#) when specific benchmarks have been met, including any conditions that have been imposed in the VHFA Board Approval and those reflected in the [Letter of Intent](#). Those benchmarks include, ~~but are not limited to~~:

- Having plans and specifications for construction in a form sufficient to prepare reasonably accurate construction cost estimates;
- Obtaining all required local approvals and initiating the Act 250 approval process, if required;
- Submitting a fair housing plan acceptable to VHFA;

- Evidence that the Sponsor has met with the local Continuum of Care (CoC) to discuss the proposed development if providing Housing with Services. This could include CoC meeting minutes, such as ~~and entered into a draft Memorandum Of Understanding agreement, with the CoC if providing Housing with Services or other forms;~~
- Draft Three Party MOU with Owner, Service Provider and VHFA, Draft Service Plan for Housing with Services;
- Providing evidence that all sources of \$100,000 or greater in the pro forma have issued conditional commitments for funding; and
- For moderate rehabilitation projects only: submitting a Capital Needs Assessment (see 3.12 below).

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With regard to Reservation Certificate, Binding Rate Agreements, or Advanced Binding Commitments, VHFA shall retain authority to revise or retract these documents at any time if it appears reasonably certain the Sponsor will not meet any of the conditions set forth. VHFA may also revise or retract these documents if financial information provided by the Sponsor indicates, in the opinion of VHFA, that a lesser or greater amount of Housing Credits are needed for project feasibility.

## 2.6. Carryover Allocation

VHFA is authorized to issue a Carryover Allocation to a Sponsor upon request so long as the Sponsor has met the conditions stated in the Letter of Intent / Reservation Certificate / Binding Rate Agreement / Advanced Binding Commitment. The Sponsor must submit a Cost Certification no later than one year from the effective date of the Carryover Allocation. This certification must be accompanied by updated project information, including a current pro forma. Staff may also ask for additional documentation to substantiate the project costs.

As permitted by Section 42, VHFA may issue less than the maximum credit allocation otherwise supportable by the project's eligible basis. Allocation of Housing Credits to a project in an amount less than requested may be permitted, with conditions that the gap thereby created be filled by another funding source on or before a specified date. This reduction will be used only in very limited circumstances, with the agreement of the applicant, and not be applied across the board to every applicant. In all cases, any funding gap must be filled in time to meet the absolute deadline or an earlier deadline as staff imposes in the Reservation Certificate / Binding Rate Agreement.

## 2.7. Final Tax Credit Allocation (8609) and Cost Certification

VHFA staff can issue the Final Tax Credit Allocation (8609) only after receipt of Cost Certifications and confirmation of the final square footage. The Sponsor and management agent need to sign off and confirm the final square footage of the project. VHFA requires final Cost Certifications to be prepared by a CPA for all projects with an exception for projects of 10 or fewer units, where a final cost certification prepared by the owner, including back-up documentation of costs, will be accepted.

## 3. Threshold Requirements for All Housing Credits (Federal LIHTC and Vermont Tax Credits for Affordable Rental Housing)

All applications approved by the Board will be held to the allocation policies and requirements of the QAP in effect at the time of Board approval unless there are retroactive changes to the Code that

staff need to impose on previous awardees. When a new QAP is adopted, it will apply to all applications submitted after its effective date.

Both Ceiling Credit and Bond Credit projects must meet the following thresholds. If the proposal cannot meet a threshold, the Sponsor must request a waiver from that threshold with a detailed description of why the proposal cannot meet the threshold.

### 3.1. Historic Settlement Pattern of Compact Village and Urban Centers

Projects shall maintain the Historic Settlement Pattern of Compact Village and Urban Centers ([Historic Settlement Pattern](#)) separated by rural countryside. This includes development in State designated downtowns, village centers, neighborhood development areas, and other areas consistent with the state's historic settlement pattern and "Smart Growth" – including designated new town centers and growth centers.

### 3.2. Occupancy and Rent Restrictions

The proposal must meet the basic occupancy and rent restrictions as allowed in the Code, which are:

1. At least 20% of the units must be restricted to tenants at or below 50% of Area Median Gross Income (AMGI);
2. At least 40% of the units must be restricted to tenants at 60% of AMGI; or,
3. Average Income Test as allowed under the [Code](#) as amended through the Consolidated Appropriations Act of 2018. The restrictions are enforced within the [Extended Use Agreement](#) (see "Compliance" section).

The application form and the VHFA website have tables with the minimum rent and tenant income restrictions.

### 3.3. Mixed Income

Projects must meet the [Mixed-Income Threshold](#), which is:

- For projects under 20 units, no mixed-income requirement;
- Projects of 20 – 49 units, 5% of the units must be market rate; and
- Projects 50 units or over, 10% of the units must be market rate.

For all of the above, "market rate units" mean those not income restricted or else are restricted to households above 60% Area Median Gross Income and are not included in eligible basis.

### 3.4. Extended Use Period

All projects receiving [Ceiling Credits](#) or state Rental Housing Tax Credits must agree to perpetual affordability through an [Extended Use Agreement](#). The applicant may, at its option, agree to provide a [Right of First Refusal](#) to sell the property to a nonprofit at the end of the 15 year [Compliance Period](#).

All projects receiving [Bond Credits](#) must agree to an initial ~~45-year~~15-year Compliance Period followed by at least an additional 15 year [Extended Use Period](#).

### 3.5. Previous Loss of Affordable Housing

The Sponsor must detail any previous Qualified Contract requests that any member of the development team has submitted. Previous Qualified Contract requests that have resulted in the conversion of affordable to market rate housing may be grounds for disqualification of applicants. Further, Sponsor must disclose if any member of the development team, including the investor, have been involved in litigation focused on the transfer of ownership or transfer of interest of affordable housing. Involvement in past litigation, may be grounds for disqualification of applicants.

### 3.6. Housing People Experiencing Homelessness

The Governor of Vermont issued Executive Order 3-73 ([Appendix 3](#)), which aims for at least 15% of all publicly subsidized housing to be occupied by people who were formerly [Homeless](#). The latest report the local Sponsor submitted to DHCD that demonstrates their efforts to comply with E.O. 3-73 regarding the provision of housing for the homeless must be provided at application. If a local Sponsor has not previously provided this information to DHCD, they should use DHCD's current Homeless Access Reporting Tool (HART) form ([Appendix 3](#)) and submit that with the Housing Credit application.

In either case, if the Sponsor has not achieved at least 15% occupancy of their housing by people who were formerly Homeless, a detailed explanation of the steps planned to reach this goal should be submitted with the HART form.

### 3.7. Limitation on Housing with Services for the Homeless and Transitional Housing for the Homeless

Projects that dedicate more than 30% of [Housing Credit](#) units as [Housing with Services](#) or projects that are intended to provide [Transitional Housing](#) must demonstrate market need, appropriateness of project design, the availability of adequate service capacity, and access to necessary rental assistance. Such proposals shall be limited to meeting an emergent and deeply rooted community need where other development resources are unavailable.

Projects which exceed more than 30% of Housing Credit units as Housing with Services may also require Sponsors to develop a plan to de-concentrate Housing with Services units over a specified period of time.

Proposed [Transitional Housing](#) for the [Homeless](#) projects will be limited to recovery residences, transitional housing for those fleeing intimate partner violence, transitional housing for at-risk youth, or those projects which adhere to transitional housing best practices.

### 3.8. Experience, and Capacity, and Commitment to Advancing Racial Equity

[Housing Credit](#) awards will be based upon the experience and capacity of the project team (development and property/asset management).

- The Sponsor must demonstrate the capacity to undertake the development as proposed, either through its own experience and qualifications or by utilizing experienced consultants. In the event the Sponsor will have multiple projects under construction in any given year, the organization must have the professional capacity to oversee all of the developments proposed.
- Sponsor must demonstrate the development team's experience on previous [Housing Credit](#) projects as well as knowledge of residential development in Vermont. Sufficient depth of experience and recent timing will be considered in order to demonstrate capacity, capability, and program knowledge.
- Development Teams should demonstrate a commitment to meeting the housing needs of all Vermonters, and to partnering with Black, Indigenous, or People of Color (BIPOC)-owned or -led organizations, professional service teams, and services providers.

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### 3.9. Tax Credit Yield and Internal Rate of Return

The Sponsor must demonstrate the ability to administer the marketing and sale of the [Housing Credit](#) at a reasonable Internal Rate of Return and credit yield through at least one financing acknowledgment letter. The Sponsor must also demonstrate compliance with the Department of Housing and Urban Development (HUD) Subsidy Layering Review standards and Safe Harbor limits for both yield generated and Expense to Income Ratio.

### 3.10. Appraisals

The Sponsor must provide a recent appraisal that conforms with VHFA's Appraisal Standards ([Appendix 3](#)), demonstrating that the acquisition cost of land and buildings is supported and is reasonable. Staff and the VHFA Board may take extenuating circumstances into account in evaluating the appraisal.

### 3.11. Meeting Proven Market Need

The Sponsor must establish the need and demand (i.e., market feasibility) for the type and cost of housing proposed by completing a qualified [Market Study](#). ~~Additionally, projects that are new construction must be located in housing markets with a vacancy rate of 5.0% or less, as demonstrated by the Market Study.~~

A disinterested party who is approved by the [Allocating Agency](#) must conduct an independent, project specific [Market Study](#) at the Sponsor's expense that meets the Market Study Standards ([Appendix 3](#)). The Sponsor must submit this study at the time of application.

~~The Allocating Agency will also consider the impact that the proposed development will have on existing rental housing in the area, whether subsidized or unsubsidized. The Agency may, at its sole discretion, reject an application that might have a negative impact on the existing housing stock.~~

The Market Study should specifically identify Underserved and Historically Marginalized Populations in the project's primary market area. Sponsor must submit an Affirmative Fair Housing Marketing Plan which should identify how the project will be marketed to and serve underserved and marginalized populations in the primary market area.

The Allocating Agency will also consider the impact that the proposed development will have on existing rental housing in the area, whether subsidized or unsubsidized. The Agency may, at its sole discretion, reject an application that might have a negative impact on the existing housing stock. Additionally, projects that are new construction must be located in primary housing markets with a vacancy rate of 5.0% or less, as demonstrated by the Market Study.

### 3.12. Capital Needs Assessment

The developer will provide a [Capital Needs Assessment](#) (CNA) and will ensure that the scope of work addresses all long-term capital needs of the project according to the standards provided in the Capital Needs Assessment Guidance Policy ([Appendix 3](#)). The purpose of this requirement is to provide, in a timely fashion, information to the owner and to VHFA regarding the scope of any rehabilitation work associated with the project and the funding of the replacement reserves in the operating budget.

The timing of the CNA may vary:

- For projects that are new construction (or are creating new housing units through adaptive re-use of a building), or for projects that are “gut” rehabilitation (such that all major systems are either being replaced or are in good condition and are expected to have the same capital lifespan as if they were new) the CNA should be submitted within six months of substantial completion.
- For all other developments, the CNA is required prior to issuance of the [Reservation Certificate / Binding Rate Agreement](#) or, if no such agreement is needed, prior to the [Carryover Allocation](#).

### 3.13. Universal Design & Adaptable and Visitable Housing

All projects and units are required to meet the Universal Design Policy ([Appendix 3](#)) in addition to the Vermont Access Rules for being “adaptable” and “visitable.”

### 3.14. VHCB/VHFA Building Design Standards

The Sponsor must demonstrate that the project meets the VHCB/VHFA Building Design Standards, ([Appendix 3](#)). Sponsors are encouraged to incorporate spaces in their designs which are responsive to current residential and employment trends. For example: design features that allow residents to work from home.

### 3.15. Costs

The Sponsor must agree to submit information related to the project’s development budget, plans, and specifications to allow for a thorough analysis of project cost-effectiveness and reasonable use of public resources. VHFA staff, as a part of its underwriting, will compare available cost estimates with previous housing development cost data. VHFA’s goal is to select developments whose value to a community justifies the costs of the project.

### 3.16. Project Fees

#### **Builder's Overhead, Profit, General Requirements**

For projects where there is an identity of interest between the developer and the contractor or the contractor is selected without competitive bidding, the following limits shall apply:

- Builder's Profit: 6% of hard construction costs
- Builder's Overhead: 2% hard construction costs; and
- General Requirements: 6% of hard construction costs.

These limits will not apply for projects that are competitively bid, whether through open public bidding or selective bidding. The bid process will determine the amount of builder's profit, builder's overhead, and general requirements. The developer must make best efforts to obtain at least three competitive bids; documentation of the bid process must be provided. For Rural Development (RD) 515 projects, the limits will be the amounts approved for each project under the RD cost containment guidelines.

#### **Developer Fee**

The [Developer Fee](#) is the capital budget fee cost taken by the developer as compensation for their services, resources, and risk associated with the development. It should be payable by full occupancy. The maximum cash portion of the Developer's Fee shall not exceed \$1,000,000 unless otherwise noted below. The total Developer's Fee shall be calculated as a percentage of the Total Development Cost (excluding the fee itself and cash accounts) as follows:

- For projects 60 units or less:
  - 12% of the Total Development Cost (TDC) or;
  - 15% of the TDC if at least one-third of the fee (but not less than \$100,000) is deferred. (See below for more information)
- For projects more than 60 units:
  - 10% of the TDC.

The term of repayment of a deferred [Developer's Fee](#) will be based upon the financial strength of the development but should not exceed 10 years. Interest on the deferred Development Fee will not exceed the long term Applicable Federal Rate (~~AFR~~) as published monthly by the IRS, in the month the deferred fee note is executed.

Developer Fee Examples:



New Construction or Acquisition/Rehab < 60 Units 12% TDC	New Construction or Acquisition/Rehab < 60 Units 15% TDC	New Construction or Acquisition/Rehab > 60 Units 10% TDC
<ul style="list-style-type: none"> <li>•20 units</li> <li>•Total Development Costs: \$5,000,000</li> <li>•Developer Fee: \$600,000</li> <li>•Deferred Portion of Fee: \$0</li> <li>•Cash Portion of Fee: \$600,000</li> </ul>	<ul style="list-style-type: none"> <li>•39 units</li> <li>•Total Development Costs: \$9,750,000</li> <li>•Developer Fee: \$1,462,500</li> <li>•Deferred Portion of Fee: \$487,500</li> <li>•Cash Portion of Fee: \$975,000</li> </ul>	<ul style="list-style-type: none"> <li>•61 units</li> <li>•Total Development Costs: \$15,250,000</li> <li>•Developer Fee: \$1,525,000</li> <li>•Deferred Portion of Fee: \$525,000</li> <li>•Cash Portion of Fee: \$1,000,000</li> </ul>

Exceptions to items noted above:

- For [Hybrid Developments](#): The maximum cash portion of the combined [Developer Fees](#) can exceed \$1,000,000 but shall not exceed \$1,500,000.
- For [Bond Credit](#) Developments: The maximum cash portion of the Developer Fees can exceed \$1,000,000 but shall not exceed \$1,500,000.
- For projects that involve the refinance, recapitalization, or workout of developments already in the developer's portfolio (including transfers to or from related-party controlled partnerships or limited liability companies), the maximum developer's fee will be no more than 15% of the hard construction cost (including contingency).
- For projects that involve an arm's length acquisition of an existing subsidized development from an unrelated seller involving substantial construction work to be done by the buyer, the fee limit shall be 12% of the Total Development Cost (which for purposes of calculating the fee excludes the fee itself and capitalized cash accounts).
  - "Substantial construction work" for purposes of this section is defined as any development whose construction eligible basis (as defined by [Section 42](#)) less developer's fee (and less [Consultant Fees](#) that are by definition included in the developer's fee limit) is greater than the project's acquisition eligible basis plus land cost.
- For projects that involve an arm's length acquisition of an existing subsidized development with less than substantial construction work, the developer's fee will be no more than 15% of the hard construction cost (including contingency).

Developer Fee Exception Examples:

Hybrid Development 12% TDC	Bond Credit Development 12% TDC	Related Party 15% HCC
<ul style="list-style-type: none"> <li>•22 Bond Credit units</li> <li>48 Ceiling Credit units</li> <li>•Total Development Costs: \$5,500,000 (Bond) \$12,000,000 (Ceiling)</li> <li>•Developer Fees: \$660,000 (Bond) \$1,440,000 (Ceiling)</li> <li>•Deferred Portion of Fees: \$600,000</li> <li>•Cash Portion of Fees: \$1,500,000</li> </ul>	<ul style="list-style-type: none"> <li>•59 units</li> <li>•Total Development Costs: \$14,750,000</li> <li>•Developer Fee: \$2,212,500</li> <li>•Deferred Portion of Fee: \$712,500</li> <li>•Cash Portion of Fee: \$1,500,000</li> </ul>	<ul style="list-style-type: none"> <li>•20 units</li> <li>•Hard Construction Costs: \$3,000,000</li> <li>•Developer Fee: \$450,000</li> <li>•Deferred Portion of Fee: \$0</li> <li>•Cash Portion of Fee: \$450,000</li> </ul>

Other Considerations:

- When any developer-related party is doing work on the development, that work will be considered part of the overall limit. There are two exceptions to this requirement:
  - 1) construction costs, which has separate limits, and
  - 2) architectural costs, which will be reviewed for cost reasonableness.
- Prior to the issuance of the initial Housing Credit [Reservation Certificate/Binding Rate Agreement](#), the Sponsor and the Allocating Agency shall agree upon the amount of the Developer's Fee. If no Reservation Certificate or Binding Rate Agreement is issued, the relevant date will be the issuance of the [Carryover Allocation](#). Once this fee has been agreed upon, the [Allocating Agency](#) will not recognize any increases to the fee, whether total development costs increase or decrease, in any Carryover Allocation or final allocation of Housing Credits. However, if there is a substantial change to the project (such as an increase or decrease in the total number of units in the project), the Allocating Agency may permit an increase or require a reduction in the Developer's Fee. The Agency may consider exceptions to the Developer's Fee limit on a case-by-case basis for extraordinary circumstances.
- If a Sponsor is proposing new Project Based rental subsidy, the Sponsor must demonstrate compliance with HUD Subsidy Layering Review standards and Safe Harbor limits for Overhead, Profit, General Contractor Profit, and Developer Fees.

## 4. Evaluation Criteria

### 4.1 Bond Credits

Bond Credits must adhere to all threshold requirements listed above and will be underwritten and considered for funding based on the financial strength of the project. There are no additional evaluation criteria.

## 4.2 Ceiling Credits

Ceiling Credits must adhere to all threshold requirements listed above and will be evaluated based on the extent of the state housing policy goals achieved, as described below.

Staff will consider all applications submitted in an allocation cycle together and will assign a weight to a variety of project and/or sponsor characteristics as outlined below. This weight will be used to rank the projects. The ranking will be considered along with other considerations, including community investment, timing, and resource efficiency, in making award recommendations to the VHFA Board.

Projects with significant changes post-award, which do not achieve the proposed evaluation criteria for which they have received checkmarks may be subject to a reduction or cancelation of a tax credit award. Further, project sponsors may jeopardize their future ability to apply for tax credits.

1. **Site Designations:** Projects can receive a **maximum of 4 checkmarks** based on the criteria below.
  - a. Projects will receive four checkmarks based on location in:
    - i. [Downtowns](#) or [Village Center](#);
    - ii. support of a Downtown or Village Center by virtue of their location (i.e., that are within a 0.5-mile walking distance from these areas); or
    - iii. [Neighborhood Development Areas](#) or [Growth Centers](#) associated with a Downtown or Village Center.
  - b. Projects will receive three checkmarks based on location in:
    - i. [New Town Centers](#);
    - ii. [Growth Centers](#) not associated with a [Downtown](#) or [Village Center](#); or
    - iii. [Neighborhood Development Areas](#) associated with a New Town Center or Growth Center
  - c. Projects will receive two checkmarks based on location in:
    - i. [Dense Infill Sites](#)
2. **Project Tenancy and Services:** Projects can receive a **maximum of 46 checkmarks** based on a combination of the criteria below.
  - a. Projects that are for general occupancy and are of any market-appropriate unit size distribution will receive **4 checkmarks**
  - b. Projects that are age-specific for senior occupancy (and are of any market-appropriate unit size distribution) will receive **1 to 3 checkmarks**, based on the robustness of the service package offered:
    - i. [Service-Enriched Housing](#) (equivalent to the SASH model or more) will receive **3 checkmarks**.
    - ii. Staff will evaluate all other service plans and will assign **between 1 and 3 checkmarks** accordingly.
3. **Eviction Prevention:** Projects ~~can may~~ receive ~~an additional~~ **2 checkmarks** when Sponsors demonstrate:
  - a. The proposed project includes a service plan which includes a Resident Service Coordinator and/or programming that focuses on housing retention that effectively reduces the risk of eviction; and

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- b. Sponsor must demonstrate a history of providing housing occupied by households that have experienced homelessness or were at risk of homelessness and the capacity to provide a range of programming and services that focus on housing retention and preventing homelessness.

Housing retention and eviction prevention services could include one-on-one or group services available on demand to all residents of a project. Strategies may include classes, financial coaching, and early intervention strategies with mediation and conflict resolution strategies. This level of service provision is likely to include brief intervention strategies with screening and referral.

- 4. **Housing with Services for the Homeless:** Projects can receive a **maximum of 4 checkmarks** for providing at least 25% of the [Housing Credit](#) units as [Housing with Services](#) for the [Homeless](#) or [At Risk of Homelessness](#) at the proposed project (or within the Sponsor's existing portfolio that are not already dedicated as permanent Housing with Services). For projects electing to satisfy the Housing with Services commitment within the Sponsor's existing owned property portfolio or for new projects which propose Housing with Services units as part of a deconcentration plan approved by VHFA for an existing property, an inventory of existing housing units owned by the Sponsor and previously set aside for Housing with Services is required at application.
- 5. **Deeper Affordability:** Projects with deeper affordability than the minimum required credit election can receive a **maximum of 3 checkmarks** from this section. Developments that set rent levels below the maximum tax credit rents will be evaluated as follows. Units must be properly identified in the project budget as "affordable to residents at" the specified AMI below and supported by a market study.
  - a. For projects with the following percentage of units at or below **30% AMI**:
    - i. 20% to 24.99% of Tax Credit Units will receive two checkmarks
    - ii. 25% or more of Tax Credit Units will receive three checkmarks
  - b. For projects with the following percentage of units at or below **50% AMI**:
    - i. 30% to 39.99% of Tax Credit Units will receive two checkmarks
    - ii. 40% or more of Tax Credit Units will receive three checkmarks

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Affordable to Residents at AMI %	Minimum % of Tax Credit Units	Checkmarks Awarded
30% AMI	20% - 24.99%	2
	25% or more	3
50% AMI	30% - 39.99%	2
	40% or more	3

If a future award of Project-Based Rental Assistance (PBRA) is needed to meet the stated AMI goals above, the agency shall analyze the feasibility of the project's ability to obtain such an award based on expected PBRA availability and the sponsor's capacity to obtain and manage such an award of PBRA.

6. **Income Diversity:** Developments that promote economic integration by providing units that are not income restricted or else restricted to households above 60% AMI and not included in eligible basis can receive a **maximum of 2 checkmarks**.

- a. Projects of 20 units or more with at least 20% of the units unrestricted will receive two checkmarks
- b. Projects of fewer than 20 units with at least two unrestricted units will receive two checkmarks

Market rate units must be distributed proportionately throughout each building and each floor of each building, and throughout the bedroom/bath mix and type. Both market rate and affordable units must have the same design regarding unit amenities and square footage. Units must be properly identified in the budget and supported by the market study.

7. **Permanent Debt:** Projects utilizing amortizing permanent debt in their funding stacks can receive a **maximum of 2 checkmarks**.

- a. Projects in Chittenden County that use amortizing permanent debt for at least 18% of the total development cost of the project will receive two checkmarks
- b. Projects outside of Chittenden County that use amortizing permanent debt for at least 3.5% of the total development cost of the project will receive two checkmarks
- c. Projects in Chittenden County that use amortizing permanent debt for at least 9% of the total development cost of the project will receive one checkmark
- d. Projects outside of Chittenden County that use amortizing permanent debt for at least 1.75% of the total development cost of the project will receive one checkmark

8. **Access to Public Transportation:** Projects with [Access to Public Transportation](#) can receive a **maximum of 2 checkmarks**. Staff will evaluate operation times, routes available, and the distance from routes to the development to assign checkmarks accordingly.

- a. Projects located within 0.5 miles of local fixed routes will receive two checkmarks
- b. Projects located within 0.5 miles of a “commuter” or regional/interregional limited transportation will receive one checkmark
- c. Projects served by a “Demand Response” or specialized transportation will receive one checkmark.

9. **Property Remediation:** Projects can receive a **maximum of 2 checkmarks**. Projects can only be eligible for one of the qualifying definitions of [Property Remediation](#) under this criterion.

- a. Projects that propose the remediation of a building or site as defined will receive two checkmarks
- b. Projects that propose vacant lot infill as defined will receive one checkmark

10. **Federally Subsidized and At-Risk:** Existing projects that are [Federally Subsidized and At-Risk](#) will receive **two checkmarks**.
11. **Historic Rehabilitation Tax Credit:** Projects that utilize the Historic Rehabilitation Tax Credit as described in the Internal Revenue Code Section 47(a)(2) will receive **one checkmark**.
12. **Passive House or Net Zero:** Projects that will be constructed to [Passive House](#) standards or [Net Zero](#) guidelines will receive **one checkmark**. Passive House projects require certification.
13. **Highly Ready-To-Proceed:** Projects that are [Highly Ready-To-Proceed](#) to construction will receive **one checkmark**.
14. **Eventual Tenant Ownership:** Projects intended for [Eventual Tenant Ownership](#) will receive **one checkmark**.

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15. **Underserved Areas:** Projects that are in a town that has market need and demand but has no affordable housing of the type proposed will receive **one checkmark**. This type of project could also include projects in which the majority of housing would be dedicated as housing for workers in industries with a historic lack of access to safe and decent housing. Examples of those industries include the arts, farm worker, and forest product sectors.

15-16. **Community Development Experience ~~of~~ and Unique Characteristics of a Sponsor:** Projects sponsored by an entity with a demonstrated history or current proposed project that achieves broad community development outcomes as defined below shall earn **up to 4-one checkmark**.

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- a. ~~Demonstrate a history of previous projects, or a current project, that will redevelop~~ Redevelopment of historically neglected or complex properties of significant community value that have significance to the community or neighborhood; and
- b. ~~Demonstrate a history of continued r~~Reinvestment and recapitalization within of the ~~sponsor's Sponsor's existing~~ affordable housing portfolio, including a commitment to long-term and perpetual affordability; ~~and when appropriate including creating additional affordable housing units and/or greater affordability of units within that portfolio using resources generated from the housing portfolio~~; and
- c. ~~Demonstrate that the entity has used resources generated from their housing portfolio to e~~ Creation of additional affordable housing, and/or increases the affordability of housing within their portfolio using resources generated from the Sponsors affordable housing portfolio or development activities; and
- d. Document a planned approach to continually identifying and addressing racial inequities within the ~~sponsor's Sponsor's~~ organization, housing portfolio, or broader community investments. Sponsors that are comprised of BIPOC-owned or led development partners, professional service teams, and services providers shall be prioritized for this criterion.

Staff will consider an entity's previous opportunities for participation in affordable housing development. For example, entities owned or directed by women, black, indigenous, and people of color without extensive opportunities to participate in community development in Vermont will not be limited from being considered for this checkmark.

~~Projects with significant changes post-award, which do not achieve the proposed evaluation criteria for which they have received checkmarks may be subject to a reduction or cancellation of a tax credit award. Further, project sponsors may jeopardize their future ability to apply for tax credits.~~

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## 5. Vermont Affordable Housing Tax Credits

The Vermont tax credit for affordable housing is governed by [32 VSA § 5930u](#) and has three eligible uses, which are all described below:

1. Rental Housing Tax Credits
2. Homeownership Tax Credits
3. Down Payment Assistance Tax Credits

### 5.1 Rental Housing Tax Credits

#### *Eligible Applicant*

An eligible applicant is any Sponsor who has applied for and received an award of federal [Bond Credits](#).

#### *Eligible Project*

An eligible project is:

- A rental housing project identified in [26 U.S.C. § 42\(g\)](#) and meets all of the requirements laid out the Vermont Qualified Allocation Plan; and
- Agrees to a perpetual [Extended Use Agreement](#).

#### *Prioritization of Awards*

Projects financed using [Bond Credits](#) will be given preference, in addition to preferences for:

- Targeting a minimum of 15% of the [Housing Credit](#) units as [Housing with Services](#) to households who are [Homeless](#) or [At Risk of Homelessness](#)
- Creating net new Housing Credit units in growing communities (based on recent Census data)
- Rehabilitation of existing affordable housing
- Demonstrating innovation in cost and scarce resource efficiencies
- The degree to which a project exceeds thresholds listed in Section 2 of the QAP

### 5.2 Homeownership Tax Credits

#### *Eligible Applicant*

For-profit and non-profit developers who have demonstrated financial strength and experience in for-sale housing development consistent with the nature and scope of the proposed development as determined by VHFA. State instrumentalities such as VHFA or VHCB and municipalities are eligible applicants.

### Eligible Projects

1. Eligible housing types include: single family detached units, ~~m~~Manufactured mobile homes, and single family attached units, including condominium, cooperative, cohousing, and planned unit developments.
2. Units may be stick-built, modular, or panelized, ~~or manufactured homes and; however, all units except mobile homes~~ must conform to the VHCB/VHFA Building Design Standards. Manufactured Mobile homes must meet Energy Star standards and required HUD standards. ~~but Zero Energy Modular mobile homes are preferred. Zero Energy Modular homes are preferred.~~
3. All units receiving the Vermont State Homeownership Tax Credit must be owner occupied, and developers must agree to provide sales documentation to prove this.
4. A newly constructed/substantially rehabilitated single unit or home can be considered an Eligible Development / Project.

### Purchase Price Limit

The Homeownership Tax Credit units in the project must sell at or below the purchase price limits allowed by the VHFA mortgage programs and that the credit makes the home available at a reduced cost to the buyer.

### Income Limit

The Homeownership Tax Credit units in the project must be sold to households whose incomes are at or below 120% of the Statewide Median Income. Preference will be given to projects where the sales price will be affordable to the lowest income household.

### Term of Affordability

All units or programs receiving the Vermont Homeownership Tax Credit must be created and maintained as an affordable housing resource in perpetuity.

Each developer or program must submit a proposal for preserving affordability with their application for credits. Some examples include a shared appreciation model, a program modeled after VHCB's Homeland program, or a soft second mortgage program. The covenant or second mortgage must name the nonprofit or public designee that will monitor the resale and enforce the mechanism of affordability. Either of these two programs must be administered by an existing entity that administers similar programs (such as VHFA, VHCB, or a community-based non-profit with a demonstrated plan and has adequate experience with homeownership programs has adequate staff ~~capacity,~~ and capacity and has adequate funding).

### Prioritization of Awards

The following uses of Vermont Homeownership Tax Credits will be prioritized. Each of the following carries equal weight to each other:

- Down payment assistance programs
- Projects which are supported under an [Employer Assisted Housing Program](#)
- In growing communities (as determined by recent Census data or Housing Needs Assessment) new construction will be prioritized. Rehabilitation of existing housing will be the priority in all other communities
- Project uses Section 8 Homeownership Vouchers in combination with the Homeownership Tax Credit for deeper subsidy to very low-income households



- Project serves as permanent replacement housing for manufactured housing that is substandard, energy inefficient, or flood-prone

#### **Final Allocation and Cost Certification**

Upon submission of a final cost certification, VHFA will issue a grant to the Homeownership Tax Credit project.

#### **Status Reporting**

The Sponsor will be required to report annually to VHFA staff on the status and market need of the project until full occupancy. Projects which no longer are moving forward or are deemed to be unviable may lose the designation of the award.

#### **5.3 Down Payment Assistance Tax Credits**

The Vermont Housing Finance Agency has the authority to allocate affordable housing tax credits, as authorized by the Vermont legislature, to finance down payment assistance loans that meet the following requirements:

- the loan is made in connection with a mortgage through a VHFA program;
- the borrower is a first-time homebuyer of an owner-occupied primary residence; and
- the borrower uses the loan for the borrower's down payment or closing costs or both.

The Agency shall require the borrower to repay the loan upon the transfer or refinance of the residence.

## **6. Compliance**

[Section 42](#) requires state tax credit allocating agencies to monitor developments for compliance with the requirements of the law and notify the IRS of any documented non-compliance, per [IRS Compliance-Monitoring Regulations](#). The following compliance standards apply to all Housing Credit awardees that develop multi-family rental housing using federal or state housing credit resources. Further information on the following is detailed in the [VHFA Compliance Manual](#).

### **6.1 Extended Use Agreement:**

All [Housing Credit](#) recipients will be required to execute and record a Housing Credit [Extended Use Agreement](#) (the "Agreement") that has been approved by VHFA.

- The Agreement must be signed by the Owner and sent to the municipality for recording prior to VHFA issuing a [Carryover Allocation](#) or IRS Form 8609.
- The Agreement will, at a minimum, require conditions wherein the Sponsor and the development must continuously comply with [Section 42](#) and other applicable sections of the [Code](#) and the Treasury Regulations issued thereunder and will bind any successors' interest for the specified time period.
- Except for first position debt, all financing on the development will be subordinate to the Agreement.
- In the event that a project's funding source requires its own Housing Subsidy Covenant, the provisions of the [Extended Use Agreement](#) may be incorporated into such Covenant, and the requirement of a separate Extended Use Agreement may be waived by VHFA.

- Owners are required to provide VHFA with a copy of the IRS Form 8609, with Part II & Schedule A completed by the Owner, for the first year of the [Compliance Period](#).

## 6.2 General Provisions

Successfully managing [Housing Credit](#) developments require a thorough understanding of the [Section 42](#) regulations. To ensure success for tenants, sponsors, and investors, the owner and/or management agent are, at minimum, required to do the following:

- Attend compliance training or document that they have received training prior to lease up;
- Management agents must demonstrate that they have received [Fair Housing](#) training, [regularly research and monitor underserved and historically marginalized populations in the primary market service area, and actively advertise and conduct outreach to underserved populations](#);
- Accept the [Common Rental Application](#) for Housing in Vermont;
- Provide project and vacancy information and participate in VHFA's Directory of Affordable Housing (DOARH);
- Management Agents must provide notice of available units to local and regional organizations providing services to the homeless;
- ~~The owner and/or management agent is required to have a lease with a minimum term of six months, and this lease must contain an addendum to address the [Violence Against Women Act](#);~~
- ~~The owner and/or management agent is required to adhere to the [Violence Against Women Act \(VAWA\)](#). Information for compliance with VAWA can be found in the [Compliance Manual on the VHFA website](#); and,~~
- ~~The owner/manager shall not discriminate against voucher holders or refuse to lease a rental unit to a household solely because of the household's participation in a Section 8 tenant-based program.~~

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Recipients of Housing Credits are responsible for ensuring their management staff has the professional capacity to manage Housing Credit developments within the rules and regulations referenced in the QAP and provided under Section 42. VHFA is required to monitor compliance with the provisions of [Section 42](#) and to notify the Internal Revenue Service of non-compliance and will charge fees to cover costs related to this monitoring. The fee structure is posted on VHFA's website. Information on rental housing management and compliance can be found on VHFA's website.

## 6.3 Recordkeeping and Record Retention

The owner of a [Housing Credit](#) development must keep records for each qualified Housing Credit eligible building in the project for a period of at least six years beyond the end of the [Compliance Period](#) for each building. Required records include:

1. The total number of [Residential Rental Units](#) in the building, including square footage;
2. The percentage of Residential Rental Units in the building that are [Housing Credits](#) eligible units (square footage fraction or unit fraction), which may take into account the presence of a [Resident Manager's Unit](#);
3. The rent charged on each Residential Rental Units in the building, including utility allowance;

4. The Housing Credit eligible unit vacancies in the building and the occupancy of the next available units;
5. The income certification of each Housing Credit eligible tenant;
6. Documentation to support each Housing Credit eligible tenant's income certification (for example, a copy of the tenant's federal income tax return, W-2 Forms, or verifications of income from third parties such as employers or state agencies paying unemployment compensation; owners should retain the right in their leases to obtain this documentation at any time, even after tenants have moved into the unit);
7. The character and use of the nonresidential portion of the building included in the building's eligible basis under [Section 42\(d\)](#) (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for the use of the facilities or facilities reasonably required by the project);
8. Evidence that a memorandum of understanding between VHFA and Sponsor(s) is in place, which states the local General Partner will work with an Agency of Human Service approved service provider to provide Housing with Services for the initial [Compliance Period](#). In addition, evidence of a memorandum of understanding with a social service provider is required if the sponsor is not acting as the service provider; and
9. An annual report on the [specific](#) locations and number of [Housing with Services](#) units ~~being served~~. In some cases, this may be a violation of the [Extended Use Agreement](#) and can make the Sponsor ineligible to receive future allocations of Housing Credits.

In addition, each property owner (or syndicator) will be required to submit annual operating statements showing property income and expenses in a format acceptable to VHFA.

Tenant-specific data must be uploaded annually through the VHFA Web Compliance Management System. Electronic copies of the utility allowance schedule, the Tax Credit Questionnaire, and the Fair Housing Questionnaire must be reported annually.

#### 6.4 Certification and Review Procedures

##### *Certification Procedure*

The Agency will utilize a certification procedure as set forth by the IRS under their final monitoring regulations. This certification will be required annually and can be found under: Owner's Certificate of Continuing Program Compliance at [www.vhfa.org/rentalhousing/forms-and-documents](http://www.vhfa.org/rentalhousing/forms-and-documents).

##### *Review Procedure*

The Agency will electronically review at least 20%, or sample size as stipulated by the IRS, of [Housing Credit](#) files at least once every three years, starting the first year the credits are claimed. This may not apply to the following types of Housing Credit eligible buildings, which are subject to other monitoring programs and may include additional compliance regulations:

- Buildings financed by USDA Rural Development (RD) under its Section 515 program;
- Buildings in which 50 percent or more of the aggregate basis (taking into account the building and the land) is financed with the proceeds of obligations the interest on which is exempt from tax under Section 103 of the Internal Revenue Code; and
- Projects in which 100% of the units are [Housing Credit](#) units. These projects are not required to recertify annually after the first annual recertification has been completed. However, note that other funding sources do not allow this waiver (i.e., Section 8, HOME, and RD).

## 6.5 Auditing Procedure

The Agency has the right to perform an audit of any eligible [Housing Credit](#) development at least through the end of the [Compliance Period](#) of the buildings in the project. An audit includes a physical inspection of any building or buildings in the project, as well as an electronic review of the records described above. The audit may be performed in addition to any inspection of income certifications and documentation under the review procedure. The IRS requires the Agency to conduct an initial physical inspection by the end of the second calendar year following the year the last building in the project is placed in service. A physical inspection of at least 20% of the Housing Credit units, or sample size as stipulated by the IRS, is performed every three years.

## 6.6 Notification of Non-Compliance

If the Agency discovers upon audit, inspection, review, or in some other manner that the project is not in compliance with the provisions of [Section 42](#), the Agency will provide written notice to the owner of the project, including a correction period.

The correction period shall be a period of up to 90 days from the date of the notice to the owner under paragraph 1. of this section and, during that period, the owner must supply any missing certifications and bring the project into compliance with the requirements of [Section 42](#). For good cause shown, the Agency may extend the correction period for up to six months.

The Agency will file Form 8823, Low-Income Housing Credit Agencies Report of Non-Compliance, with the Internal Revenue Service no later than 45 days after the end of the correction period described, whether or not the non-compliance or failure to certify is corrected. The Agency must explain on Form 8823 the nature of the non-compliance or failure to certify and indicate whether the owner has corrected the non-compliance or failure to certify.

## 6.7 Delegation of Authority

The Agency may retain an agent or other private contractor to perform compliance monitoring. VHFA will retain the responsibility to notify the Internal Revenue Service as referenced above.

## 6.8 Liability

Compliance with the requirements of [Section 42](#) is the responsibility of the owner of the building for which the [Housing Credits](#) are allocated. The Agency's obligation to monitor for compliance does not make the Agency liable for an owner's non-compliance.

## 7. Definitions

Each definition that contains an asterisk (\*) is intended to be consistent with Section 42 and related IRS regulations and guidance.

**Advanced Binding Commitment:** A document in which the Agency and the owner enter into a binding agreement as to the Housing Credit dollar amount to be allocated to a building or buildings.

**Allocating Agency (or Agency):** Vermont Housing Finance Agency (VHFA).

**Applicable Fraction:**\* The fraction used to determine the qualified basis of the qualified low income building, which is the smaller of the unit fraction or the floor space fraction, all determined as provided in Section 42(c)(1).

**Applicable Percentage:**\* The percentage used in calculating the tax credit based on a building's qualified basis as defined in Section 42(b), as may be set or amended from time to time by IRS guidance or Congressional action.

**At Risk of Homelessness:** Individuals and families might qualify under Category 1 (below), unaccompanied children and youth might qualify under Category 2 (below), and families with children might qualify under Category 3 (below).

**Category 1** is an individual or family who:

- (i) Has an annual income below 30% of median family income for the area; AND
- (ii) Does not have sufficient resources or support networks immediately available to prevent them from moving to an emergency shelter or another place defined in Category 1 of the "homeless" definition; AND
- (iii) Meets one of the following conditions:
  - Has moved because of economic reasons two or more times during the preceding 60 days immediately preceding the application for assistance; OR
  - Is living in the home of another because of economic hardship; OR
  - Has been notified that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance; OR
  - Lives in a hotel or motel and the cost is not paid for by charitable organizations or by Federal, State, or local government programs for low-income individuals; OR
  - Lives in an SRO or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than one and a half persons per room; OR
  - Is exiting a publicly funded institution or system of care; OR
  - Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the State's approved Con Plan

**Category 2** are unaccompanied children and youth who do not qualify as homeless under the homeless definition but qualifies as homeless under another Federal Statute.

**Category 3** are families with children and youth where an unaccompanied youth who does not qualify as homeless under the homeless definition, but qualifies as Homeless under section 725(2) of the McKinney-Vento Homeless Assistance Act, and the parent(s) or guardian(s) or that child or youth if living with him or her.

**Basis Boost:** An increase of up to 30% in eligible basis provided to Ceiling Credit buildings which meet the State requirements for the Basis Boost set forth herein.

**Binding Rate Agreement:**\* A document in which the owner of a project elects, irrevocably, to fix the Applicable Percentage with respect to a building or buildings. (The percentage for non-federally subsidized buildings will not be less than 9% per year.)

**Bond Credits:** (“Automatic Housing Credits”, “out-of-cap credits”, or “4% credits”) Federal Housing Credits that are available to an eligible project when half or more of a project’s total cost is financed with tax-exempt financing. Bond Credits differ from Ceiling Credits.

**Builder’s Overhead, Profit, and General Requirements:** Limits that apply when there is an identity of interest between the developer and builder (Appendix 3).

**Capital Needs Assessment (CNA):** An independently, professionally prepared report that evaluates the systems of a building and identifies the remaining useful life of those systems, as well as estimating the cost of replacing them (Appendix 3).

**Carryover Allocation:**\* An allocation of current year tax credit authority by the Allocating Agency, pursuant to Section 42(h)(1)(E) of the Code and Treasury Regulations Section 1.42-6.

**Ceiling Credits:** Federal Housing Credits that are allocated to each state based on its population. Federal legislation passed at the end of 2000 granted the State of Vermont a “small state set-aside” of \$2,000,000, which is adjusted annually by an inflation index. Ceiling Credits are considered on a competitive basis annually.

**Code:** The Internal Revenue Code of 1986 as amended.

**Common Tenant Application:** The application adopted for use by the housing funding agencies of Vermont, as may be modified or amended from time to time (Appendix 3).

**Community Revitalization Plan:** In Vermont, the State’s program for designating downtowns, village centers, and neighborhood development areas is the program that is used to identify areas for community revitalization.

**Compliance Period:**\* The period of 15 taxable years beginning with the first taxable year of the credit period, as defined in Section 42(i)(1).

**Consolidated Plan:** The current State of Vermont HUD Consolidated Plan for Housing and Community Development programs, which can be found at <http://accd.vermont.gov/housing/plans-data-rules/hud>

**Consultant Fee:** Defined as any fee(s) paid by the developer to a third party for services that a developer generally would be expected to perform, such as preparing applications for financing, obtaining local permits and approvals, and overseeing project functions. Consultant Fees do not include the fees paid to independent third-party professionals for specific development-related services, such as architectural, engineering, appraisal, construction supervision, and environmental testing or assessment. Consultant Fees are included in the Developer’s Fee. VHFA shall make the final determination of which fees in a specific project shall be considered Consultant Fees.

**Cost Certification:** A certified accountant-prepared statement (following the format outlined in the VHFA Housing Credit Application package) that documents the capital costs incurred by the Sponsor. There are two versions of the Cost Certification, the “10%” cost certification and the “final” Cost Certification. These must be submitted for VHFA review.

**Delayed Project Set-Aside:** A set-aside of Ceiling Credits for projects that have been awarded Ceiling Credits but had to return those credits due to factors beyond the control of development team. Such factors would cause lengthy delays and not allow the project to move forward on the timelines as described in the application materials and/or the credit award documentation. Those factors

include but are not limited to permit appeals, lawsuits, and unforeseen physical impediments to construction commencement. This set-aside is not intended to cover long timelines needed to assemble financing. The purpose of this set-aside is to show programmatic support for projects that were evaluated by the VHFA Staff and Board and received an award of Housing Credits but then faced prolonged timelines and delays due to some form of opposition to the project (including from neighbors, local community members, and municipalities) and had to return those Housing Credits due to those delays. Staff will use discretion in determining which projects are eligible to receive credits from this set-aside. Any unused credits from this set-aside as of time of the annual allocation meeting will be released from it and will be available to all applicants.

**Dense Infill Sites:** Sites not in or within designated downtowns, village centers, neighborhood development areas, growth centers, or new town centers that are intended to provide convenient neighborhood and city-wide oriented goods, services, and employment opportunities within walking or biking distance of many of the city's or town's residential areas.

**Developer's Fee:** Capital budget fee taken by the developer as compensation for their time and risk associated with the development.

**Difficult Development Area (DDA):\*** Any area designated by the Secretary of Housing & Urban Development as having high construction, land and utility costs relative to Area Median Gross Income in accordance with Section 42(d)(5)(C)(iii)(I).

**Downtown:** Defined in the Consolidated Plan and as provided for in 24 VSA Chapter 76A, "Downtown" means the traditional central business district of the community that has served as the center for socioeconomic interaction in the community characterized by a cohesive core of commercial and mixed use buildings, often interspersed with civic, religious, and residential buildings and public spaces, arranged along a main street and intersecting side streets and served by public infrastructure.

**Employer Assisted Housing Program:** A program through which employers assist workers in the purchase of a home through down payment assistance grants, closing cost grants, or other similarly meaningful financial participation to encourage homeownership of employees.

**Eventual Tenant Ownership:** A project that is intended for "eventual tenant ownership" is one that can demonstrate that the tenants that will be occupying the project at the end of the tax credit initial compliance period would have the choice of purchasing their residence, either as a condominium, a housing cooperative, or a single-family home.

**Extended Use Agreement:\*** The agreement (sometimes called a Land Use Restriction Agreement or Housing Subsidy Covenant) between the Agency and an owner restricting a property to affordable housing use during the Compliance Period and Extended Use Period. See Internal Revenue Code Section 42(h)6.

**Extended-Use Period:\*** The period described in Section 42(h)(6)(D).

**Fair Housing:** The US Fair Housing Act (45 USC 3601-3619), the State of Vermont Fair Housing Act, and any rules and regulations relating thereto from HUD or from the State of Vermont (9 VSA Chapter 139).

**Federally Subsidized and At-Risk:\*** Defined as any development currently occupied by low-income households that faces, within the next five years: 1) a loss of deep rental assistance or other

operating subsidy; and 2) faces prepayment of its mortgage or other involuntary action by its owner that would terminate federal low income use restrictions. In addition, any project(s) that is slated to receive federal funding specifically for the preservation of the units as affordable housing. Examples include but are not limited to RD 515, Section 8, Section 23, Section 236, and Section 221(d)3.

**General Public Use:** To be available for “general public use” a building must be open and available to the general public for occupancy. Buildings that restrict occupancy to tenants with special needs, or tenants who share a common occupation or interest, or members of a specified group (so long as those restrictions are otherwise permitted by law and by Federal, State or local programs or requirements) do not violate the general public use requirement because of these restrictions.

**Growth Center:** As defined by 24 V.S.A. Chapter 76A. An area of land that is within or adjoining a downtown, village center, or new town center designated under 24 V.S.A 2793c that has clearly defined boundaries that can accommodate a majority of commercial, residential, and industrial growth anticipated by the municipality or municipalities over a 20-year period.

**Highly Ready-To-Proceed:** Any project that has received all necessary local, state, and federal permits necessary to begin construction with the exception of the final building permit, and is past any appeal periods on such permits as of 20 business days before the VHFA Board of Commissioners meeting where Allocated Housing Credit projects will be considered as certified by the Sponsors in a form acceptable to VHFA.

**Historic Settlement Pattern of Compact Village and Urban Centers:** Characteristics of compact urban, town, and village centers include: higher density than surrounding areas; mixed uses; developments with pedestrian, bike, transit, and auto access; public facilities, services, and spaces; diversity in the types and scale of housing, businesses, and industries; center for community activity; open space, including productive farm and forestland, surrounding the town center; and exemplifying a unique cultural heritage.

**Homeless:** Defined here as household meeting criteria in one of the following categories:

**Category 1** is an individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- (i) Has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
- (ii) Is living in supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); OR
- (iii) Is exiting an institution where (s)he resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

**Category 2** is an individual or family who will imminently lose their primary nighttime residence, provided that:

- (i) Residence will be lost within 14 days of the date of application for homeless assistance;



- (ii) No subsequent residence has been identified; AND
- (iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing.

**Category 3** are unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:

- (i) Are defined as homeless under the Runaway and Homeless Youth Act (42 U.S.C. 5732a, section 387), the Head Start Act (42 U.S.C. 9832, section 637), the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2, section 41403), the Public Health Service Act (42 U.S.C. 254b(h), section 330(h)), the Food and Nutrition Act of 2008 (7 U.S.C. 2012, section 3), the Child Nutrition Act of 1966 (42 U.S.C. 1786(b), section 17(b)) or McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a, section 725);
- (ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
- (iii) Have experienced persistent instability as measured by two moves or more during the preceding 60-days; AND
- (iv) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or GED, illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment.

**Category 4** is an individual or family who:

- (i) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;
- (ii) Has no other residence; AND
- (iii) Lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.

**Homeownership Tax Credit:** Tax credits provided for owner-occupied developments which meet the eligibility criteria of the Vermont Housing Finance Agency homeownership loan program. The Sponsor or applicant must ensure the resources created by the credits support perpetual affordability to moderate- and low-income Vermonters and that the tax credit will benefit future homeowners.

**Housing Credits:**\* Low income housing tax credits as described in Section 42 and 32 VSA 5930u.

**Housing Tax Credit Program Year 15 Policy** ([Appendix 3](#)): This policy contains information about modified compliance monitoring requirements after year 15 and outlines options available to owners of Housing Credit properties when their tax credit partnerships reach year 15. Options include:

- maintaining a development as affordable housing;
- selling or transferring ownership to an entity exercising a right of first refusal; or
- selling a development through the Qualified Contract Process.

**Housing with Services for the Homeless:** Housing with Services for the Homeless (Housing with Services) is permanent housing with services for persons who are Homeless or At Risk of Homelessness. It plays an important role in the [continuum-of-carehousing system](#) and provides support to help individuals or families become successful in independent permanent housing which may not include services to residents otherwise. Candidates are often referred by, but not limited to, the following: homeless shelters, corrections departments, mental health agencies, community action agencies and other social service providers. Residency is not time limited.

Housing with Services include, but are not limited to, life skills, budgeting, credit counseling, and housekeeping and parenting. The purpose of the services is to stabilize situations and allow the individual or family to develop the resources or skills needed to access independent permanent housing.

Services may be provided by the organization managing the housing or coordinated by them with other public or private agencies who are local partners. Housing with Services can be provided in one structure or several structures, at one site or in multiple structures at scattered sites. For additional [guidance please see the Service Plan – Application Supplement on the guidelines and proposed best practices on Housing with Services units, please see the Supportive Services & Homeless Information page of the VHFA website.](#)

**Human Service Agency:** A local non-profit organization whose mission is to serve people with special needs including people who are homeless, disabled, youth at risk, victims of domestic violence, veterans, and other vulnerable populations. This organization can typically provide Housing with Services and/or emergency or temporary housing to the community.

**Hybrid Development:** A single development constructed simultaneously by two partnerships using both Ceiling Credit and Bond Credit as either a single or separate building(s).

**IRS Form 8609:**\* The Low Income Housing Credit Allocation Certification, IRS Form 8609, is prepared by the Agency once the project is completed and its costs have been reviewed and certified by a certified public accountant. The first part of the form is completed by the Agency, the second part by the owner. The form is then attached to the owner's federal income tax return every year for the Compliance Period.

**Letter of Intent:** A letter issued by the Agency that sets aside Housing Credits for a development, subject to conditions. The amount of the credits may be subject to change depending on the project's budget, but the amount stated in the Letter will equal the project's qualified basis times the applicable percentage in effect at the time of the letter (plus some allowance for future fluctuations in the basis or the percentage).

**Market Area:** Unless otherwise defined in the Agency's market study standards, market area refers to the city or town in which the proposed development is located, and adjacent cities or towns.

**Market Study:** Defined as a comprehensive study of housing needs of low-income individuals in the market area to be served by the project. The market study needs to follow any standards that have been adopted by the Agency (Appendix 3).

**Minimum Set-Aside Election:**\* Means the federally imposed minimum proportion of total project units set aside as low-income units at one or more area median gross income level(s). The minimum set-asides include the "20-50" test, the "40-60" test and "Average Income" test. This election is made by the Sponsor and meets the minimum requirements of Section 42.

**Neighborhood Development Area:** As defined by 24 VSA Chapter 76A. "Neighborhood planning area" means an automatically delineated area including and encircling a downtown, village center, or new town center designated under this chapter or within a growth center designated under this chapter. A neighborhood planning area is used for the purpose of identifying locations suitable for new and infill housing that will support a development pattern that is compact, oriented to pedestrians, and consistent with smart growth principles. To ensure a compact settlement pattern, the outer boundary of a neighborhood planning area shall be located entirely within the boundaries of the applicant municipality and shall be determined:

(A) for a municipality with a designated downtown, by measuring out one-half mile from each point around the entire perimeter of the designated downtown boundary;

(B) for a municipality with one or more designated village centers, by measuring out one-quarter mile from each point around the entire perimeter of the designated village center boundary;

(C) for a municipality with a designated new town center, by measuring out one-quarter mile from each point around the entire perimeter of the designated new town center boundary; and

(D) for a municipality with a designated growth center, as the same boundary as the designated growth center boundary.

"Neighborhood development area" means a location within a neighborhood planning area that is suitable for new and infill housing and that has been approved by the State Board for designation under this section and associated benefits.

**Net Zero:** A Zero Energy Building is an energy-efficient building where, on a source energy basis, the actual annual delivered energy is less than or equal to the on-site renewable exported energy.

**New Town Center:** As defined by 24 VSA Chapter 76A, the area planned for or developing as a community's central business district, composed of compact, pedestrian-friendly, multistory, and mixed use development that is characteristic of a traditional downtown, supported by planned or existing urban infrastructure, including curbed streets with sidewalks and on-street parking, stormwater treatment, sanitary sewers, and public water supply.

**Nonprofit Material Participation:**\* Means involvement in the development and operation of a project by a Nonprofit Sponsor (defined below) which is regular, continuous, and substantial as defined in Section 42 and 469(h) of the Code.

**Nonprofit Sponsor:**\* An organization that is described in Section 501(c)(3) or (4) of the Code, that is exempt from federal income taxation under Section 501(a) of the Code, that is not affiliated with or controlled by a for profit organization, and includes as one of its exempt purposes the fostering of low income housing within the meaning of Section 42(h)(5)(C).

**Passive House:** Passive House is a rigorous, voluntary standard for energy efficiency in a building, reducing its ecological footprint. It results in ultra-low energy buildings that require little energy for

space heating or cooling. Passive House standards are enumerated by two certifying bodies: Passive House Institute US (PHIUS) or Passive House International (PHI).

**Property Remediation:** The property remediation criterion may be met by a project in which there is at least one site which meets one of the preceding qualifying definitions (whether a project has only one site, or if there is at least one site within a scattered site project meeting the definition.)

- **Building Remediation:** Projects that propose the removal of substandard structures. Substandard structures are defined as those which pose a risk to public health and safety, specifically due to neglect, condemnation, or damage from fire or other natural disaster.

This definition includes demolition of unused non-housing structures which are in a condition of disrepair which has an adverse effect on the surrounding community, in order to develop a site into affordable housing.

Shall include the construction of new affordable units as replacement housing for units damaged or destroyed in a declared natural disaster area in the same municipality affected by that disaster.

- **Site Remediation:** Projects that propose site remediation for land parcels which pose a risk to public health and safety, specifically those projects which involve the clean-up of a brownfield site ([as defined by 10 V.S.A. § 6642\(2\)](#)) to be developed into affordable housing.
- **Vacant lot/ infill site:** Projects that propose the development of a vacant lot into affordable housing given that they also meet the following conditions:
  - Located in a designated Downtown, Village Center, or a Neighborhood Development Area attached to a Downtown or Village Center; AND
  - Private enterprise and investment are not reasonable expected, without assistance, to produce the construction of decent, safe, and sanitary housing which would meet the needs of low- and moderate-income persons on a proposed site

**Qualified Census Tract (QCT):\*** Defined in Section 42 (d)(5)(C), means a census tract designated by the Secretary of Housing & Urban Development in which 50 percent or more of households have an income less than 60 percent of the area median gross income or in which there exists a poverty rate of 25 percent or greater.

**Reservation Certificate:\*** A document in which the Agency and the owner enter into a binding agreement as to the Housing Credit dollar amount to be allocated to a building or buildings.

**Resident Manager's Unit:\*** Means a unit set aside by an owner of a development as a residential rental unit for a manager. In accordance with IRS Revenue Ruling 92-61, a manager's unit can be included in the eligible basis of the building but will be excluded from both the numerator and the denominator of the applicable fraction. A manager's unit is not classified as a residential rental unit, but rather as a facility reasonably required by a project that is functionally related and subordinate to residential rental units.

**Residential Rental Unit:\*** A rental unit in a development used as an accommodation on a non-transient basis, ~~that~~[which](#) contains complete physical facilities and fixtures for living, sleeping, eating,

cooking, and sanitation. Qualified units are rented or available for rent on a continuous basis, with a term of at least 6 months, are available to members of the general public, and are suitable for occupancy.

**Resident Service Coordinator:** A Resident Service Coordinator serves as on-site staff for all project residents, providing access to necessary services in the community, case management, and on-site program and resource development that supports the wellness of the entire resident population. Resident service coordination includes advocacy on behalf of residents, resource support for residents on available community-based services, facilitation of wellness and other educational programs for residents, motivation to empower residents to be as independent as possible, monitoring to follow up with services provided to residents, championing and encouraging residents to adhere to a healthy lifestyle, education and trainings to residents and other property staff, advising residents with building support networks and consultation with tenant organizations and resident management, referrals to connect residents to service providers who can meet their needs, and community partnerships to assist residents with accessing community-based service.

Resident Service Coordination does not include direct service provision, recreation or activity development, duplication of existing community services, distribution of medical aids, medications, or medical advice, handling of residents' funds, property management or leasing activities, resident transportation, organizing resident associations or councils, or serving as Powers of Attorney for residents or individuals who sign checks for residents.

**Right of First Refusal:** A separate legal document that entitles an entity to purchase the property from the owner (which will generally be a limited partnership or limited liability company) for a specified price and under specified conditions. The Right of First Refusal price must be the highest of: 1) the same terms and considerations contained in an offer of a third ~~party;~~ 2party; 2 the minimum purchase price as described in Section 42(i)(7)(B); or 3) the target return provided in the Borrower's Limited Partnership Agreement or other document provided to the Agency in a satisfactory form. The Right of First Refusal must allow the holder of the right to make the offer on the property that triggers the Right of First Refusal.

**Section 42:** Section 42 of the [Code](#).

**Service-Enriched Housing:** A combination of housing and services intended to help residents to live healthier, stable, satisfying, and productive lives. Services provide the support and care residents need to maintain or improve their health and to live safely in the housing site. The best examples of Service-Enriched Housing, such as the Vermont Blueprint for Health Support and Services at Home (SASH) program, address a range of health, social, and economic needs of residents. Service-Enriched Housing sites should meet the following criteria:

- Close to other community resources residents will need to access food and other shopping, pharmacy, transportation, physician/medical services.
- Include common areas and residential units that support people with disabilities and aging in place, including physical accessibility and Universal Design features.
- Implement specific methods of serving residents with low incomes, disabilities, chronic health conditions, and/or frailty associated with aging.
- Implement stable and predictable methods of providing services that address a range of needs in an individualized and flexible manner to support individual resident needs, either through site employees or agreements with other entities. Common support services include meals,

cooking assistance, cleaning, shopping assistance, personal care, social and recreational activities, and transportation.

- Implement practices that build positive relationships with residents and other community agencies and empower residents to direct their own lives through supportive decision-making.
- Implement methods of improving access to health care and the health status of residents.
- Implement methods of measuring outcomes or performance, and for improving performance.

Two levels of Service-Enriched Housing will be considered when rating age-specific housing developments:

SASH participation or equivalent comprehensive service package that provides for a care or enhanced service coordinator and wellness nurse who will work in partnership with community providers. Participation in these services is voluntary and free of charge. Staffing level shall be adequate to serve all residents living in the building. Standards for this level of Service-Enriched Housing will be similar to those laid out in the Vermont Blueprint for Health Support and Services at Home (SASH) program or the HUD Supportive Services Demonstration for Elderly Households (FR-5900-N-22). It is expected that this model will provide preventative health care and services coordination, including self-management education and coaching, particularly relating to chronic health conditions, medication management assistance, crisis intervention, and transition support after a hospital, nursing home or short-term rehab facility stay. Comprehensive initial and periodic resident assessments would be expected.

The other level of Service-Enriched Housing would offer similar services, but at a lower staffing level, to a majority of the residents in the building. Professional support for residents aging in place or those with disabilities, information and referral, and wellness and social programming would be provided.

Staffing at Service-Enriched Housing would be in addition to management staff normally needed to be on site to serve regular resident needs or meet property management functions. Applicants will be asked to provide detailed descriptions of their proposed service provision and answer how they will meet each element of this definition, as well as provide an Annual ~~Supportive Services~~ Plan and Budget.

**Serving Households on Public Housing Waiting List:** Waiting list must be operated by a Public Housing Authority (PHA) to queue households for a property owned by the PHA or related entity.

**Tax Credit Rent:\*** A rent which, including tenant-paid utilities, cannot exceed 30% of qualifying income (depending on the Minimum Set-Aside Election). To calculate rent, a certain number of occupants are assumed to occupy a unit depending on the unit's number of bedrooms (not number of occupants) (e.g. 1 person in a studio and 1.5 persons per bedroom for units of one bedroom and larger).

**Transitional Housing for Homeless:** Transitional housing for individuals or households experiencing homelessness is a project (or portion thereof) with units that are not used on a transient basis. These units must contain sleeping accommodations, kitchen and bathroom facilities, and be located in one or more buildings. The buildings must be used exclusively to facilitate the transition of homeless individuals (within the meaning of section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) to independent living within 24 months, and in which a governmental entity or qualified nonprofit organization provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing. The only

distinction of Transitional Housing from permanent Housing with Services is that the housing occupancy is time limited; residency generally lasts from six months to two years.

Transitional Housing plays an important role in the continuum of care housing system and provides housing with services to help individuals or households become successful in some form of permanent housing, whether it be supportive or independent. Services can also be provided by the organization managing the housing or coordinated by them with other public or private agencies who are local partners. Transitional housing is similar to permanent Housing with Services since there is not always a distinction in the type or design of a transitional housing unit.

**Underserved and Historically Marginalized Populations:** Underserved communities refers to populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; religious minorities; lesbian, gay, bisexual, transgender and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

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**Universal Design:** Also called Human Centered Design or Design for All. A set of design practices intended to make space usable by many people, to the greatest extent possible, at little or no extra cost (Appendix 3).

**VHCB/VHFA Building Design Standards:** A standard relative to building practices acceptable to VHCB and VHFA including design and energy efficiency (Appendix 3).

**Village Center:** As defined and designated by the Agency of Commerce and Community Development, Division for Historic Preservation and as provided for in 24 VSA Chapter 76A, this means the central area of a village or town. Only projects in those towns that have obtained this designation can meet this evaluation category.

~~**Violence Against Women and Justice Reauthorization Act of 2013 (VAWA):** All owners and property managers must execute a lease addendum (HUD-91067) which provides the following protections:~~

~~The Landlord may not consider incidents of domestic violence, dating violence or stalking as serious or repeated violations of the lease or other "good cause" for termination of assistance, tenancy or occupancy rights of the victim of abuse.~~

~~The Landlord may not consider criminal activity directly relating to abuse, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that abuse.~~

~~The Landlord may request in writing that the victim, or a family member on the victim's behalf, certify that the individual is a victim of abuse and that the Certification of Domestic Violence, Dating Violence or Stalking, Form HUD-91066, or other documentation as noted on the certification form, be completed and submitted within 14 business days, or an agreed upon extension date, to receive protection under the VAWA. Failure to provide the certification or other supporting documentation within the specified timeframe may result in eviction.~~

## 8. Disclaimers

VHFA is charged with issuing no more Housing Credits to any given development than are required to make that development economically feasible. This decision shall be made solely at the discretion of VHFA, but VHFA in no way represents or warrants to any sponsor, investor, lender or others that the project is in fact feasible or viable, either before or after the final allocation decision.

VHFA's review of documents submitted in connection with any Housing Credit allocation is for its own purposes. VHFA makes no representations to the owner or anyone else as to compliance with the Internal Revenue Code, Treasury regulations, or any other laws or regulations governing the Housing Credit program.

No member, officer, agent or employee of VHFA, or the Joint Committee on Tax Credits shall be personally liable concerning any matters arising out of, or in relation to, the allocation, issuance, or compliance monitoring of the Housing Credit.

Notwithstanding any other limitations of this Plan, VHFA may enter into commitments to allocate Housing Credits from a future year's Housing Credit ceiling. In addition, VHFA is under no obligation to necessarily reserve or allocate any part of Vermont's Housing Credit ceiling.

The VHFA Board of Commissioners may, at its sole discretion, reserve or allocate credits to a project regardless of its rank or score, provided the Board finds that the project serves a positive community development need or the public good. A written explanation will be made available to the general public for any allocation of a housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the Allocating Agency.

The final decision regarding reservations and allocations of credits lies with the VHFA Board of Commissioners. The VHFA Board will consider recommendations of staff and its own experience and interpretation of the Plan in making the final reservation or allocation decision.

All tax credit awards are made subject to the availability of tax credits under applicable state and federal law and to any and all rules, regulations and requirements thereunder.



## 9. Appendices

### Appendix 1 - Housing Credit Program Administration Personnel as of ~~October 2020~~ January 2023

#### Joint Committee on Tax Credits (QAP content development)

- ~~• Josh Hanford, Commissioner, Department of Housing and Community Development~~
- ~~• Kathleen Berk, Executive Director, Vermont State Housing Authority~~
- ~~• Maura Collins, Executive Director, Vermont Housing Finance Agency~~
- ~~• Josh Hanford, Commissioner, Department of Housing and Community Development~~
- ~~• Sarah Phillips, Governor Appointee~~
- ~~•~~
- ~~• Gustave Seelig, Executive Director, Vermont Housing and Conservation Trust Fund Board~~
- ~~• Sarah Phillips, Governor Appointee~~
- ~~Richard M. Williams, Executive Director, Vermont State Housing Authority~~

#### VHFA Board (QAP & project approvals)

- Katie ~~Stuart~~-Buckley, Chair
- ~~Fred Baser~~
- ~~• Kevin Gaffney (Emily Kisicki, Designee)~~
- ~~Gustave Seelig, Vice Chair~~
- ~~Lindsay Kurrle (Josh Hanford, Designee)~~
- ~~Thomas Leavitt~~
- ~~• Lamont Barnett~~
- ~~Marie Milord-Ajanma~~
- ~~• Fred Baser~~
- ~~• Jeanne Morrissey~~
- ~~• Thomas Leavitt~~
- ~~Beth Pearce (Michael Clasen, Designee)~~
- ~~Michael Pieciak~~
- ~~Gustave Seelig~~
- ~~• Treasurer to be determined post-election~~
- ~~• Michael Pieciak (Jill Rickard, Designee)~~
- ~~• Lindsay Kurrle (Josh Hanford, Designee)~~

#### VHFA Staff (allocations and compliance)

- Maura Collins, Executive Director: (802) 652-3434
- Seth Leonard, Megan Roush, ~~Bill Schrecker~~ and Josh Slade (applications and underwriting): (802) 652-3403, (802) 652-3478, ~~(802) 652-3432~~ or (802) 652-3414
- Kim Roy, Kathy Curley (compliance monitoring): (802) 652-3433 or (802) 652-3457

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## Appendix 2 – Application Materials

Please see the [Application Materials](#) page of the [VHFA website](#) for the following documents:

- Common Application
- Multifamily Rental Proforma
- ~~Supportive Services Plan Supplement~~
- ~~Supportive Services Budget~~
- ~~AHP Evaluation for Supportive Services~~ [AHS Affordable Housing Priorities](#)
- ~~Benchmark Guidelines~~ [Operating Expense Guidelines](#)

Please see the [Underwriting Standards & Design Elements](#) page of the [VHFA website](#) for the following document:

- VHFA Underwriting Guidelines

Please see the [Program Materials](#) page of the [VHFA website](#) for ~~the following~~ [additional](#) document~~s~~.

- ~~Housing Credit Application Submission Timing~~

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### Appendix 3 – Related Policies

Please see the [Underwriting Standards & Design Elements](#) page of the [VHFA website](#) for the following documents:

- VHFA Appraisal Policy
- ~~VHFA/VHCB/DHCD Capital Needs Assessment Guidance Policy~~
- ~~VHFA Housing Credit Program Year 15 Policy~~
- VHFA Market Study Standards
- VHFA Replacement Reserve – Surplus Cash Distribution Policy
- VHCB/VHFA Building Design Standards
- ~~Universal Design Policy~~
- ~~\_\_\_\_\_~~

Please see the [Rates and Fees](#) page of the [VHFA website](#) for the following:

- VHFA Policy on Program Fees

Please see the [Forms and Documents](#) page of the [VHFA website](#) for the following documents:

- ~~Common Tenant Application~~
- ~~VHFA Housing Credit Program Year 15 Policy~~
- ~~VHFA Average Income Policy~~
- ~~VHFA LIHTC Compliance Manual~~

~~Please see [Service Plan – Application Supplement](#) on the [VHFA website](#) for additional guidance, the [Supportive Services & Homeless Information](#) page of the [VHFA website](#) for additional guidelines and proposed best practices on [Housing with Services](#) units.~~

The Governor's Executive Order 3-73 can be found here:  
<https://legislature.vermont.gov/statutes/section/03APPENDIX/003/00073>

DHCD's current Homeless Access Reporting Tool (HART) form can be found here:  
<https://accd.vermont.gov/housing/resources-rules/EO-03-16>

The Housing and Urban Development Subsidy Layering Review Guidelines can be found here:  
<https://www.govinfo.gov/content/pkg/FR-2020-02-28/pdf/2020-04147.pdf>

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### Governor's Signature

The State of Vermont's Allocation Plan has been developed by Vermont Housing Finance Agency in accordance with the Federal Internal Revenue Code (IRC) of 1986, Section 42, as amended and 32 VSA 5930u. This Allocation Plan shall remain in effect until amended by the Governor of the State of Vermont as may be necessitated by changes in federal law or changes in the State's housing market.

Approved by: \_\_\_\_\_

Philip B. Scott, Governor

Effective Date: \_\_\_\_\_