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H.635

Introduced by Representatives Masland of Thetford, Clarkson of Woodstock,
Cole of Burlington, and Till of Jericho

Referred to Committee on

Date:

Subject: Conservation and development; natural resources; land use; local
bylaws; affordable housing

Statement of purpose of bill as introduced: This bill proposes modifications to
the statutes on local land use bylaws to encourage affordable housing.

An act relating to local land use bylaws and affordable housing

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development
provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable
housing.

(A) No bylaw nor its application by an appropriate municipal panel
under this chapter shall have the effect of excluding housing that meets the
needs of the population as determined in the housing element of its municipal

1 plan as required under subdivision 4382(a)(10) of this title or the effect of
2 discriminating in the permitting of housing as specified in 9 V.S.A. § 4503.

3 (B) Except as provided in subdivisions 4414(1)(E) and (F) of this
4 title, no bylaw shall have the effect of excluding mobile homes, modular
5 housing, or prefabricated housing from the municipality, except upon the same
6 terms and conditions as conventional housing is excluded. A municipality may
7 establish specific site standards in the bylaws to regulate individual sites within
8 preexisting mobile home parks with regard to distances between structures and
9 other standards as necessary to ensure public health, safety, and welfare,
10 provided the standards do not have the effect of prohibiting the replacement of
11 mobile homes on existing lots.

12 (C) No bylaw shall have the effect of excluding mobile home parks,
13 as defined in 10 V.S.A. chapter 153, from the municipality.

14 (D) Bylaws shall designate appropriate districts and reasonable
15 regulations for multiunit or multifamily dwellings. No bylaw shall have the
16 effect of excluding these multiunit or multifamily dwellings from the
17 municipality.

18 (E) Except for flood hazard and fluvial erosion area bylaws adopted
19 pursuant to section 4424 of this title, no bylaw shall have the effect of
20 excluding as a permitted use one accessory dwelling unit that is located within
21 or appurtenant to an owner-occupied single-family dwelling. An accessory

1 dwelling unit means an efficiency or one-bedroom apartment that is clearly
2 subordinate to a single-family dwelling, and has facilities and provisions for
3 independent living, including sleeping, food preparation, and sanitation,
4 provided there is compliance with all the following:

5 (i) The property has sufficient wastewater capacity.

6 (ii) The unit does not exceed 30 percent of the total habitable floor
7 area of the single-family dwelling.

8 (iii) Applicable setback, coverage, and parking requirements
9 specified in the bylaws are met.

10 (F) Nothing in subdivision (1)(E) of this section shall be construed to
11 prohibit:

12 (i) a bylaw that is less restrictive of accessory dwelling units;

13 (ii) a bylaw that requires conditional use review for one or more of
14 the following that is involved in creation of an accessory dwelling unit:

15 (I) a new accessory structure;

16 (II) an increase in the height or floor area of the existing
17 dwelling; or

18 (III) an increase in the dimensions of the parking areas.

19 (G) A residential care home or group home to be operated under ~~state~~
20 State licensing or registration, serving not more than eight persons who have a
21 disability as defined in 9 V.S.A. § 4501, shall be considered by right to

1 constitute a permitted single-family residential use of property, except that no
2 such home shall be so considered if it is located within 1,000 feet of another
3 existing or permitted such home.

4 (H) If as of January 1 of a given year the percentage of affordable
5 housing set out in subdivision (i) of this subdivision (H) does not exist in a
6 municipality that has adopted a bylaw under this chapter, the requirements of
7 subdivision (ii) shall apply in the municipality.

8 (i) For the purpose of this subdivision (H), the percentage
9 of affordable housing in a municipality shall be six percent commencing
10 January 1, 2019, increasing by one percent each subsequent January 1 until
11 reaching 16 percent on or after January 1, 2029. On or before each January 1,
12 the municipality's legislative body shall cause the determination of whether the
13 percentage of affordable housing set out in this subdivision (i) exists in the
14 municipality, shall post notice of this determination, and shall transmit the
15 determination to the municipality's administrative officer and each appropriate
16 municipal panel of the municipality.

17 (ii) The requirements of this subdivision (ii) are:

18 (I) On filing, an application for a municipal land use permit
19 pertaining to land development that includes the construction of affordable
20 housing shall take priority over all other pending applications for such a
21 permit. In this subdivision (H), "priority" means that an application moves

1 ahead of all other pending applications with respect to determining whether it
2 is complete, scheduling and conducting hearings, issuing decisions and
3 permits, and performing all other actions necessary to conduct and complete
4 review of the application by the administrative officer and each appropriate
5 municipal panel.

6 (II) A municipal land use permit may be granted:

7 (aa) in the case of an application that proposes to divide a
8 parcel into six or more lots, only if two of the lots or 20 percent of the lots,
9 whichever is greater, will be used for the construction of affordable housing;

10 (bb) in the case of an application that proposes to construct
11 six or more dwelling units, only if two of the units or 20 percent of the units,
12 whichever is greater, will constitute affordable housing; and

13 (cc) in the case of an application that proposes to construct
14 six or more detached single-family residences, only if two of the residences or
15 20 percent of the residences, whichever is greater, will constitute affordable
16 housing.

17 (III) Affordable housing used to satisfy this subdivision (H)
18 shall be subject to covenants or restrictions that preserve its affordability for a
19 minimum of 15 years or longer as provided in municipal bylaws.

20 (IV) An applicant may satisfy the requirements of subdivision
21 (II) of this subdivision (H)(ii) using affordable housing to be constructed on

1 more than one parcel in the municipality, provided the number or percentage of
2 lots, units, or residences meets the requirements of subdivision (ii).

3 (iii) Two or more contiguous municipalities, by resolution of their
4 respective legislative bodies, may establish and enter into an agreement for
5 sharing the obligations of subdivision (H)(ii)(II) of this subdivision (1) across
6 the geographic areas of the contracting municipalities.

7 * * *

8 Sec. 2. EFFECTIVE DATE

9 This act shall take effect on July 1, 2018.