



# State of Vermont Qualified Allocation Plan

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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. Downpayment 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 law and by the housing needs of Vermont, as determined by the Joint Committee on Tax Credits (Joint Committee, JCTC), adopted by the Vermont Housing Finance Agency (VHFA) Board of Commissioners, and approved by the Governor.

The federal Housing Credit program was established by Congress 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 certain 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](#). This incentive for the development, acquisition and rehabilitation of low-income housing allows 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 their inception. An advisory Joint Committee on Tax Credits reviews and recommends allocation policies for use when the VHFA Board of Commissioners award both federal and state Housing Credits. The Joint Committee is comprised of the Commissioner 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. Any of these positions can be filled by a designee.

The Vermont tax credit for affordable housing is governed by 32 VSA § 5930u and 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 Allocation 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, along with the application materials, together list the various 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 factors.

It is the intent of Vermont’s QAP to embrace the best affordable housing practices and allocate resources in as 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 shape the policies and priorities of the allocation of federal and state [Housing Credits](#) described in this QAP:

- Achieving the perpetual affordability of housing resources and investments.
- 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”.
- Linking the State’s homeless assistance activities with permanent housing through systems, practices and initiatives that are informed by data and proven approaches.

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 through setting high threshold requirements of all [Housing Credit](#) applications and a stringent prioritization process. In addition to this prioritization process, the VHFA Board of Commissioners can take into account other qualitative factors such as but not limited to: overall housing and community development impacts; serving the greatest public good; project cost; and Sponsor conformance with E.O. 3-73 ([Appendix 3j](#)) in making its final decision for the award of [Housing Credits](#).

### *1.3. Credits Available to Projects*

1. [Basis Boost](#): The tax credit program allows the state to provide a specific incentive called the [Basis Boost](#) for projects it deems of high priority and otherwise might not be feasible. For projects using [Ceiling Credits](#), the [Basis Boost](#) is available for:

- a. Any project in one or more buildings of 49 units or less which dedicates at least 10% of its units 1) as [Supportive](#) 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 [Supportive Housing](#) or [Service-Enriched Housing](#) as defined herein.

A Sponsor can satisfy this requirement as to [Supportive Housing](#) by having the owner/Sponsor provide [Supportive Housing](#) 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 [Supportive Housing](#) equal to 10% of the total units in the proposed project. Planned new developments which “come on-line” in the same year and that provide [Supportive Housing](#) also can be used to satisfy this requirement.

- b. Any project that is mixed-use (i.e., a combination of multifamily rental units and a more-than-*de minimis* amount of commercial space, such as a ground floor of commercial space with apartments above) that is located in [Downtowns](#) or [Village Centers](#), and uses the Historic Rehabilitation Tax Credit as described in the Internal Revenue Code Section 47(a)(2). The [Basis Boost](#) for this type of project will be limited to one (1) project per year. 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](#).

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). Projects using [Ceiling Credits](#) are not automatically eligible for [Basis Boost](#) if within a QCT or DDA, and must meet one of the other thresholds for a basis boost referenced above.

2. Per project limit: No project shall receive an award greater than 30% of the total housing tax credit ceiling available. The VHFA Board can waive this limit for projects which are of statewide significance to the extent that applying the limit 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.
3. Using [Ceiling Credits](#) in age-restricted housing: No more than 25% of the annual housing tax credit ceiling will be considered for new age restricted (aka senior or elderly) housing that provides [Service-Enriched Housing](#) directly to residents to allow them to age in place and avoid nursing home care or other institutional utilization. Age-restricted housing will also be considered for [Ceiling Credits](#) when it leverages new rental assistance or significant other subsidies for the lowest income seniors.

General occupancy and senior occupancy projects will not be separately evaluated. Those projects that meet the most evaluation criteria in the QAP will be ranked accordingly, except to the extent that applications for senior occupancy projects cumulatively totaling more than 25% of the [Ceiling Credits](#). In that instance staff will generally recommend senior occupancy projects that collectively utilize up to +/- 25% of the credit ceiling, and will recommend the balance of the credit ceiling for general occupancy projects.

In evaluating competing age-restricted projects, VHFA will look at regional and local needs, underserved communities, the overall impact of each proposal on the housing market, communities and development sites that will accommodate and welcome both elderly and general occupancy

affordable housing. VHFA will seek input from the Agency of Human Services (AHS) as to which proposal will have the most multiple benefits in terms of serving the most frail or disabled residents, and support AHS's long term care goals.

#### *1.4. Determining Ceiling Credits Available*

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

1. If a development is bringing in substantial new resources to the state ("substantial new resources" shall not include sources that receive annual appropriations, i.e. HOME, Community Development Block Grants, and state funds) that are, in VHFA Staff's determination, essential to the financial strength and viability of the development, and which require award of credits as a precondition to, or create a competitive benefit for, applying for that resource. 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, there are two types of [Ceiling Credit](#) applications that will 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 \$900,000 may be used for projects meeting the definition of [Delayed Project Set-Aside](#).

## 2. Application Process

The process of applying for and receiving any type of credits involves completing several steps, each carrying with it submission requirements. These are outlined on the Submission Timing Table (Appendix 2). Some important features of this process are:

### 2.1. Pre-Application Meeting

VHFA staff and the Sponsor will meet to discuss the proposed housing development. The purpose of this meeting is to allow VHFA staff to see how compatible the proposal is with the evaluation criteria in the QAP and to provide feedback to the Sponsor on what if any changes might be considered to make the development more compatible. VHFA staff will also provide feedback on whether funding sources other than those listed in the draft pro-forma ought to be pursued.

Prior to 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 need to be submitted at the time of the [Housing Credit](#) pre-application meeting. Sponsors do not need to have site control for this meeting but do need to have an identified site, and will provide VHFA staff with a site map (i.e. tax map or pre-existing site survey map, such as a map for zoning or subdivision purposes).

### 2.2. Full Application

VHFA is required by law 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 Supplement (Appendix 2), including all required attachments and payment of required fees is required by the application deadline set by staff before it can be evaluated and presented to the VHFA Board of Commissioners.

### 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 (typically occurs in April or May), and will notify developers 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. These 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.

All applications that are approved by the Board will be held to the rules 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 all previous awardees. When a new QAP is adopted, it will apply to all applications submitted after its effective date.



#### *2.4. Letter of Intent:*

The Sponsor may receive a [Letter of Intent](#) to provide an award of [Housing Credits](#) early in the development process so that this significant piece of the funding sources is assured if the development can be constructed as proposed.

Any significant change in a proposal, once it has been issued a [Letter of Intent](#), will 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 reduction in the number of bedrooms per unit or square footage of units;
- Decrease in number of total units;
- Increase in rents (other than because of the annual increase in the published [Tax Credit Rents](#));
- Increase in overall density;
- Reducing the number of units of [Supportive Housing](#) 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 as 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 must be complete, occupied and in the first year of the credit compliance period by the application date of a subsequent phase.

#### *2.5. Reservation Certificate / Binding Rate Agreement*

VHFA staff will issue a [Reservation Certificate](#) or a [Binding Rate Agreement](#) when certain 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:

- 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;
- Providing evidence that all sources of \$100,000 or greater in the pro forma have issued conditional commitments for funding; and,
- For lesser rehabilitation projects only: submitting a [Capital Needs Assessment](#).

With regard to [Reservation Certificate](#) / [Binding Rate Agreements](#), 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](#). The Sponsor must submit a [Cost Certification](#) no later than one (1) 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.

VHFA reserves the right, as permitted by [Section 42](#), to issue less than the maximum credit allocation otherwise supportable by the project's eligible basis. An 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 such 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 it receives [Cost Certifications](#) and confirmation of the final square footage. The confirmed final square footages should be signed off by the Sponsor and management agent. 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 (which includes 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.

#### *3.1. 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. Income Averaging as allowed under the [Code](#) as amended through the Consolidated Appropriations Act of 2018. The restrictions are enforced within the [Housing Subsidy Covenant](#) (see “Compliance” section).

The application form has tables with the minimum rent and tenant income restrictions.

#### *3.2. Limitation on Supportive Housing:*

Projects that dedicate more than 30% of [Housing Credit](#) units as [Supportive Housing](#), except for [Transitional Housing](#), must demonstrate market need, appropriateness of project design, the availability of adequate service capacity, and access to necessary rental assistance.

#### *3.3. Proven Market Need:*

The Sponsor must establish the need and demand (i.e. market feasibility) for the type and cost of housing that is being 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. This must be submitted by the Sponsor at 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, and may, at its sole discretion, reject an application that might have a negative impact on the existing housing stock.

#### *3.4. Experience and Capacity:*

[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 through the use of 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.

The 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.

### *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.

### *3.6. Tax Credit Yield and Rate:*

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 acknowledgement letter.

### *3.7. Project Fees:*

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

For projects where there is an identity of interest between the developer and the contractor, the following limits shall apply: builder's profit - 6%; builder’s overhead - 2%; general requirements - 6%.

For projects where the builder is selected by the developer without competitive bidding these limits will apply: builder's profit - 6%; builder’s overhead - 2%; general requirements - 6

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 and these limits will not apply. 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 taken by the developer as compensation for their time and risk associated with the development. The total Developer's Fee shall not exceed 15% of the total development cost (excluding the fee itself and cash accounts). The maximum cash portion of the Developer’s Fee shall not exceed \$1,000,000. For projects in which the total development cost exceeds \$1.5 million, the total Developer's Fee shall not exceed 12% of the total development cost (excluding the fee itself and cash accounts), payable by full occupancy. If at least one-third of the Developer’s Fee (but not less than \$100,000) is deferred, then the developer can take up to a 15% fee. The term of repayment of a deferred Developer’s Fee will be based upon the financial strength of the development but should not exceed ten 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.

In addition to these not-to-exceed limits, the Developer’s Fee shall be calculated according to the following schedule:

- Projects of fewer than 60 units: the “not-to-exceed” limits (above) apply.

- Projects of 60 units and more: the maximum Developer’s Fee shall be 10% of total development cost as defined above, and the maximum cash portion of the fee (i.e. the total fee less any lent back to the project) shall not exceed \$1,000,000.
- Project which are [Hybrid Developments](#): the maximum cash portion of the combined Developer’s Fees shall not exceed \$1,000,000.

For all 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 the 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 of 15% of the hard construction cost (including contingency).

When any developer-related party is doing any work on the development that work will be considered part of the overall limit .There are two exceptions for this requirement: 1) construction, which has separate limits, and 2) architectural, which will be reviewed for cost reasonableness..

The Sponsor and the Allocating Agency prior to the issuance of the initial Housing Credit Reservation Certificate/Binding Rate Agreement shall agree upon the amount of the Developer’s Fee. In the event that 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 in the fee, whether total development costs increase or decrease, in any Carryover Allocation or final allocation of Housing Credits. However, in the event of a substantial change in 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 decrease in the Developer’s Fee. VHFA may consider exceptions to the Developer’s Fee limit on a case-by-case basis for extraordinary circumstances.

### *3.8. Extended Use Period:*

All projects receiving [Ceiling Credits](#) or state Rental Housing Tax Credits must agree to a perpetual affordability through a [Housing Subsidy Covenant](#). 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 15 year Compliance Period followed by at least an additional 15 year [Extended Use Period](#).

### *3.9. 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. 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 an 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 can be submitted later in the development process (but prior to issuance of the IRS Form 8609).
- 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.

### *3.10. 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;
- Projects 50 units or over, 10% of the units must be market rate.

Market rate units are targeted to households whose income is greater than 60% of the Area Median Gross Income.

### *3.11. Historic Settlement Pattern:*

Projects shall maintain the [Historic Settlement Pattern](#) of Compact Village and Urban Centers separated by rural countryside.

### *3.12. Adaptable and Visitable Housing:*

All projects and units are required to meet the Vermont Access Rules for being “adaptable” and “visitable.” This predominantly affects residential buildings with 1-3 units, that otherwise would not be considered a “covered multifamily dwelling unit.”

Some buildings with historic rehabilitation may request a waiver from the Vermont Access Rules. Projects that believe they are unable to meet this requirement may ask for a waiver of this threshold but will be expected to do as much as feasibly possible such as designing entrances in such a way that a unit can be lived in or visited by people with accessibility needs.

### *3.13. Universal Design:*

All projects shall attempt to provide as many elements listed in the attached appendix of [Universal Design](#) as possible. Applications that do not include all elements should list those they cannot include and why.

### *3.14. Housing People Who Are Homeless:*

The Governor of Vermont issued [Executive Order 3-73](#) which aims for at least 15% of all publically 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 [Supportive 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 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 [Homeless](#), a detailed explanation of the steps planned to reach this goal should be submitted with the HART form.

*3.15. Appraisals:*

Sponsor must provide a recent appraisal that conforms with VHFA's Appraisal Standards ([Appendix 3g](#)) 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.

*3.16. Green Building and Design Standards*

Sponsor must demonstrate that the project meets the [Green Building and Design Standards](#).

## 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 strength of the project. There are no additional evaluation criteria to be applied.

### 4.2. Ceiling Credits

Ceiling Credits must adhere to all threshold requirements listed above, and also 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, for those projects meeting all threshold requirements, will assign weight to a variety of project and/or sponsor characteristics as outlined below. This weight will be used to rank the projects and that ranking will be the primary staff consideration in making allocation recommendations to the VHFA Board.

1. Site Location: A map outlining the [Downtown](#) / [Village Center](#) / [Neighborhood Development Area](#) and the location of the project must be included with the application.
  - a. Projects that are in a [Downtown](#), a [Village Center](#) or [Neighborhood Development Area](#) will receive five checkmarks;
  - b. Projects that support [Downtowns](#) or [Village Centers](#) or [Neighborhood Development Areas](#) by virtue of their location (i.e. that are within a reasonable walking distance from these areas) will receive four checkmarks.
  - c. Projects located in a [Dense Infill Site](#) will receive two checkmarks.
2. Projects Tenancy/Type:
  - a. Projects where all the units are available for general occupancy and a majority of the total units are two bedroom or larger will receive five checkmarks.
  - b. Projects that are for general occupancy and are of any market-appropriate unit size distribution will receive four checkmarks.
  - c. Projects that are age-restricted for senior occupancy (and are of any market-appropriate unit size distribution) will receive one to three checkmarks, based on the robustness of the service package offered:
    - i. [Service-Enriched Housing](#) (equivalent to the SASH model) will receive three checkmarks.
    - ii. Staff will evaluate all other service plans and will assign between one and three checkmarks accordingly.
3. Supportive Housing: Any project that provides at least 25% of the [Housing Credit](#) units as [Supportive Housing](#) units 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 Supportive Housing) will receive four checkmarks.
4. Serving Extremely Low Income Households:
  - a. Projects where at least 25% of the total units have "new" Project Based Rental Assistance (PBRA) and can demonstrate the ability to serve households earning no more than 30% of the area median gross income or those on public housing waiting lists will receive three checkmarks. ('New' meaning the PBRA is not already at the occupied development, nor is being transferred from another occupied project, unless that transfer happens simultaneous with new rental assistance for the existing tenants).



- b. Projects that have existing project-based rental assistance on at least 25% of the total units at the project will receive one checkmark.
5. Mixed Incomes:
    - a. Projects of at least 20 units that have no fewer than 20% of the units in the development unrestricted as to income and rents, or else restricted to households above 60% of the area median gross income, will receive two checkmarks.
    - b. For projects of fewer than under 20 units, a single unit that is either unrestricted or restricted above 60% will similarly receive two checkmarks.
  6. Projects with [Access to Public Transportation](#) will receive two checkmarks.
  7. Projects that propose the removal of [Blight](#) will receive two checkmarks.
  8. Existing projects that are [Federally Subsidized and At-Risk](#) will receive two checkmarks.
  9. Projects that utilize the Historic Rehabilitation Tax Credit as described in the Internal Revenue Code Section 47(a)(2) will receive one checkmark.
  10. Projects that will be constructed to and certified as meeting either [Passive House](#) or [Net Zero](#) will receive one checkmark.
  11. Projects that are [Highly Ready-To-Proceed](#) to construction will receive one checkmark.
  12. Projects intended for [Eventual Tenant Ownership](#) will receive one checkmark.
  13. 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.

## 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 [Housing 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 Housing Subsidy Covenant.

#### *Prioritization of Awards*

Preference will be given first to projects that are financed using [Bond Credits](#) that also targets a minimum of the equivalent 10% of the units to households who are [Homeless](#) or [At Risk of Homelessness](#).

### 5.2. Homeownership Tax Credits

#### *Eligible Applicant*

Both 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 may apply for the Vermont State Homeownership Tax Credit. State instrumentalities such as VHFA or VHCB, and municipalities are eligible applicants.

#### *Eligible Projects*

1. Eligible housing types include: single family detached units, mobile homes, and single family attached units including: condominium, cooperative, cohousing and planned unit developments.
2. Units may be stick-built, modular, panelized or manufactured homes; however, all units except mobile homes must conform to the VHFA [Green Building and Design Standards](#). Mobile homes must meet Energy Star standards.
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 program 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.

#### *Per Unit Credit Limit*

The Homeownership Tax Credit may be evenly spread over the units or divided disproportionately to allow a greater range of affordability.

#### *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 the Homeland program, or through 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 who has a demonstrated plan, has adequate experience with homeownership programs, has adequate staff 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](#)
- New construction in housing markets where there is a demonstrable lack of single family affordable housing stock through a market analysis.
- Project Site:
  - Project is planned to maintain the [Historic Settlement Pattern](#) of Compact Village and Urban Centers separated by rural countryside; or,
  - Projects that are in [Downtown](#), a [Village Center](#), or [Neighborhood Development Area](#); or,
  - Projects that support [Downtowns](#), [Village Centers](#), or [Neighborhood Development Areas](#) by virtue of their location (i.e. that are within a reasonable walking distance from the town core); or
- 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 approval by the Board of Commissioners of VHFA, a developer/applicant will receive a letter of intent from VHFA for the Homeownership Tax Credit.

Upon submission of a final cost certification VHFA will issue a Credit Certificate and a State 8609 for the Homeownership Tax Credit project.

### *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.

Loan terms and program requirements will be reviewed and approved annually by the Board of the Vermont Housing Finance Agency.

## 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. The following compliance standards apply to all Housing Credit awardees that develop multi-family rental housing using federal or state housing credit resources.

### *6.1. Housing Subsidy Covenant:*

1. All [Housing Credit](#) recipients will be required to execute and record a Housing Credit [Housing Subsidy Covenant](#) (the “Covenant”).
2. The Covenant must be approved by VHFA.
3. The Covenant must be signed by the Owner and sent to the municipality for recording prior to VHFA issuing a [Carryover Allocation](#) or IRS Form 8609.
4. The Covenant 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.
5. Except for first position debt, all financing on the development will be subordinate to the Covenant.
6. In the event that a project's funding source requires its own Housing Subsidy Covenant, the provisions of the [Housing Subsidy Covenant](#) may be incorporated into such Covenant and the requirement of a separate Housing Subsidy Covenant may be waived by VHFA.
7. 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*

[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;
- 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; and
- 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 [Violence Against Women Act](#).

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 Unit](#) 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 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 supportive 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.
9. An annual report on the locations and number of [Supportive Housing](#) units being served. In some cases this may be a violation of the [Housing Subsidy Covenant](#) 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. Hard 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 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, it should be noted that other funding sources do not allow this waiver (ie: 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 a 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 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 containing an asterisk (\*) is intended to be consistent with Section 42 and related IRS regulations and guidance.

**Access to Public Transportation:** The development is within 0.5 miles of public transportation that operates at regular times on fixed routes and are used by the public.

**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 does 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.)

**Blight:** A condition that exists when a significant portion of a building or site is uninhabitable or unusable due to neglect, condemnation, or damage from fire or other natural disaster. This definition may be met by: a project in which there is one building which is in a blighted condition (whether it's a project having only one building, or if there is at least one building within a multi-building scattered site project); or a project which involves the clean-up of a brownfield; or a project which may involve the demolition of unused non-housing structures which may be in a blighted condition or a condition of disrepair which has an adverse effect on the surrounding community, in order to develop a site into affordable housing. Blight will 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.

**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 3a).

**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 3i).

**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 3k).

**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 had been awarded Ceiling Credits but had to return those credits due to factors beyond the control of development team, and those factors caused lengthy delays and did 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 (from neighbors, local community members, municipalities, etc.) 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 or neighborhood development area intended to provide convenient neighborhood and city-wide oriented goods and 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 or closing cost grants.

**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 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.

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

**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 10 business days before the VHFA Board of Commissioners meeting where Allocated Housing Credit projects will be considered.

**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:* Literally Homeless: (1) 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

meant for human habitation; (ii) Is living in a 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); or (iii) Is exiting an institution where s/he has 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:* Imminent Risk of Homelessness: (2) Individual or family who will imminently lose their primary nighttime residence, provided that: (i) The 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 needed to obtain other permanent housing;

*Category 3:* Homeless under other Federal statutes: (3) 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 other listed federal statutes; (ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing during the 60 days immediately prior to the homeless assistance application; (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 due to special needs or barriers; or

*Category 4:* Fleeing/Attempting to Flee DV: (4) Any individual or family who: (i) Is fleeing, or is attempting to flee, domestic violence,; (ii) Has no other residence; and (iii) Lacks the resources or support 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 Subsidy Covenant:\*** The agreement (sometimes called a Land Use Restriction Agreement) 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.

**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 supportive 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 3h).

**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 and the "40-60" test. This election is made by the Sponsor, and meets the minimum requirements of Section 42.

**Mixed-Income Threshold:** For projects under 20 units, no mixed-income requirement; projects of 20 – 49 units, 5% of the units must be market rate; projects 50 units or over, 10% of the units must be market rate. Market rate units are targeted to households whose income is greater than 60% of the Area Median Gross Income (AMGI).

**Neighborhood Development Area:** As defined by 24 VSA Sec. 2793(e)(b).

**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.

**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).

**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 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.

**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; 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-restricted 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 the 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 programing 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.

**Supportive Housing:** Supportive housing is permanent housing with supportive services for persons who are Homeless or At Risk of Homelessness. It plays an important role in the continuum of care and provides housing with services to help individuals or families become successful in independent permanent housing which may not include services. 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.

Supportive 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. Supportive housing can be provided in one structure or several structures, at one site or in multiple structures at scattered sites.

**Tax Credit Rent:\*** A rent which, including tenant-paid utilities, cannot exceed 30% of qualifying income (up to 50% or 60% of area gross median 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:** Some people who are Homeless or At Risk of Homelessness need more intensive services and therefore providing them with transitional housing helps them reach their goals until they

can move into permanent housing. Transitional housing is similar to Supportive Housing since there is not always a distinction in the type or design of a transitional housing unit. The only distinction from permanent Supportive Housing is that the housing occupancy is time limited; residency generally lasts from six months to two years.

Similar to Supportive Housing, Transitional Housing plays an important role in the continuum of care and provides housing with services to help individuals or families become successful in some form of permanent housing, whether it be supportive or independent. Candidates are referred by similar agencies as Supportive Housing, and the supportive services can also be those listed under Supportive Housing. Those 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 can be provided in a purpose built facility or as part of existing housing in one structure or several structures, at one site or in multiple structures at scattered sites.

**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 3e).

**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.

**Year 15 Policy:** This policy: 1) outlines options available to owners of Housing Credit properties once they reach year 15 in their tax credit partnerships. 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; and 2) contains information about modified compliance monitoring requirements after year 15 Appendix 3I).



## 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 May 2019*

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

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

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

- Katie Stuart-Buckley, Chair
- Gustave Seelig, Vice Chair
- Lamont Barnett
- Fred Baser
- Jeanne Morrissey
- Thomas Leavitt
- Beth Pearce (Michael Clasen, Designee)
- Michael Pieciak (Jill Rickard, Designee)
- Michael Schirling (Josh Hanford, Designee)

#### *VHFA Staff (allocations and compliance):*

- Maura Collins, Executive Director, (802) 652-3421
- 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

## *Appendix 2 – Application Materials*

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

- Common Application
- Multifamily Rental Proforma
- Supportive Service Plan
- Supportive Service Budget
- AHP Evaluation for Supportive Services
- Benchmark 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 document:

- Housing Credit Application Submission Timing

### *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 Guidance Policy
- VHFA Housing Tax Credit Year 15 Policy
- VHFA Market Study Standards
- VHFA Replacement Reserve – Surplus Cash Distribution Policy
- Green Building and 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 document:

- Common Tenant Application

The Governor’s Executive Order 3-73 can be found here:

<https://legislature.vermont.gov/statutes/section/03APPENDIX/003/00073>

PHILIP B. SCOTT  
Governor



State of Vermont  
OFFICE OF THE GOVERNOR

The State of Vermont's Qualified Allocation Plan has been developed by the Vermont Housing Finance Agency in accordance with the federal Internal Revenue Code (IRC) of 1986, Section 42, as amended, and 32 V.S.A. 5930u. This Qualified Allocation Plan shall remain in effect until amended by the Governor, to the extent necessary due to changes in federal law or changes in Vermont's housing market.

Approved:

A handwritten signature in black ink, appearing to read "Philip B. Scott", written over a horizontal line.

Philip B. Scott  
Governor

A handwritten date "11/6/19" written in black ink over a horizontal line.

Date 11/6/19