VEPC Board Meeting, September 25, 2025
Comments from Andrew Foley, Jonathan Rose Companies

Good morning, and thank you for the opportunity to speak. My name is Andrew Foley, Director of Development at Jonathan Rose Companies. We are proud to be partnering with the Hula team on building a transformational project in Burlington's South End.

Over the past year, I've spent a great deal of time in Vermont, which has given me the opportunity to meet with an impressive array of housing advocates working to expand housing across the state. I've also had the privilege of testifying before House and Senate committees as the CHIP legislation was being crafted, and I was impressed by the commitment to getting this program right. As a result, I have become personally committed to participating in this process to unlock new housing opportunities in a state I've come to love.

Our first phase aims to deliver 200 units of affordable and workforce housing. A central goal of this building is to provide housing for Vermont's rapidly growing innovation economy, serving the workforce of companies such as BETA Technologies, OnLogic, and the more than 100 businesses in the Hula ecosystem. Over time, working with the City of Burlington and Champlain College, this redevelopment has the potential to create up to 1,400 homes and transform more than 13 acres of underutilized parking lots into a vibrant, inclusive neighborhood.

Our project seeks to establish a residential neighborhood in a part of the South End where no housing currently exists. That means building significant new public and private infrastructure, including a network of roads, sidewalks, and bike paths; residential parking lots and garages; and stormwater and wastewater systems that will help reduce combined sewer overflows into the lake. We also plan to build energy infrastructure, including sitewide geothermal and solar systems, which will reduce the burden on existing utilities while helping Vermont meet its climate goals.

I know the VECP board understands the tremendous financial challenges of building housing—high construction costs, high interest rates, tariff uncertainty, and dramatic reductions in federal funding. None of the necessary site infrastructure is possible without funding mechanisms like CHIP. While CHIP is only part of the solution needed to make our project feasible, a tax abatement is a foundational funding tool for this redevelopment.

These initial draft guidelines provide a strong foundation and reflect a great deal of hard work over the past year. Our team has reviewed the draft in detail and does have a few thoughts and suggestions on ways to further clarify certain areas to better align with legislative intent.

I regret that I could not be there in person this morning, but my colleague Tim Sampson is at the table. With that, I'd like to turn it over to him to provide more specific comments and suggestions on behalf of our team.

412 Farrell St., Suite 100
South Burlington, VT 05403
CathedralSquare.org

To: VEPC CHIP Guidelines Subcommittee

From: Cindy Reid, Cathedral Square

Date: September 25, 2025

Re: Draft CHIP Guidelines

First, I wanted to express our appreciation for your dedicated and focused work on this new program, moving forward quickly but thoughtfully. I write to share my thoughts on two pieces of the draft guidelines.

Who we are: Cathedral Square is a nonprofit organization providing affordable housing and services primarily to lower income older adults in northwest Vermont. We also designed the Support and Services at Home – SASH® - care coordination program offered statewide through a network of partners. I serve as Cathedral Square's Director of Real Estate Development.

First comment:
The Moderate-Income Area Median Income (AMI) Cap is "≤ 150% AMI". This eligibility guideline means the program can serve, in the Burlington Metropolitan Statistical Area, households with incomes of up to $136,350 for 1-person, up to $155,850 for 2-persons, and up to $175,350 for 3-persons. <u>Households with these incomes have other options in the housing market</u>, and I believe public resources should be used in a more targeted fashion. Given the "up to 150% AMI" is included in Statute, I would suggest that the program guidelines <u>prioritize</u> a lower income range, perhaps up to 100% AMI max for the Moderate-Income tier but no higher than 120% AMI (which would mirror the past Housing Revenue Bond program so has some logic).

Second comment:
Permanently affordable housing like what Cathedral Square and other nonprofit organizations develop, is subject to Housing Subsidy Covenants. 32 V.S.A. §3481 determines how property tax valuations are done for permanently affordable properties encumbered by use restrictions. These properties have caps on rents, and therefore limited cash flow. The result is that affordable housing properties (permanently affordable) have a lower property tax payment with which to dedicate to financing infrastructure projects. And yet, the costs for infrastructure are not differentiated by whether a housing development is affordable designed to serve lower income households, or is market rate, serving moderate income to high income households.

In terms of suggestions, I wonder if projects that are permanently affordable could have the State Tax Retained be 100% (is that possible?) and the municipal tax retained be 100% as well. The downside is less revenue to education and to the local municipality, and possibly be a sore spot between an affordable housing project and a municipality. But it would allow an affordable housing project to

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finance a higher amount of infrastructure. Financing terms are also critical, and I wonder if permanently affordable housing projects could utilize a lower or zero interest, longer amortization / longer term program to leverage the loan payments further. Perhaps there are other ways to help affordable housing projects with lower property tax capacity available to finance infrastructure, to leverage more.

Thank you for the opportunity to provide comments.

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Community and Housing Infrastructure Program (CHIP) Guidelines

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DRAFT Community and Housing Infrastructure Program (CHIP) Guidelines

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I. Purpose

The Community and Housing Infrastructure Program (CHIP) is established under 24 V.S.A. Chapter 53, Subchapter 7 to "encourage the development of new primary residences for households of low and moderate income across both rural and urban areas of all Vermont counties that would not be created but for the infrastructure improvements funded by the Program."

The purpose of this document is to provide guidance on the processes and requirements related to the formation, development, and implementation of CHIP sites within Vermont.

II. Program Description

The Community Housing Infrastructure Program (CHIP) utilizes tax increment financing for public infrastructure improvements that support the development of new affordable and moderate-income primary housing. It is a targeted use of the tool, allowing municipalities to retain a portion of the property tax revenue resulting from increased values within a defined housing development site. These funds may be used to repay the debt incurred for eligible infrastructure improvements. CHIP is designed to complement local and state planning priorities and foster coordinated public-private partnerships. Projects must meet statutory criteria and be approved by the Vermont Economic Progress Council (VEPC) before debt is incurred.

III. Key Definitions

Additional definitions can be found in the enacting legislation.

- **Affordable Housing:** See 24 V.S.A. Chapter 117 § 4303.
  (A) Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:
    (i) the county median income, as defined by the U.S. Department of Housing and Urban Development;
    (ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or
    (iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.
  (B) Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:

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(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;
(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or
(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

- **Housing Development:** The construction, rehabilitation, or renovation of any building on an approved Housing Development Site. An approved Housing Development (that is not an Affordable Housing Development or Moderate-Income Housing Development) may retain up to 75% of the education tax increment and at least 85% of new municipal tax increment.

- **Affordable Housing Development:** A housing development where at least 15% of the units are designated as affordable housing with a recorded covenant or deed restriction ensuring long-term affordability. These units must remain affordable until any debt incurred under CHIP is repaid. Units must be used as the tenant's or owner's primary residence. An application serving an affordable housing development does not have to meet the "but-for" test. The municipality may retain up to 85% education tax increment and at least 85% of the new municipal tax increment.

- **Moderate-Income Housing Development:** A housing development in which at least 25% of the units are for households earning 150% or less of AMI and are also subject to affordability restrictions until CHIP debt is repaid. Units must be used as the tenant's or owner's primary residence. A municipality with an application serving a moderate-income housing development may retain up to 85% of the education tax increment and not less than 85% of the new municipal tax increment.

- **Housing Infrastructure Project:** A set of infrastructure improvements that support a specific CHIP housing development. These improvements must be directly tied to enabling the housing development.

- **Housing Development Site:** The whole parcel or parcels where the housing development will occur. If the development is to occur over multiple parcels, the parcels must be contiguous. Only parcels where the housing development is to occur can be included in the development site, unless contiguous parcels are under common ownership and share a SPAN, in which case they must also be included. Sites must be formally designated by the municipality and approved by VEPC. Site boundaries define the area within which the original taxable value is established and tax increment is generated. Once established, the boundaries of the Housing Development Site shall not change.

Commented [KM1]: Is it necessary to state explicitly that parcels separated by a road can still be considered contiguous?

Commented [TN2R1]: I think that is a worthwhile clarification. There may be some projects that span existing, or proposed, public streets.

Commented [BE3]: This was an addition after the subcommittee's review, this was related to a request that VCLT had pointing out there may be instances where including a commonly owned contiguous parcel may be undesirable for the municipality.

Commented [CB4]: may?

Commented [CB5]: Designated by the municipality how? Included in the Housing Infrastructure Agreement?

- **Improvements:** the installation, construction, or reconstruction of infrastructure that will serve a public good and fulfill the purpose of the program; and the funding of debt service interest payments for a period of up to four years, beginning on the date on which the debt is first incurred. Improvements do not need to be within the Housing Development Site, but the applicant must demonstrate that the proposed improvements enable the proposed housing development.

- **Related Costs:** expenses incurred and paid by a municipality or sponsor that are directly related to the creation, implementation, and administration of the municipality's housing infrastructure project, including reimbursement of sums previously advanced for those purposes.

- **Sponsor:** An entity responsible for financing the public improvements. This may be the municipality, a developer, or a public-private partnership.

- **Developer**: The party responsible for constructing the housing development. Developers must enter into a binding Housing Infrastructure Agreement with the municipality.

- **Original Taxable Value (OTV)**: The assessed value of taxable real property within the housing development site on April 1 of the year the site is approved by VEPC.

- **Tax Increment**: The difference in property tax revenue generated by the increase in assessed value over the original taxable value (OTV). A portion of the increment may be retained by the municipality to service debt on eligible infrastructure costs , pay for eligible related costs, and/or pay for eligible direct costs associated with the eligible infrastructure project.

- **Housing Infrastructure Agreement:** A legally binding agreement among the municipality, sponsor (if applicable), and developer that includes terms related to infrastructure financing, affordability, unit production, timelines, and performance guarantees.

- **Public Hearing:** Unless a municipal charter requires greater notice, the municipal legislative body shall hold a public informational hearing on the question by posting warnings at least 15 days in advance of the hearing in at least two public places within the municipality and in the town clerk's office and on the town's website If the municipality does not have two public places to post their warning, they may post their warnings in adjacent communities.

Commented [TN6]: This isn't a definition of a "public hearing." It's an explanation of the requirement to hold a public hearing which should be explained under the application and approval requirements.

- **Increment:** Municipalities whose infrastructure projects will result in an affordable or moderate-income housing development are eligible to retain up to 85% of the education

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tax increment. Municipalities whose infrastructure projects will result in any other type of housing development are eligible to retain up to 75% of the education tax increment. All projects must retain at least 85% of the municipal tax increment.

Commented [TN7]: This isn't a definition of "increment." It's an explanation of the increment requirement. Rephase to define "increment" and explain that the increment for project varies depending on the type of project.

Housing Type	State Tax Retained	Municipal Tax Retained	Units Required	Area Median Income (AMI) Limit	"But For" Test
Affordable: Rental (Total annual cost ≤ 30% of gross income)	Up to 85%	85% to 100%	At least 15% of units must be affordable	≤ 80% AMI	Not required
Affordable: Owner-Occupied (Total annual cost ≤ 30% of gross income)	Up to 85%	85% to 100%	At least 15% of units must be affordable	≤ 120% AMI	Not required
Moderate-Income	Up to 85%	85% to 100%	At least 25% of units must be affordable	≤ 150% AMI	Required
Market Rate	Up to 75%	85% to 100%	N/A – No requirement	No cap	Required

*Eligible housing must be for permanent residents

- **Public good**: A benefit resulting from a CHIP-supported project that is shared broadly by the community, rather than serving only individual or private interests. Public goods may include, but are not limited to: long-term increases in housing affordability, improved infrastructure access, reduced displacement, support for local workforce housing, and contributions to sustainable, compact development consistent with state, regional, and local plans. Public good must be articulated beyond the value created for the development and should serve to advance equity, livability, and resilience within the community."

- **60% Floor Area**: 60% of the indoor floor area must qualify as "housing" (i.e., primarily serve residential uses). Floor area to be considered "housing" includes all housing units dedicated to primary residences, shared spaces that are accessible to residents or exist solely to serve residential units (including but not limited to hallways, elevators, stairwells, common rooms, or mechanical and utility spaces directly serving residential units). Space that does not count toward the 60% includes, but is not limited to: residential units not dedicated to primary residents, commercial space, or space operated by the municipality or another entity for uses not directly serving residential units
- Further clarification for the purpose of calculating the eligible floor area, we refer to the 2018 International Building Code, which defines Gross Floor Area as:

Commented [TN8]: I'd define "floor area" and then separately define "housing floor area." I'd then talk about the 60% requirement elgibility criteria.

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The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, ramps, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

- **Primary Residence:** A homestead is the principal dwelling and parcel of land surrounding the dwelling, owned and occupied by the resident as the person's domicile as defined by the Vermont Department of Tax. Or, if the unit is a rental unit, the lease agreement stipulates the tenant occupies the unit as their permanent residence. Both owner occupied and rental units must remain a primary residence for the duration of the outstanding CHIP debt .

Commented [KM9]: This seems important for this program. Is there precedent for such a stipulation in leases?

Commented [TN10R9]: Good question. It's been a few years, but I can't remember any rental agreements/leases I had requiring that the unit be my permanent residence.

IV. Eligibility Criteria

Applicants:

Eligible applicants are Vermont municipalities (cities, towns, or incorporated villages) that seek to create infrastructure for a housing project.

Projects:

Eligible projects include public infrastructure improvements that directly support the development of an eligible housing development project. Eligible Housing Development Projects must result in new or rehabilitated housing developments where at least 60% of the floor area of the projected housing development is dedicated to primary housing residences, or the ~~project~~ housing development meaningfully addresses the purpose of the program. If the projected housing development does not meet the criteria for an affordable housing development, the project must meet the but-for test.

Commented [KM11]: This seems like an extra word, or maybe it should be "projected?"

Improvements:

Eligible improvements may include, but are not limited to, the following:

- Utilities, such as electric ~~power~~ transmission and distribution lines and conduit, telecommunications lines, telecommunications towers, digital infrastructure, and electric ~~power~~ or telecommunications equipment; drinking water, wastewater, and storm water, infrastructure including: drinking water sources; green and gray stormwater practices; distribution/collection and conveyance piping and pump stations; and treatment systems, facilities, and equipment and regulatory required pertinent equipment.
- Transportation improvements such as publicly accessible roads, streets, bridges, parking lots, facilities, garages, and structures, multimodal facilities, public transit stop equipment and amenities, street and sidewalk lighting, roundabouts, crosswalks and/or other pedestrian crossing treatments, traffic calming features,

Commented [TN12]: To build housing, it is distribution lines that are going to be more likely required, not transmission lines (plus transmission is WAY more expensive).

Commented [CB13]: Suggest including heating and cooling infrastructure or something similar to cover natural gas lines or geothermal installations.

sidewalks, streetscapes, way-finding signs and kiosks; traffic signals, medians, turn lanes, and property acquired or used for right of way such as hiking and biking trails, pathways to facilitate multimodal transportation, bicycle and pedestrian lanes, paths, and bridges, street furnishings.

- Site preparation for development or redevelopment including acquisition, demolition, environmental remediation of contaminated property, and mitigation of a flood-prone area.
- Soft costs such as consulting, design, architects, engineering, accounting~~.~~, legal, project management, monitoring and reporting, associated application fees, or other professional services directly related to the implementation and construction of eligible Site Improvements.
- Privately-owned publicly accessible improvements that meet the purpose of the CHIP program, public good definition, and directly support the housing development project are eligible.

Commented [CB14]: Suggest including this ongoing cost

Commented [KM15]: What would be an example of this? A multi-use trail through a property?

Commented [TN16R15]: Not sure. Regardless, there needs to be a legal agreement protecting public access if this option is going to be used.

Eligible Related Costs:

Related costs are costs associated with the creation, implementation, and administration of the CHIP site. Eligible related costs include, but are not limited to the following:

- Cost of plans, studies, or reports that are specific to preparing a CHIP Plan, a Finance Plan, an application to the Council, or a subsequent amendment required to maintain the CHIP site.
- Costs of providing public notification about, and obtaining public approval for, a CHIP Plan, a Finance Plan, and CHIP debt, CHIP application, or CHIP amendment.
- Costs such as consulting, design, architects, engineering, accounting, legal, project management, or other professional services incurred during preparation or implementation of a CHIP Plan, Finance Plan, CHIP application, or CHIP amendment.
- Costs such as consulting, design, architects, engineering, accounting, legal, project management, or other professional services incurred during preparation or implementation of a CHIP Plan, Finance Plan, application or amendment, and administration of the program including administrative fees paid by the municipality.
- Application fees charged by the Council for third-party analysis of CHIP Plans, CHIP Financing Plans, or CHIP amendments.
- The CHIP-related costs of the independent annual municipal audit.
- Municipal employee and staff costs directly related to the administration and implementation of the CHIP Site. These costs may only be paid with the municipal tax increment.

Commented [CB17]: Hoping that this would also cover RPC or RDC staff time to help a municipality.

Commented [CB18]: Could this be broadened to include internal or external staff support for administration of the CHIP? I'm specifically hoping that RPC and RDC staff costs to help a town administer the program will be eligible costs.

Costs that are not eligible related costs, or improvements are:

- Annual municipal operating costs.
- Public transportation operating costs.
- Annual maintenance or repair costs.
- Purchase of vehicles.

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- Interior furnishings.
- Operating equipment or apparatus.
- Other expenditures for non-capital assets with the exception of debt service interest payments as outlined under eligible improvement costs.

VI. Application and Approval Process

I. Pre-Application Coordination

Municipalities must complete a CHIP Interest Form and submit it to VEPC staff for review prior to submitting a full application to VEPC.

II . Housing Development Plan and Housing Development Site

- Create a housing development plan and housing development site plan:
- Develop a housing development plan that includes:
  - Description of the proposed housing infrastructure project
  - Proposed housing development
    - Proposed housing development site, including anticipated floor area dedicated to housing. If less than 60% floor area, a narrative about how this project meaningfully addresses the purpose of the program.
  - Identification of a sponsor
  - A tax increment financing plan, including:
    - a statement of costs and sources of revenue;
    - estimates of assessed values within the housing development site;
    - the portion of those assessed values to be applied to the housing infrastructure project;
    - the resulting tax increments in each year of the financial plan and the lifetime education property tax increment retention;
    - the amount of bonded indebtedness or other financing to be incurred. This includes
    - Amount anticipated to be approved by voters, including estimates of necessary principal, interest, costs of improvements, and related costs
      - Or, if sponsor is taking on the debt, a copy of the agreement, contract, or other obligations that have been voted and approved by the municipal legislative body within the development agreement
    - other sources of financing and anticipated revenues; and
    - the duration of the financial plan.

Commented [TN19]: Is DRB approval required before application? Do state permits need to be acquired before applying? Or should a state permit review sheet be required as a part of the application? Clarity about those other parts of the process would be helpful to the municipality.

Commented [KM20]: Is this an extra line?

Commented [TN21R20]: Agree. This should be deleted.

Commented [CB22]: the sponsoring entity?

Commented [TN23]: I can't follow what's in the list here. Seems like a typo (or two).

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  - A pro forma projection of expected costs of the proposed housing infrastructure project
  - A projection of the tax increment to be generated by the proposed housing development
  - A development schedule that includes a list, cost estimate, and a schedule for the proposed housing infrastructure project and proposed housing development
  - A determination by the legislative body of the municipality that the proposed housing development furthers the purpose of the program.
- Develop a ~~housing development site~~site plan by identifying its boundaries and the properties within it, titled "Proposed Housing Development Site [municipal name], Vermont"
- Hold one or more public hearings, after public notice, on the proposed housing infrastructure project, including the plans developed above
- Adopt the plan by action of the municipal legislative body and record it with the municipal clerk and lister.

I. Housing Infrastructure Agreement

- Create a Housing Infrastructure Agreement between the municipality and the project developer. The agreement must:
  - Identify the sponsor for the project
  - Identify the developer and housing development
  - Obligate the tax increments retained for financing and related costs for the infrastructure project
  - Provide that any housing unit within the housing development be offered exclusively as a primary residence until all indebtedness for the housing infrastructure project has been retired. This condition shall be satisfied by providing a landlord certificate or homestead declaration every 2 years.
  - Provide for performance assurances to reasonably secure the obligations of all parties under the housing infrastructure agreement.
  - The terms of this agreement must be noticed to the municipality before the municipal legislative body can sign on as a party.

II. VEPC Review & Approval

- The municipality will submit their municipally approved Housing Development Plan, Housing Development Site [Site Plan?], and Housing Infrastructure Agreement to VEPC for review. The C~~c~~ouncil will determine whether the municipality has:
  - Properly created a housing infrastructure project and housing development site;
  - Executed an acceptable housing infrastructure agreement for the housing infrastructure project with a developer and, if the municipality is not financing the housing infrastructure project itself, a sponsor; and

Commented [KM24]: Does this mean "site plan?"

Commented [TN25R24]: This should say "site plan."

Commented [TN26]: This isn't an application requirement. Its should be an application requirement to provide evidence that a public hearing was held.

Also, who hold the public hearing? Is this a public hearing with the DRB to approve the plan (a quasi-judicial hearing)? Or is this a public hearing with the Selectboard to discuss the CHIP application (a legislative hearing)? It needs to be clearer about the purpose of the public hearing.

Commented [TN27]: Recording the entire plan? That's a lot of pages….and recording can get expensive (it's $15 per page).

Commented [KM28]: Is there a mechanism for recording a plan like this with a lister? Should a Zoning Administrator be part of this in some way?

Commented [TN29]: Why is the separate from the application? Why isn't it just a part of the application?

Commented [CB30]: Should this be sponsor for consistency?

Commented [KM31]: To whom will this be provided? The Homestead Declaration goes to the tax department, but I'm not sure about the landlord certificate. Who is responsible for keeping track?

Commented [TN32R31]: Tax Dept. gets the landlord certificates….if they're filed. Do renters HAVE to file landlord certificates?

Commented [KM33]: If the muni is a party, they don't need to notice themselves. Is the goal here to provide public notice? If so, could say, "Be properly noticed as a warned public hearing…" or something.

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- Approved or pledged to use at least 85% of incremental municipal tax revenues for the housing infrastructure project.
- Additional VEPC Application Determinations:
  - Affordability: The Council will determine whether the proposed housing development meets the criteria of "affordable housing development" or "moderate-income housing development" and set the maximum education tax increment at 85% if either criterion is met or up to 75% if neither criterion is met. The Council has the discretion to set the increment retention lower than these maximums, depending on the application circumstances. VEPC will utilize the Vermont Housing Finance Agency's most recent home purchase price and rental affordability thresholds chart based on HUD median income estimates to determine if the affordability threshold is met for affordable and moderate-income housing developments.
  - But-For Test: The Council will review each application, other than those for which the housing development is an affordable housing development, to determine whether the infrastructure improvements proposed to serve the housing development site and the proposed housing development would not have occurred as proposed in the application or would have occurred in a significantly different and less desirable manner than as proposed in the application but for the proposed utilization of the incremental tax revenues.
    - A non-exhaustive list of factors VEPC may consider around the question of what is a "significantly different and less desirable manner" may include, but is not limited to: a housing development occurring significantly later than it could occur with CHIP financing, a housing development that would include fewer units without CHIP financing, a housing development that is significantly less affordable than could occur with CHIP financing
  - Floor Area: VEPC will determine whether the housing development will have at least 60 percent of the floor area dedicated to housing, or if it meaningfully addresses the purpose of the program.
- Site Visits
  - Upon a determination by VEPC staff that a municipality has submitted a complete application and that positive determinations regarding affordability, the but-for test, and floor area are made, VEPC staff will schedule a site visit of the proposed housing development site.
- VEPC Approval
  - The application shall be submitted to the VEPC Council and approved or denied by the council within 90 days of the site visit.
- Post-VEPC Approval
  - Municipality instructs lister/assessor to certify OTV.

Commented [KM34]: Does there need to be a more detailed list of review criteria that VEPC will use?

Commented [KM35]: Mention here how applicants will be notified? In writing? Announcement at a meeting? If there is denial, is there a process for resubmission?

VII. Financing and Debt Requirements

- Debt must be incurred within five years of site creation. VEPC may issue an extension up to eight years. Upon the first incurrence of debt, VEPC and the Department of Taxes will be notified.

- Municipal voters must approve each instance of municipal borrowing in a warned vote. This information shall include~~s~~:
  - the amount and types of debt and related costs to be incurred, including principal, interest, and fees;
  - terms of the debt;
  - the housing infrastructure project to be financed;
  - the housing development projected to occur because of the housing infrastructure project; and
  - notice to the voters that if the tax increment received by the municipality from any property tax source is insufficient to pay the principal and interest on the debt in any year, the municipality shall remain liable for the full payment of the principal and interest for the term of the indebtedness.
  - If interfund loans within the municipality are used, the information must also include documentation of the terms and conditions of the loan.
- Allowed instruments include bonds, loans, interfund loans (interest-free), and bond anticipation notes. Bond anticipation notes or other forms of temporary financing may not be used as a first incurrence of debt. In instances where a municipality would like to use temporary financing as a last incurrence of debt, the debt incurrence period may be extended not more than 6 months solely for the purpose of obtaining final bond financing when voter bond authorization is granted by March 31st in the CHIP site's final year of debt incurrence.
- The housing development site shall continue until the date and hour the indebtedness is retired or, if no debt is incurred, the debt incursion period ends.

VIII. Use of Tax Increment

- Municipal and education increments may only be used to pay for:
  - CHIP debt service;
  - Eligible related costs;
  - direct payment of the cost of a housing infrastructure project, as long as the payment was included in the CHIP financing plan and subject to the same vote provisions as public debt; and
  - A municipality may provide an increment to a sponsor upon receipt of an invoice for payment of the financing, and the sponsor shall confirm to the municipality once the increment has been applied to the financing.

- Retention period: 20 years beginning the first fiscal year in which debt is incurred

Commented [TN36]: What exactly does this mean? Is this approval of the site by VEPC?

Commented [KM37]: By whom?

Commented [KM38]: What does it mean for a housing development site to continue? Should this instead say that its eligibility for CHIP continues?

Commented [TN39]: This should be rephased to be more straightforward. This is hard to understand right now.

Commented [TN40]: This is record retention? That should be clearer.

  - Example: If a town votes in March 2027 (FY27) and incurs that debt in July 2027 (FY28), retention begins in FY28 (using GL27) and is retained through FY47 (GL46),

- Increment amount:
  - Municipalities whose infrastructure projects will result in an affordable or moderate-income housing development are eligible to retain up to 85% of the education tax increment.
  - Municipalities whose infrastructure projects will result in any other type of housing development are eligible to retain up to 75% of the education tax increment.
  - All projects must retain at least 85% of the municipal tax increment, and may retain up to 100%.
  - Adjustment of percentage: During the 10th year following creation of the site, the municipality will submit an updated financing plan to VEPC. VEPC will determine, based on the debt actually incurred and the increment actually generated, whether the percentage being retained is appropriate or if it can be lowered while still allowing the municipality to service remaining debt.

- Excess increment:
  - Excess increment in any tax year may be:
    1) used to prepay debt;
    2) placed in the municipality's CHIP fund and used for future financing payments;, or
    3) used for defeasance of the financing.
  - Excess increment remaining once the financing is retired must be returned to taxing authorities in the appropriate proportions.

Commented [TN41]: Can this section be clearer that the increment amount that is retained is whatever VEPC approves between 85% and 100%?

Commented [KM42]: On the same infrastructure project or a different one?

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IX. Reporting and Compliance

A municipality must:

- Develop a system to identify, collect, and maintain all data and information to fulfill annual reporting requirements
- Notify VEPC and the Department of Taxes of any CHIP debt, public votes, or votes by the municipal legislative body immediately. They will need to provide copies of public notices, agendas, minutes, the vote tally, and a copy of the information provided to the public.
  - A municipality must hold a public vote if the CHIP infrastructure project(s) will be financed through a municipal bond. If the CHIP infrastructure project(s) are financed by the sponsor in another fashion, only approval from the municipal legislative body at a properly warned hearing is

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required. The municipality must provide copies of the warning, minutes, and vote of municipal legislative body.

- Conduct annual financial audits and provide results to VEPC
- Submit annual reports on or before February 15 to VEPC and the Department of Taxes on a form prescribed by the council. These will include (but are not limited to):
  - Annual and total municipal and education property tax increments generated
  - Expenditures for financing and related costs
  - Current balance
  - Expenditures for infrastructure improvements
  - Scope and value of projected and actual improvements and developments in the housing development site, including the number of housing units created;
  - Sale prices for initial offerings of any housing units;
  - Rental prices for initial offerings of any rental housing units
  - Number and types of housing units for which a permit is being pursued under 10 V.S.A. chapter 151 (State land use and development plans) and, for each applicable housing development, the current stage of the permitting process;
  - Projected and actual incremental revenue amounts;
  - Allocation of incremental revenue, including the amount allocated to related costs;
  - Projected and actual financing; and
  - Amount of public funds flowing to private ownership or usage
  - Biennial verification of affordability covenants and primary residence occupancy
- VEPC may request supplemental reports or perform audits at any time.

X. Amendments

Once approved, the CHIP Housing Development Plan, CHIP Finance Plan, and Housing Infrastructure Agreement serve as the foundational documents for each CHIP Site's implementation, providing the intentions of the municipality, sponsor, and developer regarding CHIP debt and financing, improvements, and development/redevelopment. These plans were presented at a public hearing, voted on by the municipal legislative body, and approved by the Council.

Any significant changes require the Council's review and approval before proceeding. To apply for a Substantial Change Request (or amendment), the municipality must submit a narrative explaining the desired change and rationale, as well as a revised CHIP Housing Development Plan, CHIP Finance Plan, and Housing Infrastructure Agreement. These revised documents must be approved by the municipal legislative body at a properly warned hearing.

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CCRPC Comments

A non-exhaustive list of changes that would require Council review include but are not limited to:

Commented [TN43]: Overall concern: will this work for developers in term of the timeline they're working within to get financing secured?

- An increase in the CHIP-funded portion of a project of 20% or more.
- Adding, removing, or substituting a public infrastructure project in the CHIP Housing Development Plan or Finance Plan.
- An increase in the Council-approved CHIP debt ceiling.
- An extension of the 5-Year requirement to incur first CHIP debt.
- A change in the number or distribution of affordable or moderate-income units that would reduce the units below the threshold allowing for the increased increment retention percentage (85% versus 75%)
- A change in the percentage of floor area dedicated to housing that would reduce the percentage below the 60% threshold.
- If the town and developer make material modifications to their development agreement that impacts the infrastructure improvements and/or anticipated increment generated by the private development.
- If the developer is not able to meet the requirements set out in the Development Agreement and/or the anticipated timeline for the infrastructure or private development is significantly delayed (2 or more years).
- Changes in the sources of funding for the CHIP-funded portion of a project.
- Any bond structured to generate bond premium proceeds which will be used to pay for improvements or for debt service (principal and interest), not previously submitted as part of an approved CHIP Finance Plan.
- Any Payments In Lieu of Taxes (PILOTS) or other negotiated payments not previously submitted as part of an approved CHIP Finance Plan.

Any of the above changes and others that the Council determines to be a substantial change made without Council approval need to be reviewed through the issue-resolution process outlined in 24 V.S.A. § 1910f (b).

Any changes to a VEPC approved CHIP project not meeting the substantial change thresholds shall be reported to the VEPC staff immediately. VEPC staff will review the proposed change and may determine that a substantial change request is required.

XI. Contact Information

Vermont Economic Progress Council (VEPC)
Email: accd.chip@vermont.gov
Email: accd.vepc@vermont.gov

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DRM DOWNS RACHLIN MARTIN

MEMORANDUM

TO: Vermont Economic Progress Council

FROM: Timothy S. Sampson

DATE: September 25, 2025

RE: **CHIP Guidelines – Testimony and Suggested Revisions**

Testimony of Tim Sampson, September 25, 2025:

I'm here today with Andrew Foley on behalf of the Ride Your Bike Team, but my interest in this topic is larger than that. I've had the good fortune to work on multiple TIF project across Vermont, and outside of Vermont, on both sides, sometimes representing the municipality and sometimes the developer. And I've been watching the CHIP process closely since its inception.

I think CHIP creates a great opportunity to help close the housing supply gap in Vermont. CHIP won't do it alone, but it can be a part of the solution. I am here with the perspective of 30 years' experience as a development enabling lawyer, hopeful you will receive what I offer in the spirit of strengthening your excellent work to date, with an eye toward making CHIP even more marketable and usable.

My remarks today will touch on several key principles applicable across the draft Guidelines. I will follow up by submitting these remarks to you in writing, together with suggested revisions to the draft Guidelines intended to advance those principles and suggest other revisions in the spirit of a clearer set of Guidelines.

Principle 1: CHIP does not distinguish between public and private infrastructure improvements. This is very important to the success of CHIP, especially so given the opportunity to privately finance CHIP infrastructure. It's not clear to me that the Guidelines are consistent with this Principle. For sure, there are a number of instances where the drafting appears to reflect a public/private dichotomy.

Principle 2: CHIP allows for public and private financing of CHIP infrastructure (in this case there is a public/private dichotomy). The draft Guidelines are consistent with that Principle. However, the draft Guidelines often utilize the concept of the issuance or repayment of CHIP Debt as a triggering event. I suggest that is too narrow given the opportunity for private financing, where available increment would reimburse a developer for its costs of qualifying infrastructure and not necessarily in a direct path to servicing debt for a limited scope of the developer's work. Relatedly, the Guidelines should not prescribe the private reimbursement mechanism. That topic should be left to project-specific development agreements, where the flow of funds can be addressed in a deal-specific way. The new opportunity CHIP presents for private financing of eligible infrastructure requires thoughtful consideration about those mechanics in light of what private lenders or other funding sources will actually be willing to loan against and administer.

Principle 3: CHIP was enacted to support the creation of housing. Under CHIP, eligible infrastructure improvements must serve the "public good". It follows, in my view, that CHIP intended for infrastructure improvements that support the creation of housing to be in the "public good". I'm concerned that the Guideline's definition of "public good" creates new, and somewhat nebulous, thresholds for qualifying infrastructure. I think the simple fix is to clarify that the creation of housing is one of the examples of enumerated "public goods". I hasten to note that this does not mean any improvement that supports housing is CHIP-eligible. To the contrary, the Guidelines, unlike the CHIP legislation itself, set forth a non-exhaustive list of infrastructure improvements that would qualify. That is the appropriate guardrail for what is CHIP-eligible, not the injection of requirements for public (or publicly accessible) improvements or a demonstrated public benefit beyond the housing itself.

Principle 4: The Guidelines inject a concept of parcel contiguity that does not exist in the CHIP legislation. I urge you to reconsider this. I agree it is important to limit the housing development site to parcels on which housing development will occur (in order to limit the scope of the increment), but I don't see any reason why the housing development site must be contiguous. What if an infrastructure project supported multiple, non-contiguous parcels - would the municipality need to file multiple applications? If you keep this concept, I encourage you - at a minimum - to clarify that parcels separated by roads would not be considered non-contiguous.

Principle 5: CHIP refers to infrastructure that "stimulates" housing development. The Guidelines refer sometimes to infrastructure that "supports" and sometimes to infrastructure that "enables" housing development. I encourage a consistent standard. The draft revisions I submit will suggest sticking with infrastructure that "supports", if it remains your intention to move away from the CHIP term "stimulate".

Other:

- I encourage you to revisit the change to the definition of Sponsor from that set out in the CHIP legislation. I suggest the change from a qualifying "independent agency" to a "public private partnership" is far too limiting and suggests a formal partnership agreement between the developer and the sponsor that I do not believe CHIP intended.
- I encourage you to defer to a municipality's definition of floor area for the 60% rule (or others). A project does not need competing definitions.

I am happy to address your questions and please feel free to reach out later if I can be any help to your efforts.

DRM Comments

SUGGESTED DRAFTING EDITS BY TIM SAMPSON, DRM, SEPTEMBER 25, 2025

Community and Housing Infrastructure Program (CHIP): DRAFT Guidelines (September 10, 2025)

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Purpose

The Community and Housing Infrastructure Program (CHIP) is established under 24 V.S.A. Chapter 53, Subchapter 7 to "encourage the development of new primary residences for households of low and moderate income across both rural and urban areas of all Vermont counties that would not be created but for the infrastructure improvements funded by the Program."

The purpose of this document is to provide guidance on the processes and requirements related to the formation, development, and implementation of CHIP sites within Vermont.

Program Description

The Community Housing Infrastructure Program (CHIP) utilizes tax increment financing for ~~public~~ infrastructure improvements that support the development of new housing, with preferential consideration of affordable and moderate-income primary housing. It is a targeted use of the tool, allowing municipalities to retain a portion of the property tax revenue resulting from increased values within a defined housing development site. These funds may be used to repay the debt incurred for, or otherwise pay for, eligible infrastructure improvements. CHIP is designed to complement local and state planning priorities and foster coordinated public-private partnerships. Projects must meet statutory criteria and be approved by the Vermont Economic Progress Council (VEPC) before municipal debt is incurred or a municipality is obligated to reimburse eligible infrastructure costs.

Key Definitions

Additional definitions can be found in the enacting legislation.

- **Affordable Housing:** See 24 V.S.A. Chapter 117 § 4303.

(A) Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

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(B) Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

- **Final Repayment Date**: in the event of municipal financing of CHIP debt, the date on which the municipal debt is fully repaid, or in the event of non-municipal financing of CHIP debt, the date on which the municipality's obligation to reimburse eligible infrastructure costs ends.
- **Housing Development:** The construction, rehabilitation, or renovation of ~~any~~one or more qualifying buildings on an approved Housing Development Site. In connection with a~~A~~n approved Housing Development (that is not an Affordable Housing Development or Moderate-Income Housing Development), a municipality may retain up to 75% of the education tax increment and must retain at least 85% of new municipal tax increment.
- **Affordable Housing Development:** A housing development where at least 15% of the units are designated as affordable housing with a recorded covenant or deed restriction ensuring ~~long-term~~ affordability ~~. These units must remain affordable~~ until the Final Repayment Date ~~any debt incurred under CHIP is repaid~~. Units must be used as the tenant's or owner's primary residence during such time. An application serving an affordable housing development does not have to meet the "but-for" test. The municipality may retain up to 85% education tax increment and must retain at least 85% of the new municipal tax increment.
- **Moderate-Income Housing Development:** A housing development in which at least 25% of the units are for households earning 150% or less of AMI and are also subject to affordability restrictions until the Final Repayment Date ~~CHIP debt is repaid~~. Units must be used as the tenant's or owner's primary residence during such time. A municipality with an application serving a moderate-income housing development may retain up to 85% of the education tax increment and must retain not less than 85% of the new municipal tax increment.

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- **Housing Infrastructure Project:** A set of infrastructure improvements that support a specific ~~CHIP~~ housing development. ~~These improvements must be directly tied to enabling the housing development.~~ These improvements may or may not be located on the housing development site.
- **Housing Development Site:** The ~~whole~~ parcel or parcels where the housing development will occur. ~~If the development is to occur over multiple parcels, the parcels must be contiguous.~~ Only parcels where the housing development is to occur can be included in the housing development site, unless contiguous parcels are under common ownership and share a SPAN, in which case they must also be included. Housing Development Sites must be formally designated by the municipality and approved by VEPC. Housing Development Site boundaries define the area within which the original taxable value is established and tax increment is generated. Once established, the boundaries of the Housing Development Site shall not change absent approval of an amendment.
- **Improvements:** the installation, construction, or reconstruction of infrastructure that will serve a public good and fulfill the purpose of the program; and the funding of debt service interest payments, or other financing, for a period of up to four years, beginning on the date on which the debt or other financing is first incurred. Improvements do not need to be within the Housing Development Site, but the applicant must demonstrate that the proposed improvements support ~~enable~~ the proposed housing development.
- **Related Costs:** expenses incurred and paid by a municipality or sponsor that are directly related to the creation, implementation, and administration of the ~~municipality's~~ housing infrastructure project, including reimbursement of sums previously advanced for those purposes.
- **Sponsor:** The person or ~~An~~ entity undertaking to finance~~responsible for financing~~ the housing infrastructure project~~public improvements~~. This may be the municipality, a developer, or an eligible independent agency ~~public-private partnership~~.
- **Developer**: The person or entity ~~party~~ responsible for undertaking to construct ~~constructing~~ the housing development. Developers must enter into a binding Housing Infrastructure Agreement with the municipality.
- **Original Taxable Value (OTV)**: The assessed value of taxable real property within the housing development site on April 1 of the year the site is approved by VEPC.

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- **Tax Increment**: The difference in property tax revenue generated by the increase in assessed value over the original taxable value (OTV). A portion of the increment may be retained by the municipality to service debt on eligible infrastructure costs~~-~~, pay for eligible related costs, reimburse a non-municipal sponsor or developer for eligible costs of the housing infrastructure project, and/or pay for other eligible direct costs associated with the eligible infrastructure project.

- **Housing Infrastructure Agreement:** A legally binding agreement among the municipality, sponsor (if other than the municipality), and developer that includes terms related to infrastructure financing, affordability, unit production, timelines, and performance assurances ~~guarantees~~.

- **Public Hearing:** Unless a municipal charter requires greater notice, the municipal legislative body shall hold a public informational hearing on the question by posting warnings at least 15 days in advance of the hearing in at least two public places within the municipality and in the town clerk's office and on the town's website If the municipality does not have two public places to post their warning, they may post their warnings in adjacent communities.

- **Use of Increment:** Where housing ~~Municipalities whose~~ infrastructure projects are provided in connection with ~~will result in~~ an affordable or moderate-income housing development, the municipality may ~~are eligible to~~ retain up to 85% of the education tax increment. Municipalities ~~whose infrastructure projects will result in any other type of housing development are eligible to~~ may retain up to 75% of the education tax increment in connection with other housing development. For a~~A~~ll housing developments~~projects~~, the municipality must retain at least 85% of the municipal tax increment.

Housing Type	State Tax Retained	Municipal Tax Retained	Units Required	Area Median Income (AMI) Limit	"But For" Test
Affordable: Rental (Total annual cost ≤ 30% of gross income)	Up to 85%	85% to 100%	At least 15% of units must be affordable	≤ 80% AMI	Not required
Affordable: Owner-Occupied (Total annual cost ≤ 30% of gross income)	Up to 85%	85% to 100%	At least 15% of units must be affordable	≤ 120% AMI	Not required

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Moderate-Income	Up to 85%	85% to 100%	At least 25% of units must be affordable	≤ 150% AMI	Required
Market Rate	Up to 75%	85% to 100%	N/A – No requirement	No cap	Required

*Eligible housing must be for permanent residents

- **Public good**: A benefit resulting from a CHIP-supported housing development or housing infrastructure project that is shared broadly by the community, rather than serving only individual or private interests. Public goods may include, but are not limited to: the creation of new housing stock, long-term increases in housing affordability, improved infrastructure access, on-site energy production, reduced displacement, support for local workforce housing, and contributions to sustainable, compact development consistent with state, regional, and local plans. Public good must be articulated in addition to~~beyond~~ the value created for the housing development alone. ~~and should serve to advance equity, livability, and resilience within the community."~~

- **60% Floor Area**: 60% of the indoor floor area (as defined by established regulation of the municipality) must qualify as "housing" (i.e., primarily serve residential uses). Floor area to be considered "housing" includes all housing units dedicated to primary residences, shared spaces that are accessible to residents or exist solely to serve residential units (including but not limited to hallways, elevators, stairwells, common rooms, or mechanical and utility spaces directly serving residential units). Space that does not count toward the 60% includes, but is not limited to: residential units not dedicated to primary residents, commercial space, or space operated by the municipality or another entity for uses not directly serving residential units

- Further clarification for the purpose of calculating the eligible floor area where the municipality has not established a definition, we refer to the 2018 International Building Code, which defines Gross Floor Area as:
    - *The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, ramps, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.*

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- **Primary Residence:** A homestead is the principal dwelling and parcel of land surrounding the dwelling, owned and occupied by the resident as the person's domicile as defined by the Vermont Department of Tax. Or, if the unit is a rental unit, the lease agreement stipulates the tenant occupies the unit as their primary~~permanent~~ residence. Both owner occupied and rental units must remain a primary residence until the Final Repayment Date~~for the duration of the outstanding CHIP debt~~.

Eligibility Criteria

Applicants:

- Eligible applicants are Vermont municipalities (cities, towns, or incorporated villages) that seek to create a housing infrastructure ~~for a housing~~ project.

Projects:

- Eligible projects include ~~public~~ infrastructure improvements that ~~directly~~ support the development of an eligible housing development ~~project~~. Eligible Housing Development Projects must result in new or rehabilitated housing developments where at least 60% of the floor area of the projected housing development is dedicated to primary housing residences, or the project housing development meaningfully addresses the purpose of the program. If the projected housing development does not meet the criteria for an affordable housing development, the project must meet the but-for test.

Improvements:

- Eligible infrastructure improvements may include, but are not limited to, the following:
    - Utilities, such as power transmission lines and conduit, telecommunications lines and conduit, telecommunications towers, digital infrastructure, and power or telecommunications equipment; energy infrastructure; drinking water, wastewater, and storm water~~,~~ infrastructure including: water sources; green and gray stormwater practices; distribution/collection and conveyance piping and pump stations; and treatment systems, facilities, and ~~equipment and~~ regulatory required pertinent equipment.
    - Transportation improvements such as ~~publicly accessible~~ roads, streets, bridges, parking lots, facilities, garages, and structures, multimodal facilities,

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public transit stop equipment and amenities, street and sidewalk lighting, roundabouts, crosswalks and/or other pedestrian crossing treatments, traffic calming features, sidewalks, streetscapes, way-finding signs and kiosks; traffic signals, medians, turn lanes, and property acquired or used for right of way such as hiking and biking trails, pathways to facilitate multimodal transportation, bicycle and pedestrian lanes, paths, and bridges, street furnishings.

  - Site preparation for development or redevelopment including land and property acquisition, demolition, environmental remediation of contaminated property, and mitigation of a flood-prone area.
  - Soft costs such as consulting, design, architects, engineering, accounting , legal, project management, associated application fees, or other professional services directly related to the implementation and construction of eligible ~~Site I~~improvements

- Eligible infrastructure improvements may be publicly and/or p~~P~~rivately owned ~~publicly accessible improvements that~~ provided they meet the ~~purpose of the CHIP program,~~ public good definition~~,~~ and ~~directly~~ support a~~the~~ housing development that meets the purpose of the CHIP program~~project are eligible~~.

Eligible Related Costs:

- Related costs are costs incurred by the municipality, sponsor and/or developer associated with the creation, implementation, and administration of the housing infrastructure project ~~CHIP site~~. Eligible related costs include, but are not limited to the following:
  - Cost of plans, studies, or reports that are specific to preparing a CHIP Plan, a Finance Plan, an application to the Council, or a subsequent amendment required to maintain the CHIP site.
  - Costs of providing public notification about, and obtaining public approval for, a CHIP Plan, a Finance Plan, and CHIP debt, CHIP application, or CHIP amendment.
  - ~~Costs such as consulting, design, architects, engineering, accounting, legal, project management, or other professional services incurred during preparation or implementation of a CHIP Plan, Finance Plan, CHIP application, or CHIP amendment~~

- Costs such as consulting, design, architects, engineering, accounting, legal, project management, or other professional services incurred during preparation or implementation of a CHIP Plan, Finance Plan, application or amendment, and administration of the program including administrative fees paid by the municipality.
- Application fees charged by the Council for third-party analysis of CHIP Plans, CHIP Financing Plans, or CHIP amendments.
- The CHIP-related costs of the independent annual municipal audit
- Municipal employee and staff costs directly related to the administration and implementation of the CHIP Site. These costs may only be paid with municipal tax increment.

- Costs that are not eligible related costs, or improvements are:
  - Annual municipal operating costs.
  - Public transportation operating costs.
  - Annual maintenance or repair costs.
  - Purchase of vehicles.
  - Interior furnishings.
  - Operating equipment or apparatus that is not part of the infrastructure improvement itself.
  - Other expenditures for non-capital assets with the exception of debt service interest payments as outlined under eligible improvement costs.

Application and Approval Process

Pre-Application Coordination:

- Municipalities must complete a CHIP Interest Form and submit it to VEPC staff for review prior to submitting a full application to VEPC.

Housing Development Plan and Housing Development Site:

- Create a housing development plan and housing development site:
- Develop a housing development plan that includes:
  - Description of the proposed housing infrastructure project

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- Proposed housing development
  - Proposed housing development site, including anticipated floor area dedicated to housing. If less than 60%, a narrative about how this project meaningfully addresses the purpose of the program.
- Identification of a sponsor
- A tax increment financing plan, including:
  - a statement of costs and sources of revenue;
  - estimates of assessed values within the housing development site;
  - the portion of those assessed values to be applied to the housing infrastructure project;
  - the resulting tax increments in each year of the financial plan and the lifetime education property tax increment retention;
  - the amount of bonded indebtedness or other financing to be incurred. This includes
  - estimates of necessary principal, interest, costs of improvements, and related costs, and in the event of municipal financing the ~~A~~amount anticipated to be approved by voters~~, including estimates of necessary principal, interest, costs of improvements, and related costs~~

    ~~Or, if sponsor is taking on the debt, a copy of the agreement, contract, or other obligations that have been voted and approved by the municipal legislative body within the development agreement~~
  - other sources of financing and anticipated revenues; and
  - the duration of the financial plan.
- A pro forma projection of expected costs of the proposed housing infrastructure project
- A projection of the tax increment to be generated by the proposed housing development

    - A development schedule that includes a list, cost estimate, and a schedule for the proposed housing infrastructure project and proposed housing development
    - A determination by the legislative body of the municipality that the proposed housing development furthers the purpose of the program.
- Develop a housing development site by identifying its boundaries and the properties within it, titled "Proposed Housing Development Site [municipal name], Vermont"
- Hold one or more public hearings, after public notice, on the proposed housing infrastructure project, including the plans developed above
- Adopt the plan by action of the municipal legislative body and record it with the municipal clerk and lister.

Housing Infrastructure Agreement:

- Create a Housing Infrastructure Agreement between the municipality and the project developer. The agreement must:
    - Identify the sponsor for the project
    - Identify the developer and housing development
    - Obligate the tax increments retained for financing and related costs for the infrastructure project
    - Provide that any housing unit within the housing development be offered exclusively as a primary residence until the Final Repayment Date~~all indebtedness for the housing infrastructure project has been retired~~. This condition shall be satisfied by providing a landlord certificate or homestead declaration every 2 years.
    - Provide for performance assurances to reasonably secure the obligations of all parties under the housing infrastructure agreement.
    - The terms of this agreement must be noticed to the municipality before the municipal legislative body can sign on as a party.

VEPC Review & Approval:

- The municipality will submit their municipally approved Housing Development Plan, Housing Development Site, and Housing Infrastructure Agreement to VEPC for review. The council will determine whether the municipality has:

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- Properly created a housing infrastructure project and housing development site
- Executed an acceptable housing infrastructure agreement for the housing infrastructure project with a developer and, if the municipality is not financing the housing infrastructure project itself, a sponsor;
- Approved or pledged to use at least 85% of incremental municipal tax revenues for the housing infrastructure project.

- Additional VEPC Application Determinations:
  - Affordability: The Council will determine whether the proposed housing development meets the criteria of "affordable housing development" or "moderate-income housing development" and set the maximum education tax increment at 85% if either criterion is met or up to 75% if neither criterion is met. The Council has the discretion to set the increment retention lower than these maximums, depending on the application circumstances. VEPC will utilize the Vermont Housing Finance Agency's most recent home purchase price and rental affordability thresholds chart based on HUD median income estimates to determine if the affordability threshold is met for affordable and moderate-income housing developments.
  - But-For Test: The Council will review each application other than those for which the housing development is an affordable housing development to determine whether the infrastructure improvements proposed to serve the housing development site and the proposed housing development would not have occurred as proposed in the application or would have occurred in a significantly different and less desirable manner than as proposed in the application but for the proposed utilization of the incremental tax revenues.
    - A non-exhaustive list of factors VEPC may consider around the question of what is a "significantly different and less desirable manner" may include, but is not limited to: a housing development occurring significantly later than it could occur with CHIP financing, a housing development that would include fewer units without CHIP financing, a housing development that is significantly less affordable than could occur with CHIP financing
  - Floor Area: VEPC will determine whether the housing development will have at least 60 percent of the floor area dedicated to housing, or if it meaningfully addresses the purpose of the program.

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- Site Visits
  - Upon a determination by VEPC staff that a municipality has submitted a complete application, VEPC staff will schedule a site visit of the proposed housing development site [within X days of submission of a complete application ??].
- VEPC Approval
  - The application shall be submitted to the VEPC Council and approved or denied by the council within 90 days of the site visit.
- Post-VEPC Approval
  - Municipality instructs lister/assessor to certify OTV.

Financing and Debt Requirements

- In the event of municipal financing, the first issuance of d~~D~~ebt must be incurred within five years of site creation. VEPC may issue an extension up to eight years. Upon the first incurrence of debt, VEPC and the Department of Taxes will be notified. In the event of non-municipal financing, notice to proceed under a construction contract for eligible infrastructure must be given within five years of site creation, subject to extension by VEPC to up to eight years.
- Municipal voters must approve each instance of municipal borrowing in a warned vote. This information shall include~~s~~:
  - the amount and types of debt and related costs to be incurred, including principal, interest, and fees;
  - terms of the debt;
  - the housing infrastructure project to be financed;
  - the housing development projected to occur because of the housing infrastructure project; and
  - notice to the voters that if the tax increment received by the municipality from any property tax source is insufficient to pay the principal and interest on the debt in any year, the municipality shall remain liable for the full payment of the principal and interest for the term of the indebtedness.

  - If interfund loans within the municipality are used, the information must also include documentation of the terms and conditions of the loan.

- Allowed instruments include bonds, loans, interfund loans (interest-free), and bond anticipation notes. Bond anticipation notes or other forms of temporary financing may not be used as a first incurrence of debt. In instances where a municipality would like to use temporary financing as a last incurrence of debt, the debt incurrence period may be extended not more than 6 months solely for the purpose of obtaining final bond financing when voter bond authorization is granted by March 31st in the CHIP site's final year of debt incurrence.

- The housing development site shall continue until the Final Repayment Date~~date and hour the indebtedness is retired~~ or, if no debt is incurred in the event of municipal financing or no construction contract is let in the event of non-municipal finaning, the debt incursion period ends.

Use of Tax Increment

- Municipal and education increments may only be used to pay for:

  - CHIP debt service

  - related costs

  - direct payment of the cost of a housing infrastructure project, as long as the payment was included in the CHIP financing plan~~and subject to the same vote provisions as public debt~~.

  - reimbursement by a municipality of the costs of eligible infrastructure incurred by a developer or other non-municipal sponsor, ~~A municipality may provide an increment to a sponsor~~ upon receipt of one or more ~~an~~ invoices for payment of the eligible infrastructure costs (or the financing thereof), and which the developer or other non-municipal sponsor shall confirm to the municipality once the increment has been applied to the same~~financing~~. Details of the reimbursement mechanism will be addressed in the housing infrastructure agreement in order to reflect project specific circumstances.

- Retention period: 20 years beginning the first fiscal year in which debt is incurred in the event of municipal financing, and beginning the first fiscal year in which the construction contact is let in the event of non-municipal financing.

    - Example: If a town votes in March 2027 (FY27) and incurs that debt in July 2027 (FY28), retention begins in FY28 (using GL27) and is retained through FY47 (GL46),
- Increment amount:
    - Municipalities within which~~whose~~ infrastructure projects will result in an affordable or moderate-income housing development are eligible to retain up to 85% of the education tax increment.
    - Municipalities within which ~~whose~~ infrastructure projects will result in any other type of housing development are eligible to retain up to 75% of the education tax increment.
    - All projects must retain at least 85% of the municipal tax increment, and may retain up to 100%.
    - Adjustment of percentage: During the 10th year following creation of the site, the municipality will submit an updated financing plan to VEPC. VEPC will determine, based on the debt actually incurred and the increment actually generated, whether the percentage being retained is appropriate or if it can be lowered while still allowing the municipality to service remaining debt.
- Excess increment:
    - Excess increment in any tax year may be
        - 1) used to prepay debt
        - 2) placed in the municipality's CHIP fund and used for future financing payments, or
        - 3) used for defeasance of the financing
    - Excess increment remaining upon the Final Repayment Date~~once the financing is retired~~ must be returned to taxing authorities in the appropriate proportions.

Reporting and Compliance

A municipality must:

- Develop a system to identify, collect, and maintain all data and information to fulfill annual reporting requirements

DRM Comments

- Notify VEPC and the Department of Taxes of any CHIP debt, public votes, or votes by the municipal legislative body immediately. They will need to provide copies of public notices, agendas, minutes, the vote tally, and a copy of the information provided to the public.
    - A municipality must hold a public vote if the CHIP infrastructure project(s) will be financed through a municipal bond. If the CHIP infrastructure project(s) are financed by the sponsor in another fashion, only approval from the municipal legislative body at a properly warned hearing is required. The municipality must provide copies of the warning, minutes, and vote of municipal legislative body.
- Conduct annual financial audits and provide results to VEPC
- Submit annual reports on or before February 15 to VEPC and the Department of Taxes on a form prescribed by the council. These will include (but are not limited to):
    - Annual and total municipal and education property tax increments generated
    - Expenditures for financing and related costs
    - Current balance
    - Expenditures for infrastructure improvements
    - Scope and value of projected and actual improvements and developments in the housing development site, including the number of housing units created;
    - Sale prices for initial offerings of any housing units;
    - Rental prices for initial offerings of any rental housing units
    - Number and types of housing units for which a permit is being pursued under 10 V.S.A. chapter 151 (State land use and development plans) and, for each applicable housing development, the current stage of the permitting process;
    - Projected and actual incremental revenue amounts;
    - Allocation of incremental revenue, including the amount allocated to related costs;
    - Projected and actual financing; and
    - Amount of public funds flowing to private ownership or usage

  - Biennial verification of affordability covenants and primary residence occupancy

- VEPC may request supplemental reports or perform audits at any time

Amendments

Once approved, the CHIP Housing Development Plan, CHIP Finance Plan, and Housing Infrastructure Agreement serve as the foundational documents for each CHIP Site's implementation, providing the intentions of the municipality, sponsor, and developer regarding CHIP debt and financing, improvements, and development/redevelopment. These plans were presented at a public hearing, voted on by the municipal legislative body, and approved by the Council.

Any significant changes require the Council's review and approval before proceeding. To apply for a Substantial Change Request (or amendment), the municipality must submit a narrative explaining the desired change and rationale, as well as a revised CHIP Housing Development Plan, CHIP Finance Plan, and Housing Infrastructure Agreement. These revised documents must be approved by the municipal legislative body at a properly warned hearing.

A non-exhaustive list of changes that would require Council review include but are not limited to:

- An increase in the CHIP-funded portion of a project of 20% or more.
- Adding, removing, or substituting a public infrastructure project in the CHIP Housing Development Plan or Finance Plan.
- An increase in the Council-approved CHIP debt ceiling.
- An extension of the 5-Year requirement to incur first CHIP debt.
- A change in the number or distribution of affordable or moderate-income units that would reduce the units below the threshold allowing for the increased increment retention percentage (85% versus 75%)
- A change in the percentage of floor area dedicated to housing that would reduce the percentage below the 60% threshold.
- If the town and developer make material modifications to their development agreement that impacts the infrastructure improvements and/or anticipated increment generated by the private development.

- If the developer is not able to meet the requirements set out in the Development Agreement and/or the anticipated timeline for the infrastructure or private development is significantly delayed (2 or more years).
- Changes in the sources of funding for the CHIP-funded portion of a project.
- Any bond structured to generate bond premium proceeds which will be used to pay for improvements or for debt service (principal and interest), not previously submitted as part of an approved CHIP Finance Plan.
- Any Payments In Lieu of Taxes (PILOTS) or other negotiated payments not previously submitted as part of an approved CHIP Finance Plan.

Any of the above changes and others that the Council determines to be a substantial change made without Council approval need to be reviewed through the issue-resolution process outlined in 24 V.S.A. § 1910f (b).

Any changes to a VEPC approved CHIP project not meeting the substantial change thresholds shall be reported to the VEPC staff immediately. VEPC staff will review the proposed change and may determine that a substantial change request is required.

Contact Information

Vermont Economic Progress Council (VEPC)
Email: accd.chip@vermont.gov
Email: accd.vepc@vermont.gov

To: Chair John Russell, Vermont Economic Progress Council
Cc: Jessica Hartleben, Executive Director of the Vermont Economic Progress Council
Vermont Economic Progress Council Members
From: Jak Tiano, Let's Build Homes Policy Director
Miro Weinberger, Let's Build Homes Executive Chair
Date: September 25th, 2025
RE: Comments on Proposed CHIP Guidelines

Let's Build Homes strongly supports the Community Housing Infrastructure Program (CHIP)—a project-based TIF tool designed to close infrastructure gaps so housing that would not otherwise be built can move forward statewide. As VEPC finalizes the CHIP guidelines, we offer support and recommendations to ensure CHIP becomes accessible to all Vermont communities, particularly focusing on infrastructure definitions, the public good standard, and developer financing options.

Our areas of focus

- **Infrastructure definition:** The guidelines provide a broad, non-exhaustive list of eligible infrastructure—a vision we strongly support. However, the requirement that privately-owned improvements be "publicly accessible" creates ambiguity for critical use cases like community septic systems in rural areas.
- **Public good standard:** While the updated definition acknowledges that improvements can provide both public and private benefits, the final sentence remains vague and subjective. Meanwhile, the statutory purpose clearly identifies the public good: enabling new primary residences to be built across all of Vermont.
- **Developer financing:** We applaud the explicit inclusion of developers as eligible sponsors, aligning Vermont with common practice in other states and expanding financing options.

During the legislative process, Let's Build Homes advocated for these very elements: broad infrastructure eligibility that acknowledges Vermont's diverse community needs, an objective purpose statement prioritizing housing growth for households of all backgrounds and income levels, and flexible financing options including developer participation. While the draft guidelines largely reflect these priorities, we see two critical areas that need refinement to ensure CHIP fulfills its promise.

Key concerns

1. **Infrastructure accessibility requirement**

   Rural communities need CHIP for privately-owned community septic systems—infrastructure that is essential to housing but not "publicly accessible" in traditional terms. Current language creates uncertainty about eligibility despite legislative intent to support such projects. The existing requirements (meeting program purpose, public good, directly supporting housing) provide sufficient guardrails.

2. **Public good definition ambiguity**

   The final sentence in the proposed definition ("Public good must be articulated beyond the value created for the development…") remains subjective. This creates unnecessary evaluation complexity when the statute already defines the public good: enabling new primary residences. This is a missed opportunity to explicitly recognize housing creation as the core public benefit.

These concerns risk limiting CHIP's accessibility and impact, and could either deter communities from pursuing otherwise viable projects, or create unnecessary roadblocks for some projects. Clear, objective language will give communities the confidence to move forward with CHIP applications.

Recommendations

1. **Strike "publicly accessible" from the final bullet under eligible improvements**
   Proposed: "Privately owned ~~publicly accessible~~ improvements that meet the purpose of the CHIP program, public good definition, and directly support the housing development project are eligible."

2. **Replace public good definition with purpose-aligned standard**
   Proposed: "Public Good: A benefit resulting from a CHIP-supported project that supports or directly enables the development of new primary residences in any community within the state of Vermont."

These straightforward changes align the guidelines with legislative intent while maintaining appropriate safeguards. By removing ambiguous language and anchoring the public good definition to CHIP's statutory purpose, VEPC can ensure consistent, predictable implementation across all Vermont communities.

SUMMIT
PROPERTIES

September 25, 2025

To: Vermont Economic Progress Council Members
From: Zeke Davisson, Summit Properties
Re: Comments to CHIP DRAFT Guidelines (Sept. 10, 2025)

I am writing with comments that I believe will clarify and improve the Community Housing Infrastructure Program (CHIP) guidelines being considered by VEPC. Thank you for this opportunity to comment and work with you on a program with such potential.

First, I would like to echo other commentators who have more thoroughly emphasized:

1. The importance of clarifying "Public Good" by removing references such as "shared broadly by the community" and "articulated beyond the value created for the development"; and

2. Removing "publicly accessible" from the language around eligible improvements.

Both of these terms create ambiguity and are simply irrelevant to a large swath of the types of improvements this program is intended to support. For example, we are currently developing the largest new neighborhood development in decades outside of Chittenden County—Stonecrop Meadows in Middlebury—where we are currently under construction on 80 dwelling units and have another 104 permitted. The infrastructure construction required for this project would not have been possible without ARPA funding, which no longer exists.

In its place, CHIP could represent a viable solution (and may still be for future phases of Stonecrop Meadows), but I would have a hard time articulating how the sewer, water, and stormwater infrastructure (all buried in the ground) or the roads (which simply loop through the community) represent a "public good" or are "publicly available" under the current guidelines *other than* by simply enabling the construction of the housing in this new neighborhood, which decades of history demonstrates has not happened otherwise. I do not think the legislature intended, nor does logic allow, making it any more complicated than that.

Second, one of the CHIP program's great opportunities is in creating alternative financing paths to the conventional municipal general obligation bond.

1. Others have commented on the ambiguity and questioned the purpose of changing from the statutory "independent agency" to the guideline's "public-private partnership" language for alternative financing arrangements. I agree.

2. Regarding the developer-financed option, I would ask that the committee consider amending the "Use of Tax Increment" language starting "A municipality may provide an increment to a

sponsor…" line to give more flexibility to the municipality and sponsor to negotiate alternative flow of funds arrangements in the Housing Infrastructure Agreement. As was noted in public comment in the September 25 meeting, receiving an annual tax increment payment to reimburse for a year's worth of monthly debt service payments is both overly complicated for the municipality and diminishes the benefit to the sponsor. It is an administrative and financial tax for which there are better solutions that can be established by the municipality and sponsor to meet their individual needs and lender's underwriting requirements.

Again, thank you for the opportunity to review the guidelines together with the Committee and Council, and we look forward to the finalization and implementation of this program.

Sincerely,

Zeke Davisson

Zeke Davisson
Summit Properties

From:	Dylan Giambatista
To:	ACCD - CHIP
Subject:	Vermont Gas comments on CHIP guidelines
Date:	Thursday, September 25, 2025 6:03:40 PM
Attachments:	image001.png

You don't often get email from dgiambatista@vermontgas.com. Learn why this is important

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Members of the Vermont Economic Progress Council,

My name is Dylan Giambatista. I am the Director for Public Affairs for Vermont Gas Systems, Inc. (Vermont Gas). Vermont Gas is the largest thermal utility in the state serving more than 56,000 customers in northwest Vermont. In recent years, we've expanded our long-standing natural gas and energy efficiency services and have begun installing cold climate heat pumps. We're also actively exploring other renewable energy solutions for residential, multi-family housing, and commercial buildings.

Our teams work daily with customers who rehabilitate existing buildings and plan new ones. A growing number of customers are seeking cost-effective renewable options for their heating and cooling needs. As State and local climate policy evolves, we anticipate even more will be compelled to incorporate these systems into designs for new construction.

I am sharing feedback on the draft eligible improvements guidance for CHIP. We recommend the utilities section include geothermal technology because deployment of these non-emitting energy systems provides multiple benefits to their users and Vermont communities. If VEPC would like to reference a more detailed definition, the Vermont Climate Council recently approved language that lists "thermal energy networks, waste heat recovery, and community-scale geothermal."

Vermont Gas has been engaged in exploratory work around the feasibility of providing geothermal services to customers for several years. Our review has included completion of several feasibility studies for multi-customer projects, and we reached the milestone of initiating our first geothermal project this year in Hinesburg, which will heat and cool affordable housing units. While these systems offer an attractive energy solution that many developers are eager to explore, they can be challenging to scale.

Geothermal energy systems can meet the needs of a single building, multiple buildings, or can be used as a component to expand systems at later points in their operating life. Adding geothermal as an infrastructure eligible for CHIP would:

2. support the cost-effective deployment of renewable energy infrastructure in new development;
2. make stable and low-cost, non-emitting heating and cooling available to building occupants; and
3. Over time these single- or multi-building geothermal systems could be combined or incorporated to create larger district- or community-scale energy infrastructure to support growth in preferred areas.

This latter example of scalable infrastructure seems consistent with the intent of CHIP. For example, whether it's a single geothermal loop serving one building, or a geothermal loop networked to serve multiple buildings, both can act as building blocks for linking future developments and achieving economies of scale. Over time, we expect these types of district or community-scale renewable thermal projects will become more common. Programs that facilitate geothermal now could seed larger geothermal networks in the future, multiplying their value to the community.

I appreciate you considering this feedback as you work toward completing guidelines for CHIP. Please be in touch if you have any questions.

Best,

Dylan

Dylan Giambatista
Director of Public Affairs
Vermont Gas Systems, Inc.
Mobile 802-391-6475
www.vgsvt.com

To: Chair John Russell, Vermont Economic Progress Council

Cc: Members of the Vermont Economic Progress Council, CHIP Subcommittee and Jessica Hartleben

From: Maura Collins, Vermont Housing Finance Agency

Date: October 1, 2025

Re: Comments on Draft CHIP Guidelines

The Vermont Housing Finance Agency (VHFA) strongly supports the creation of CHIP and applauds the collective work of VEPC staff, CHIP subcommittee members and the VEPC board for swiftly and adeptly drafting the guidelines. We believe the draft guidelines support both the spirit in which the legislation was created and the concrete objectives of an accessible financing mechanism to support the infrastructure needed to create homes across Vermont.

We do have three suggestions that align with feedback given by other supporters of CHIP and would help to remove any ambiguity or subjectivity and more closely align with legislative intent.

As others have noted, the proposed definition of "public good" is somewhat out of step with legislative intent in that it adds a level of subjectivity to what exactly an applicant should create in order to meet the definition. We would recommend amending the proposed definition of public good to more closely align with subsection 1907 (PURPOSE) of the enacting legislation (Act 69). We agree with the language proposed by Let's Build Homes which states: "Public Good: a benefit resulting from a CHIP-supported project that supports or directly enables the development of new primary residences in any community within the state of Vermont."

Secondly, we suggest removing the phrase "publicly accessible" from the last item listed under eligible improvements. One of the primary goals of this program is to allow any community of any size to access this financing tool. This could mean, for example, financing a private septic system required to create homes in a community where a publicly accessible wastewater system would not be appropriate. We believe making this small edit will improve program accessibility to any community.

Finally, VHFA recommends reverting to the original legislative language using the phrase "independent agency that meets state lending standards" when referring to a sponsor. This allows the most amount of flexibility for applicants and sticks with the spirit of legislative intent. We would recommend *not* listing specific agencies, such as VHFA, as this is not a role we wish to play.

Again, thank you for the work done by the staff and subcommittee and to the board for being so diligent in this process. Please do reach out to VHFA if there are any questions or need for follow-up.

To: Chair John Russell, Vermont Economic Progress Council

Cc: Members of the Vermont Economic Progress Council; Jessica Hartleben, Executive Director

From: Josh Hanford, Director of Intergovernmental Relations

Samantha Sheehan, Municipal Policy and Advocacy Specialist

Date: September 19, 2025

RE: Approval for Draft CHIP Guidelines

The Vermont League of Cities and Towns (VLCT), on behalf of our 247 municipal members, has long advocated for the municipal authority to finance necessary public infrastructure using tax increment. VLCT was a champion of the Community Housing and Infrastructure Project (CHIP) throughout the 2025 legislative session and celebrates its passage as the most significant public investment in municipal infrastructure and housing in state history. Our intention is to support the work of the Vermont Economic Progress Council in realizing the purpose and potential of CHIP to bring billions of dollars of public investment to communities across the state and facilitate the construction of thousands of new homes in Vermont municipalities both rural and urban.

VLCT appreciates the diligent work of the Subcommittee in drafting CHIP guidelines to make the program accessible and useful to small and low-resource municipal governments, and for a broad variety of planned development types. The draft guidelines represent an effective and transparent public process which incorporated the feedback of numerous stakeholders including municipal officials, builders and developers, financing agencies, and advocates.

The purpose of this memo is to provide feedback on the draft guidelines to ensure that the guidelines are well aligned with the purpose of the program and with the goals, needs, and resources of Vermont communities who intend to leverage CHIP investment.

Recommended Changes to Draft Guidelines for Consideration

A final review of the posted materials has yielded the following suggested changes for your consideration:

Definition of Public Hearing: "*Unless a municipal charter requires greater notice, the municipal legislative body shall hold a public informational hearing on the question by posting warnings at least 15 days in advance of the hearing in at least two public places within the municipality and in the town clerk's office and on the town's website If the municipality does not have two public places to post their warning, they may post their warnings in adjacent communities.*"

The requirements for all municipal legislative bodies before action are carefully prescribed by Title 1 and were recently revised by Act 51 of 2025. To avoid confusion or conflict with law, we recommend simplifying the definition for public hearing. For example, Tile 1 generally uses the words "public notices" instead of "warnings".

Recommendation:

- Strike: "...*by posting warnings at least 15 days in advance of the hearing in at least two public places within the municipality and in the town clerk's office and on the town's website If the municipality does not have two public places to post their warning, they may post their warnings in adjacent communities.*"
- Amend to: "according to the definitions and requirements of 1 V.S.A. § 312"

Definition of Original Taxable Value (OTV): "*The assessed value of taxable real property within the housing development site on April 1 of the year the site is approved by VEPC."*

Like the item above, municipal processes for the annual certification of the grand list and for property valuation and reappraisal are requirements of state law and standards issued by the Department of Taxes, Property Valuation Review Division. To avoid confusion or necessary changes to the guidelines in the future to align with the state schedule for property valuation and grand list certification (which is likely to change in the near term) we recommend changing this definition.

Recommendation:

- Strike: "on April 1 of the year the site is approved by VEPC"
- Amend to: "upon the annual certification of the grand list in the year the site is approved by VEPC."

<u>Important Components of Draft Rules</u>

VLCT strongly advocates that the following components of the draft guidelines be retained in the final guidelines adopted by the full council:

Definition of Eligible Infrastructure Improvements

The operative language "*may include, but are not limited to*" in this definition is sufficient to allow municipalities maximum flexibility to invest in the improvements necessary to enable new housing according to local needs and regulation. The explicit inclusion of "site preparation for development or redevelopment including acquisition, demolition, environmental remediation of contaminated property, and mitigation of a flood-prone area," will help promote CHIP as an available tool to improve climate resiliency and encourage brownfield revitalization.

Definition of Public Good

The current draft language is responsive to feedback from VLCT and other stakeholders. In any planned public-private development there could be a number of improvements that meet specific community needs, provide inherent public benefit, and contribute to the value or equity of the development. For example, rain gardens could help capture and retain stormwater while providing native habitat for pollinators *and* could improve curb appeal. A parking garage could provide a revenue stream for the property owner *and* service the municipal transportation demand plan. The inclusion of commercial facilities could significantly enhance the expected value of the redeveloped property *and* support new jobs, tourism, non-property tax revenues, and services the community needs and has expressed. Mutually beneficial improvements should be allowed, as long as the municipality can articulate (with evidence) that the community needs or desires the planned improvements. If the council chooses to consider amendment to this definition, it should ensure that the subjectivity of the public good test does not prohibit or dissuade improvements that are mutually beneficial to the public, the developer, and/or intended property owners and renters

Definition of Eligible Related Costs

Similar to the definition for Eligible Infrastructure Improvements, the inclusion of the language "*may include, but are not limited to*" in this definition is sufficient to allow municipalities to appropriately reimburse all public costs related to the creation, implementation, and governance of the CHIP project including those necessary costs incurred prior to VEPC application and approval. VLCT does not contest that municipal employee costs associated with the CHIP should be obligated to the municipal share of tax increment revenues, and not the state share.

Definition of Housing Development Site

The draft definition for Housing Development Site touches on an issue known as the contiguous parcel rule, whereby contiguous parcels under common ownership are typically issued as single SPAN for the purposes of setting the grand list, issuing property tax bills, and collecting property tax payments. Early outreach and discussion of CHIP with municipal officials and other stakeholders interested in pursuing CHIP financed projects identified that applying the contiguous parcel rule to CHIP development sites could: 1. artificially constrain the planned development and public improvements, including for the control or transfer of municipally owned lands and 2. disadvantage both state and local revenues by forcing more future tax increment payments into the CHIP fund than would strictly be necessary for the financing of the associated public improvements. In the draft guidelines, the language "*unless contiguous parcels are under common ownership and share a SPAN*" is necessary to ensure that municipalities have the flexibility to plan the scope of development and to protect future tax increment revenues from adjacent properties once the public improvements are completed.

M E M O R A N D U M

To: VEPC CHIP Guidelines Subcommittee

From: David White, Stephanie Clarke, and Brian Pine

Date: September 24, 2025

Re: Draft CHIP guidelines

We have each reviewed the draft CHIP guidelines (Sept. 10, 2025) and applaud you for moving expeditiously as well as for an excellent first draft. We have relatively few comments, but three are of particular importance. These regard private improvements, the term “sponsor”, and the definition of “public good”.

We have been involved with CHIP from its beginning as a rough concept, well before the first draft of legislation was produced. Our company President, David, attended numerous legislative committee meetings as the legislation was reviewed. He testified extensively in front of several committees. We believe this gives us a rich understanding of the legislative intent.

We have prepared a marked-up version of the draft guidelines (enclosed). This includes both suggested edits and marginal comments that briefly explain the suggested edits. We hope you will review them and consider them in the spirit in which we intend them; that they will help clarify and strengthen the guidelines while making them more user friendly.

A key aspect of this legislation is to make it work for smaller projects and for smaller communities. For example, many of these communities do not have municipal water and/or sewer. They are also not likely to host large developments. Recognizing this, CHIP was designed to provide support for purely private infrastructure such as, but not exclusively, private wells and septic systems.

In reading the draft guidelines, it seems they are intended to allow private improvements, yet it is not entirely clear as written. Several times it refers to “public infrastructure”. You’ll see we’ve suggested some edits and made comments directly addressing this concern.

Secondly, the legislation says the sponsor may be “Any of a municipality, a developer, or an independent agency that meets State lending standards”. The draft guidelines replace “independent agency” with “public-private partnership”. This is not supported by the statute. Importantly, it was stated repeatedly during legislative committee meetings that “independent agency” meant an agency such as VEDA, VHFA, or the municipal bond bank. We strongly believe the guidelines should revert to the statutory language and perhaps add mention of those three agencies as examples.

Thirdly, regarding the definition of “public good”, it was frequently stated in legislative committees that the public good is the creation of housing. This was later narrowed to be housing that met the purpose of supporting development of primary residences for households of low and moderate income” whether directly through the development project itself or otherwise “meaningfully addresses” that purpose. We strongly urge you to simplify the definition and remove some of the verbiage (which is not within the statute) which could provide fodder for project opponents.

We’ve suggested a few additional changes you’ll see in our mark up.

Thank you for your consideration, and we look forward to tomorrow’s VEPC meeting.

White + Burke Comments 09-24-25

Community and Housing Infrastructure Program (CHIP): DRAFT Guidelines (September 10, 2025)

Table of Contents

Purpose

The Community and Housing Infrastructure Program (CHIP) is established under 24 V.S.A. Chapter 53, Subchapter 7 to "encourage the development of new primary residences for households of low and moderate income across both rural and urban areas of all Vermont counties that would not be created but for the infrastructure improvements funded by the Program."

The purpose of this document is to provide guidance on the processes and requirements related to the formation, development, and implementation of CHIP sites within Vermont.

Program Description

The Community Housing Infrastructure Program (CHIP) utilizes tax increment financing for public and private infrastructure improvements that support the development of new affordable and moderate-income primary housing. It is a targeted use of the tool, allowing municipalities to retain a portion of the property tax revenue resulting from increased values within a defined housing development site. These funds may be used to repay the debt incurred for eligible infrastructure improvements. CHIP is designed to complement local and state planning priorities and foster coordinated public-private partnerships. Projects must meet statutory criteria and be approved by the Vermont Economic Progress Council (VEPC) before debt is incurred.

Commented [DW1]: Legislative testimony expressed the clear intent that both public and private improvements would be eligible.

Key Definitions

Commented [DW2]: Recommend alphabetizing these.

Additional definitions can be found in the enacting legislation.

- **Affordable Housing:** See 24 V.S.A. Chapter 117 § 4303.

(A) Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

(B) Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

- **Housing Development:** The construction, rehabilitation, or renovation of any building on an approved Housing Development Site. An approved Housing Development (that is not an Affordable Housing Development or Moderate-Income Housing Development) may retain up to 75% of the education tax increment and at least 85% of new municipal tax increment.
- **Affordable Housing Development:** A housing development where at least 15% of the units are designated as affordable housing with a recorded covenant or deed restriction ensuring long-term affordability. These units must remain affordable until any debt incurred under CHIP is repaid. Units must be used as the tenant's or owner's primary residence. An application serving an affordable housing development does not have to meet the "but-for" test. The municipality may retain up to 85% education tax increment and at least 85% of the new municipal tax increment.
- **Moderate-Income Housing Development:** A housing development in which at least 25% of the units are for households earning 150% or less of AMI and are also subject to affordability restrictions until CHIP debt is repaid. Units must be used as the tenant's or owner's primary residence. A municipality with an application

serving a moderate-income housing development may retain up to 85% of the education tax increment and not less than 85% of the new municipal tax increment.

- **Housing Infrastructure Project:** A set of infrastructure improvements that support a specific CHIP housing development. These improvements must be directly tied to enabling the housing development.
- **Housing Development Site:** The whole parcel or parcels where the housing development will occur. If the development is to occur over multiple parcels, the parcels must be contiguous. Only parcels where the housing development is to occur can be included in the development site, unless contiguous parcels are under common ownership and share a SPAN, in which case they must also be included. Sites must be formally designated by the municipality and approved by VEPC. Site boundaries define the area within which the original taxable value is established and tax increment is generated. Once established, the boundaries of the Housing Development Site shall not change.
- **Improvements:** the installation, construction, or reconstruction of infrastructure that will serve a public good and fulfill the purpose of the program; and the funding of debt service interest payments for a period of up to four years, beginning on the date on which the debt is first incurred. Improvements do not need to be within the Housing Development Site, but the applicant must demonstrate that the proposed improvements enable the proposed housing development.
- **Related Costs:** expenses incurred and paid by a municipality or sponsor that are directly related to the creation, implementation, and administration of the municipality's housing infrastructure project, including reimbursement of sums previously advanced for those purposes.
- **Sponsor:** An entity responsible for financing the public improvements. This may be the municipality, a developer, or ~~a public-private partnership~~ an independent agency that meets State lending standards.
- **Developer**: The party responsible for constructing the housing development. Developers must enter into a binding Housing Infrastructure Agreement with the municipality.
- **Original Taxable Value (OTV)**: The assessed value of taxable real property within the housing development site on April 1 of the year the site is approved by VEPC.
- **Tax Increment**: The difference in property tax revenue generated by the increase in assessed value over the original taxable value (OTV). A portion of the increment may be retained by the municipality to service debt on eligible infrastructure costs , pay for eligible related costs, and/or pay for eligible direct costs associated with the eligible infrastructure project. Municipalities whose infrastructure projects will result in an affordable or moderate-income housing development are eligible to retain up to 85% of the education tax increment. Municipalities whose infrastructure projects will result in any other type of housing development are eligible to retain up to 75% of the education tax increment. All projects must retain at least 85% of the municipal tax increment.
- **Housing Infrastructure Agreement:** A legally binding agreement among the municipality, sponsor, and developer that includes terms related to infrastructure financing, affordability, unit production, timelines, and performance guarantees.
- **Public Hearing:** Unless a municipal charter requires greater notice, the municipal legislative body shall hold a public informational hearing on the question by posting warnings at least 15 days in advance of the hearing in at least two public places within the municipality and in the town clerk's office and on the town's website If the municipality does not have two public places to post their warning, they may post their warnings in adjacent communities.
- **Increment:** ~~Municipalities whose infrastructure projects will result in an affordable or moderate-income housing development are eligible to retain up to 85% of the education tax increment. Municipalities whose~~

Commented [DW3]: Testimony in the legislature made clear the intent was that "independent agency" would be an agency such as VEDA, VHFA, or the municipal bond bank. Statute says nothing about "public-private partnership' being a sponsor.

~~infrastructure projects will result in any other type of housing development are eligible to retain up to 75% of the education tax increment. All projects must retain at least 85% of the municipal tax increment.~~

Housing Type	State Tax Retained	Municipal Tax Retained	Units Required	Area Median Income (AMI) Limit	"But For" Test
Affordable: Rental (Total annual cost ≤ 30% of gross income)	Up to 85%	85% to 100%	At least 15% of units must be affordable	≤ 80% AMI	Not required
Affordable: Owner-Occupied (Total annual cost ≤ 30% of gross income)	Up to 85%	85% to 100%	At least 15% of units must be affordable	≤ 120% AMI	Not required
Moderate-Income	Up to 85%	85% to 100%	At least 25% of units must be affordable	≤ 150% AMI	Required
Market Rate	Up to 75%	85% to 100%	N/A – No requirement	No cap	Required

*Eligible housing must be for permanent residents

- **Public good**: A benefit resulting from a CHIP-supported project that is shared broadly by the community, rather than serving only individual or private interests. Public goods may include, but are not limited to: long-term increases in housing affordability, improved infrastructure access, reduced displacement, support for local workforce housing, and contributions to sustainable, compact development consistent with state, regional, and local plans. Public good must be articulated beyond the value created for the development and should serve to advance equity, livability, and resilience within the community."
- **60% Floor Area**: 60% of the indoor floor area must qualify as "housing" (i.e., primarily serve residential uses). Floor area to be considered "housing" includes all housing units dedicated to primary residences, shared spaces that are accessible to residents or exist solely to serve residential units (including but not limited to hallways, elevators, stairwells, common rooms, or mechanical and utility spaces directly serving residential units). Space that does not count toward the 60% includes, but is not limited to: residential units not dedicated to primary residents, commercial space, or space operated by the municipality or another entity for uses not directly serving residential units

Commented [DW4]: Confusing to have "Increment" and "Tax Increment" defined in two different places. Recommend merging under "Tax Increment"

Commented [DW5]: In legislative committee meetings, the repeatedly stated intent was that the public good is "development of new primary residences for households of low and moderate income" whether created directly in the individual developments or otherwise "meaningfully addresses the purpose of the program". The remainder of this definition has no basis in the statute and would only serve to provide project opponents another way to attack a proposed development.

- Further clarification for the purpose of calculating the eligible floor area, we refer to the 2018 International Building Code, which defines Gross Floor Area as:
    - *The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, ramps, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.*
- **Primary Residence:** A homestead is the principal dwelling and parcel of land surrounding the dwelling, owned and occupied by the resident as the person's domicile as defined by the Vermont Department of Tax. Or, if the unit is a rental unit, the lease agreement stipulates the tenant occupies the unit as their permanent residence. Both owner occupied and rental units must remain a primary residence for the duration of the outstanding CHIP debt

Eligibility Criteria

Applicants:

- Eligible applicants are Vermont municipalities (cities, towns, or incorporated villages) that seek to create infrastructure for a housing project.

Projects:

- Eligible projects include public and private infrastructure improvements that directly support the development of an eligible housing development project. Eligible Housing Development Projects must result in new or rehabilitated housing developments where at least 60% of the floor area of the projected housing development is dedicated to primary housing residences, or the project housing development meaningfully addresses the purpose of the program. If the projected housing development does not meet the criteria for an affordable housing development, the project must meet the but-for test.

Commented [DW6]: Legislative testimony expressed the clear intent that both public and private improvements would be eligible.

Improvements:

- Eligible improvements may include, but are not limited to, the following:
    - Utilities, such as power transmission lines and conduit, telecommunications lines, telecommunications towers, digital infrastructure, and power or telecommunications equipment; drinking water, wastewater, and storm water, infrastructure including: water sources; green and gray stormwater practices; distribution/collection and conveyance piping and pump stations; and treatment systems, facilities, and equipment and regulatory required pertinent equipment.
    - Transportation improvements such as publicly accessible roads, streets, bridges, parking lots, facilities, garages, and structures, multimodal facilities, public transit stop equipment and amenities, street and sidewalk lighting, roundabouts, crosswalks and/or other pedestrian crossing treatments, traffic calming features, sidewalks, streetscapes, way-finding signs and kiosks; traffic signals, medians, turn lanes, and property acquired or used for right of way such as hiking and biking trails, pathways to facilitate multimodal transportation, bicycle and pedestrian lanes, paths, and bridges, street furnishings.
    - Site preparation for development or redevelopment including acquisition, demolition, environmental remediation of contaminated property, and mitigation of a flood-prone area.

- Soft costs such as consulting, design, architects, engineering, accounting , legal, project management, associated application fees, or other professional services directly related to the implementation and construction of eligible Site Improvements
- Privately owned ~~publicly accessible~~ improvements that meet the purpose of the CHIP program, public good definition, and directly support the housing development project are eligible.

Commented [DW7]: There is nothing in the statute, nor are we aware of any testimony in the legislature that to be eligible private improvements would need to be "publicly accessible". To the contrary, testimony was that the purpose of changing the term "public purpose" in an early draft of the legislation to "public good" was to allow private infrastructure that supported housing. This was because housing was the desired "public good". Examples used in testimony included private wells, septic systems, parking lots, and driveways.

Eligible Related Costs:

- Related costs are costs associated with the creation, implementation, and administration of the CHIP site. Eligible related costs include, but are not limited to the following:
  - Cost of plans, studies, or reports that are specific to preparing a CHIP Plan, a Finance Plan, an application to the Council, or a subsequent amendment required to maintain the CHIP site.
  - Costs of providing public notification about, and obtaining public approval for, a CHIP Plan, a Finance Plan, and CHIP debt, CHIP application, or CHIP amendment.
  - Costs such as consulting, design, architects, engineering, accounting, legal, project management, or other professional services incurred during preparation or implementation of a CHIP Plan, Finance Plan, CHIP application, or CHIP amendment
  - Costs such as consulting, design, architects, engineering, accounting, legal, project management, or other professional services incurred during preparation or implementation of a CHIP Plan, Finance Plan, application or amendment, and administration of the program including administrative fees paid by the municipality.
  - Application fees charged by the Council for third-party analysis of CHIP Plans, CHIP Financing Plans, or CHIP amendments.
  - The CHIP-related costs of the independent annual municipal audit
  - Municipal employee and staff costs directly related to the administration and implementation of the CHIP Site. These costs may only be paid with municipal tax increment.
- Costs that are not eligible related costs, or improvements are:
  - Annual municipal operating costs.
  - Public transportation operating costs.
  - Annual maintenance or repair costs.
  - Purchase of vehicles.
  - Interior furnishings.
  - Operating equipment or apparatus.
  - Other expenditures for non-capital assets with the exception of debt service interest payments as outlined under eligible improvement costs.

Application and Approval Process

Pre-Application Coordination:

- Municipalities must complete a CHIP Interest Form and submit it to VEPC staff for review prior to submitting a full application to VEPC.

Housing Development Plan and Housing Development Site:

- Create a housing development plan and housing development site:
- Develop a housing development plan that includes:
    - Description of the proposed housing infrastructure project
    - Proposed housing development
        - Proposed housing development site, including anticipated floor area dedicated to housing. If less than 60%, a narrative about how this project meaningfully addresses the purpose of the program.
    - Identification of a sponsor
    - A tax increment financing plan, including:
        - a statement of costs and sources of revenue;
        - estimates of assessed values within the housing development site;
        - the portion of those assessed values to be applied to the housing infrastructure project;
        - the resulting tax increments in each year of the financial plan and the lifetime education property tax increment retention;
        - the amount of bonded indebtedness or other financing to be incurred. This includes
        - Amount anticipated to be approved by voters, including estimates of necessary principal, interest, costs of improvements, and related costs
            - Or, if a non-municipal sponsor is taking on the debt, a copy of the agreement, contract, or other obligations that have been voted and approved by the municipal legislative body within the development agreement
        - other sources of financing and anticipated revenues; and
        - the duration of the financial plan.
    - A pro forma projection of expected costs of the proposed housing infrastructure project
    - A projection of the tax increment to be generated by the proposed housing development
    - A development schedule that includes a list, cost estimate, and a schedule for the proposed housing infrastructure project and proposed housing development
    - A determination by the legislative body of the municipality that the proposed housing development furthers the purpose of the program.
- Develop a housing development site by identifying its boundaries and the properties within it, titled "Proposed Housing Development Site [municipal name], Vermont"
- Hold one or more public hearings, after public notice, on the proposed housing infrastructure project, including the plans developed above
- Adopt the plan by action of the municipal legislative body and record it with the municipal clerk and lister.

Commented [DW8]: We believe this is the intent. Suggest this addition for clarity.

Housing Infrastructure Agreement:

- Create a Housing Infrastructure Agreement between the municipality and the project developer. The agreement must:
  - Identify the sponsor for the project
  - Identify the developer and housing development
  - Obligate the tax increments retained for financing and related costs for the infrastructure project
  - Provide that any housing unit within the housing development be offered exclusively as a primary residence until all indebtedness for the housing infrastructure project has been retired. This condition shall be satisfied by providing a landlord certificate or homestead declaration every 2 years.
  - Provide for performance assurances to reasonably secure the obligations of all parties under the housing infrastructure agreement.
  - The terms of this agreement must be noticed to the municipality before the municipal legislative body can sign on as a party.

VEPC Review & Approval:

- The municipality will submit their municipally approved Housing Development Plan, Housing Development Site, and Housing Infrastructure Agreement to VEPC for review. The council will determine whether the municipality has:
  - Properly created a housing infrastructure project and housing development site
  - Executed an acceptable housing infrastructure agreement for the housing infrastructure project with a developer and, if the municipality is not financing the housing infrastructure project itself, a sponsor;
  - Approved or pledged to use at least 85% of incremental municipal tax revenues for the housing infrastructure project.
- Additional VEPC Application Determinations:
  - Affordability: The Council will determine whether the proposed housing development meets the criteria of "affordable housing development" or "moderate-income housing development" and set the maximum education tax increment at 85% if either criterion is met or up to 75% if neither criterion is met. The Council has the discretion to set the increment retention lower than these maximums, depending on the application circumstances. VEPC will utilize the Vermont Housing Finance Agency's most recent home purchase price and rental affordability thresholds chart based on HUD median income estimates to determine if the affordability threshold is met for affordable and moderate-income housing developments.
  - But-For Test: The Council will review each application other than those for which the housing development is an affordable housing development to determine whether the infrastructure improvements proposed to serve the housing development site and the proposed housing development would not have occurred as proposed in the application or would have occurred in a significantly different and less desirable manner than as proposed in the application but for the proposed utilization of the incremental tax revenues.
    - A non-exhaustive list of factors VEPC may consider around the question of what is a "significantly different and less desirable manner" may include, but is not limited to: a

housing development occurring significantly later than it could occur with CHIP financing, a housing development that would include fewer units without CHIP financing, a housing development that is significantly less affordable than could occur with CHIP financing

  - Floor Area: VEPC will determine whether the housing development will have at least 60 percent of the floor area dedicated to housing, or if it meaningfully addresses the purpose of the program.

- Site Visits
  - Upon a determination by VEPC staff that a municipality has submitted a complete application, VEPC staff will schedule a site visit of the proposed housing development site.
- VEPC Approval
  - The application shall be submitted to the VEPC Council and approved or denied by the council within 90 days of the site visit.
- Post-VEPC Approval
  - Municipality instructs lister/assessor to certify OTV.

Financing and Debt Requirements

- Debt must be incurred within five years of site creation. VEPC may issue an extension up to eight years. Upon the first incurrence of debt, VEPC and the Department of Taxes will be notified.
- Municipal voters must approve each instance of municipal borrowing in a warned vote. This information shall includes:
  - the amount and types of debt and related costs to be incurred, including principal, interest, and fees;
  - terms of the debt;
  - the housing infrastructure project to be financed;
  - the housing development projected to occur because of the housing infrastructure project; and
  - notice to the voters that if the tax increment received by the municipality from any property tax source is insufficient to pay the principal and interest on the debt in any year, the municipality shall remain liable for the full payment of the principal and interest for the term of the indebtedness.
  - If interfund loans within the municipality are used, the information must also include documentation of the terms and conditions of the loan.
- Allowed instruments include bonds, loans, interfund loans (interest-free), and bond anticipation notes. Bond anticipation notes or other forms of temporary financing may not be used as a first incurrence of debt. In instances where a municipality would like to use temporary financing as a last incurrence of debt, the debt incurrence period may be extended not more than 6 months solely for the purpose of obtaining final bond financing when voter bond authorization is granted by March 31st in the CHIP site's final year of debt incurrence.
- The housing development site shall continue until the date and hour the indebtedness is retired or, if no debt is incurred, the debt incursion period ends.

Use of Tax Increment

- Municipal and education increments may only be used to pay for:
  - CHIP debt service
  - related costs
  - direct payment of the cost of a housing infrastructure project, as long as the payment was included in the CHIP financing plan and subject to the same vote provisions as public debt
  - A municipality may provide an increment to a sponsor upon receipt of an invoice for payment of the financing, and the sponsor shall confirm to the municipality once the increment has been applied to the financing
- Retention period: 20 years beginning the first fiscal year in which debt is incurred
  - Example: If a town votes in March 2027 (FY27) and incurs that debt in July 2027 (FY28), retention begins in FY28 (using GL27) and is retained through FY47 (GL46),
- Increment amount:
  - Municipalities whose infrastructure projects will result in an affordable or moderate-income housing development are eligible to retain up to 85% of the education tax increment.
  - Municipalities whose infrastructure projects will result in any other type of housing development are eligible to retain up to 75% of the education tax increment.
  - All projects must retain at least 85% of the municipal tax increment, and may retain up to 100%.
  - Adjustment of percentage: During the 10th year following creation of the site, the municipality will submit an updated financing plan to VEPC. VEPC will determine, based on the debt actually incurred and the increment actually generated, whether the percentage being retained is appropriate or if it can be lowered while still allowing the municipality to service remaining debt.
- Excess increment:
  - Excess increment in any tax year may be
    - 1) used to prepay debt
    - 2) placed in the municipality's CHIP fund and used for future financing payments, or
    - 3) used for defeasance of the financing
  - Excess increment remaining once the financing is retired must be returned to taxing authorities in the appropriate proportions.

Reporting and Compliance

A municipality must:

- Develop a system to identify, collect, and maintain all data and information to fulfill annual reporting requirements
- Notify VEPC and the Department of Taxes of any CHIP debt, public votes, or votes by the municipal legislative body immediately. They will need to provide copies of public notices, agendas, minutes, the vote tally, and a copy of the information provided to the public.

- A municipality must hold a public vote if the CHIP infrastructure project(s) will be financed through a municipal bond. If the CHIP infrastructure project(s) are financed by the sponsor in another fashion, only approval from the municipal legislative body at a properly warned hearing is required. The municipality must provide copies of the warning, minutes, and vote of municipal legislative body.

- Conduct annual financial audits and provide results to VEPC
- Submit annual reports on or before February 15 to VEPC and the Department of Taxes on a form prescribed by the council. These will include (but are not limited to):
  - Annual and total municipal and education property tax increments generated
  - Expenditures for financing and related costs
  - Current balance
  - Expenditures for infrastructure improvements
  - Scope and value of projected and actual improvements and developments in the housing development site, including the number of housing units created;
  - Sale prices for initial offerings of any housing units;
  - Rental prices for initial offerings of any rental housing units
  - Number and types of housing units for which a permit is being pursued under 10 V.S.A. chapter 151 (State land use and development plans) and, for each applicable housing development, the current stage of the permitting process;
  - Projected and actual incremental revenue amounts;
  - Allocation of incremental revenue, including the amount allocated to related costs;
  - Projected and actual financing; and
  - Amount of public funds flowing to private ownership or usage
  - Biennial verification of affordability covenants and primary residence occupancy
- VEPC may request supplemental reports or perform audits at any time

Amendments

Once approved, the CHIP Housing Development Plan, CHIP Finance Plan, and Housing Infrastructure Agreement serve as the foundational documents for each CHIP Site's implementation, providing the intentions of the municipality, sponsor, and developer regarding CHIP debt and financing, improvements, and development/redevelopment. These plans were presented at a public hearing, voted on by the municipal legislative body, and approved by the Council.

Any significant changes require the Council's review and approval before proceeding. To apply for a Substantial Change Request (or amendment), the municipality must submit a narrative explaining the desired change and rationale, as well as a revised CHIP Housing Development Plan, CHIP Finance Plan, and Housing Infrastructure Agreement. These revised documents must be approved by the municipal legislative body at a properly warned hearing.

A non-exhaustive list of changes that would require Council review include but are not limited to:

- An increase in the CHIP-funded portion of a project of 20% or more.
- Adding, removing, or substituting a public infrastructure project in the CHIP Housing Development Plan or Finance Plan.
- An increase in the Council-approved CHIP debt ceiling.
- An extension of the 5-Year requirement to incur first CHIP debt.
- A change in the number or distribution of affordable or moderate-income units that would reduce the units below the threshold allowing for the increased increment retention percentage (85% versus 75%)
- A change in the percentage of floor area dedicated to housing that would reduce the percentage below the 60% threshold.
- If the town and developer make material modifications to their development agreement that impacts the infrastructure improvements and/or anticipated increment generated by the private development.
- If the developer is not able to meet the requirements set out in the Development Agreement and/or the anticipated timeline for the infrastructure or private development is significantly delayed (2 or more years).
- Changes in the sources of funding for the CHIP-funded portion of a project.
- Any bond structured to generate bond premium proceeds which will be used to pay for improvements or for debt service (principal and interest), not previously submitted as part of an approved CHIP Finance Plan.
- Any Payments In Lieu of Taxes (PILOTS) or other negotiated payments not previously submitted as part of an approved CHIP Finance Plan.

Commented [DW9]: Why? If a municipality receives a grant or other non-CHIP funding, isn't that a good thing? Such funding could reduce the CHIP spending and/or expand the project benefits without costing more CHIP money. Isn't that a good thing? Notice to VEPC makes sense, but why require a Substantial Change? Doesn't that discourage communities from seeking other funding?

Any of the above changes and others that the Council determines to be a substantial change made without Council approval need to be reviewed through the issue-resolution process outlined in 24 V.S.A. § 1910f (b).

Any changes to a VEPC approved CHIP project not meeting the substantial change thresholds shall be reported to the VEPC staff immediately. VEPC staff will review the proposed change and may determine that a substantial change request is required.

DOUGLAS R. HOFFER
STATE AUDITOR

STATE OF VERMONT
OFFICE OF THE STATE AUDITOR

To: CHIP Guidelines Subcommittee Members
From: Doug Hoffer, State Auditor
Re: Comments on draft CHIP guidelines dated September 10, 2025
Date: October 10, 2025

I've attached to this cover letter a table detailing a number of specific risks my office has identified in the draft CHIP guidelines dated September 10th. For each risk, we have recommended mitigation strategies to protect taxpayers and increase the chances that the purpose of CHIP will be fulfilled. We may send additional recommendations to you, and we'll keep our eyes open for any subsequent drafts of the program guidelines and try to provide prompt reviews of them.

Here, though, I wish to briefly raise some broader concerns and offer some steps you can take to address them.

First some background. Back in 1988, my first job in Vermont was in the City of Burlington's Community and Economic Development Office, often called CEDO. While there I witnessed, up close, the development of many of the strategies and policies designed to produce and protect affordable housing for which Vermont has earned national and even international recognition. The establishment of the Vermont Housing and Conservation Trust and organizations like the Champlain Housing Trust are just two examples. Needless to say, I join the Governor and the Legislature in wishing to promote affordable housing construction throughout Vermont.

However, the Auditor's Office has a responsibility to try to protect taxpayer money from risk and waste even when the political winds are blowing strongly, as they are with CHIP.

CHIP has commendable intentions – invest in infrastructure needed to support new housing construction throughout Vermont, especially in small communities not able to access existing programs. Despite those intentions, we warned legislators that CHIP's modified tax increment financing (TIF) plan could: ultimately transfer resources *away* from poorer, rural communities and *toward* more prosperous communities; increase financial stress on public education by diverting money from the Education Fund; result in unnecessarily large subsidies to project developers; and cost Vermont taxpayers more than if the State had chosen to achieve the same objectives using longstanding public infrastructure programs.

We were pleased that the Legislature and the Governor ultimately agreed upon a framework that made some notable improvements compared to earlier versions, including:

- Clarifying that the intent of the program was to create housing for households of low and moderate incomes.
- Requiring that the housing units being created are primary residences.
- Adding a requirement that most projects only receive taxpayer funds if the development actually demonstrates that it *needs* the subsidy.
- Disallowing Education Fund tax dollars from properties next to the proposed development site from being diverted away from the Education Fund.

More can and should be done.

In addition to the attached recommendations, program guidelines should:

- **Favor applications featuring the highest percentage of housing development.** As currently designed, CHIP allows substantial public subsidy of developments with substantial commercial uses (up to 40%) and include limited housing (60%). CHIP was intended to be a housing program, and if taxpayers are going to subsidize private development they should get as much housing as possible.
- **Favor applications featuring the highest percentage of affordable housing development as a percentage of total floor area of the projected development.**
- **Establish a methodology to discount from the allowed taxpayer subsidy the background growth rate of the parcel(s) in the proposed development.** The tax increment calculation, which is the basis for how much money is diverted from the Education Fund in order to finance CHIP activities, *assumes that there would be no property value growth in a CHIP district for 20 years* unless the CHIP projects proceed. In other words, the CHIP program's benefit calculation assumes that parcels in, say, Burlington's downtown or Stowe or Killington village would have flat or negative property value growth for 20 years. By operating under that implausible premise, more dollars are diverted from the Education Fund than can be justified**.** Note: JFO's analysis confirmed that the assumption regarding district growth is not supported by the evidence (see p.15).

It should be the goal of policymakers and regulators to stimulate the most new housing that wouldn't occur anyway with the absolute lowest cost to taxpayers. Otherwise, we are simply transferring funds unnecessarily from some taxpayers to developers, and favoring some market participants instead of others.

I look forward to seeing the next version of the CHIP guidelines, and hope you adopt the recommendations we've made here. We are always available to discuss any of these matters with the VEPC or the subcommittee.

CHIP Issues/Risks Identified and Possible Mitigating Solutions

CHIP guidelines could be improved with some additional clarifications and explicit requirements related to program purpose, non-municipal sponsors and the private developer.

(Based upon CHIP draft guidelines dated September 10, 2025)

Purpose and Definitions

Guideline	Issue/Risk	Proposed resolution
The definition of primary residence requires that both owner-occupied, and rental units must remain a primary residence for the duration of the outstanding CHIP debt.	There is a risk that some development schedules will defer construction of primary residences to later in the development timeline such that a municipality will not realize as much benefit from construction of primary residences. For example, if a developer constructs primary residences 10 years after a 20-year bond is incurred for the housing infrastructure project, the primary residence requirement will only be in place for 10 years, not 20. Further, if the housing development includes affordable housing and/or moderate-income housing, there is risk that developers will defer construction of these units until later in the project and the requirement to maintain the affordability of the units will be for a shorter period as well. Needless to say, CHIP is intended to create new housing units soon, not many years from now.	Require that the timing of construction of the primary residence portion, including the affordable housing, of the development project be at the front end of construction. Require that this be memorialized in the Housing Developer Agreement.
The Community and Housing Infrastructure Program (CHIP) is established under 24 V.S.A. Chapter 53, Subchapter 7 to "encourage the development of new primary residences for households of low and moderate income across both rural and urban areas of all Vermont counties that would	The CHIP statute in Chapter 53 of Title 24 and CHIP guidelines point to the definition of "affordable housing" in 24 VSA 4303 (Chapter 117 Title 24) for establishing the maximum cost of rental housing at 30% of 80% of area median income (AMI) and 30% of 120% of AMI for owner-occupied housing. The CHIP statute also lays out the purpose of the program which references low income, but low income is not defined. The federal Department of Housing and Urban Development (HUD) establishes the maximum cost of housing for low-income households as	Define low income in the guidelines and describe how housing development projects can demonstrate they meet the purpose since the existing guidelines do not specify this. In order to promote homeownership opportunities to Vermonters at less than 120% AMI, provide some type of prioritization for applicants with the greatest number homeownership units available to households at or below 80% and at or below 100%.

not be created but for the infrastructure improvements funded by the Program.”	30% of 80% AMI. Further, the CHIP guidelines indicate that a public good should result from a CHIP-supported project and that the public good “should serve to advance equity, livability, and resilience within the community.” It’s not clear if the Legislature meant low income consistent with HUD’s threshold but it does appear inequitable to establish a different level of affordability for owner-occupied housing versus rental housing as those traditionally considered low income by HUD will not have the opportunity for home ownership under the CHIP program.	

Financing and Debt Requirements and Application and Approval Process

Guideline	Issue/Risk	Proposed resolution
Municipal legislative body must determine that the proposed housing development furthers the purpose of the program.	For those housing development plans that do not include affordable, low-income, and/or moderate-income primary residences, the guidelines do not address how the plans will “further the purpose of the program.” There is risk there will be no analysis or limited analysis to support this determination which increases the risk that a housing development will not meet the purpose of the program; to “encourage the development of new primary residences for households of low and moderate income …. that would not be created but for the infrastructure improvements funded by the Program.” As described in the guidelines, the VEPC review and approval process will not always include a review of the municipality’s determination which also increases the risk that the determination process will be perfunctory. Further, statute only requires that VEPC review whether “the projected housing development meaningfully	Establish explicit criteria for how a housing development plan which does not include affordable, low-income, and/or moderate-income housing meets the purpose of the CHIP program; to “encourage the development of new primary residences for households of low and moderate income.” Submit a technical correction to the Legislature requesting that VEPC always makes a determination as to whether the housing infrastructure project application meets the purpose of CHIP as described in 24 VSA 1907.

Guideline	Issue/Risk	Proposed resolution
	addresses the purpose of section 1907" if less than 60 percent of the floor area of the projected housing development is dedicated to housing (24 VSA 1910(d)(10 and (2)).	
If the project floor area for housing is less than 60%, VEPC assesses whether the development meaningfully addresses the purpose of CIP per section 1907.	Statute does not explain what would constitute "meaningfully" addressing the purpose of the CHIP program. The guidelines are the opportunity to detail the "how-to." In the absence of this detail, the meaning remains vague and open to interpretation.	Specify the expectation in the guidelines for how a housing development would meet the expectation of "meaningfully address" the purpose of CHIP to "encourage the development of new primary residences for households of low and moderate income."
For each application other than an affordable housing development, VEPC is required to review whether the infrastructure improvements would not have occurred or would have occurred in a significantly different and less desirable manner than as proposed but for the use of incremental tax revenues.	1) The guidelines include a non-exhaustive list of factors VEPC may consider around the question of "significantly different or less desirable." This list could be improved by adding specific thresholds and establishing the documentary evidence required to substantiate the but for assertion. 2) It's not clear if the but for assessment is limited to the party financing the housing infrastructure or if both the municipality and developer must meet the but for test. Lacking this clarity, its possible that a housing infrastructure application could get approved despite one party having the capability to finance the costs and would go ahead absent CHIP. Ultimately tax increment will get withheld from the Education Fund and municipality for a housing development that was going to happen anyway.	1) For example, rather than "a housing development occurring significantly later than it could occur with CHIP financing," specify the time period of the delay and the opportunity cost (i.e., the reduction in tax dollars from delayed development) that is considered significant. 2) Clarify in the guidelines that both the developer and the municipality are subject to the but for test.
The Council has discretion to set the increment retention percentage lower than the maximums in statute, depending on the application circumstances.	As JFO has noted, all TIF district applications rely on the premise that the baseline property value growth of the parcels would be flat for 20 years if not for the use of TIF, and that no comparable development would happen in the proposed TIF district without the incentive (e.g., the "but-for"). CHIP relies on the same construct. There is risk associated with this as the "But-for" is challenging to	Specify circumstances that could warrant a lower tax increment percentage, reducing diversion of Education Fund monies. For example, if Tax Department data for the parcel(s) included in the housing development site show actual compound annual property value growth since 2003 (earliest year that data is available), determine an

Guideline	Issue/Risk	Proposed resolution
	assess. If VEPC's conclusion on the "but-for" is incorrect, the diversion of Education Fund monies is unjustifiable.	appropriate reduction to the percentage of education tax increment that may be retained and to direct the associated tax increment to the Education Fund.
Non-municipal sponsors (i.e., developers and public-private partnerships) may issue debt to finance a housing infrastructure improvement and can use tax increment to repay the debt.	1.) Less transparency in the authorization process – a. CHIP guidelines specify information required to be provided in advance of a public vote on the municipality financing the infrastructure improvement. However, debt issued by a non-municipal sponsor only requires approval of municipal legislative body via a vote at a public meeting and the CHIP guidelines do not specify the information required to be provided to the municipal legislative body in advance of the vote. b. CHIP guidelines require that the Housing Development Plan and the Housing Development Site be presented at a public hearing but does not explicitly state that the full Housing Infrastructure Agreement with the developer must be provided. 2.) Typically, the terms and conditions of municipal general obligation bonds require a public official to certify that bond proceeds are used for the public infrastructure the bonds were issued to finance. It's unlikely that non-municipal sponsors' private financing terms will include certification of use of proceeds for public infrastructure. Thus, there is less assurance that non-municipal sponsors' financing will be used for an eligible infrastructure project.	In the CHIP guidelines, 1.) specify the information that must be provided to the municipal legislative body and posted via a public information notice prior to the public meeting at which the legislative body will be asked to adopt the Housing Development Plan and the public meeting at which the legislative body will vote on debt that will be issued by a non-municipal sponsor. Require that the information include the Housing Infrastructure Development Agreement and the terms of the debt. 2.) require that the Housing Infrastructure Agreement between the municipality and the developer include a detailed description of the infrastructure improvement, disclose the types of costs and amount of cost of the infrastructure improvement that may be financed with CHIP debt, and that the developer must provide documentary evidence to substantiate that the costs are eligible to be financed with CHIP debt and the infrastructure improvement was constructed as promised.
Directs VEPC to make various determinations when reviewing a CHIP application.	The guidelines require municipal voters to be informed that the municipality remains liable for full payment of debt service in the event tax increment is insufficient to pay principal and interest in any year. However, there is	In the CHIP guidelines, specify that VEPC will determine the financial viability of the Housing Development Plan based on an assessment prepared by an independent consultant with the requisite technical expertise. At a minimum,

Guideline	Issue/Risk	Proposed resolution
	nothing described in the guidelines in the VEPC review and approval process to help mitigate this risk.	require the following to be incorporated in the consultant's assessment: - tax increment financing plan, - pro forma projection of expected costs of the housing infrastructure project, - projection of tax increment to be generated by the housing development, and - the development schedule for the housing infrastructure project and housing development.

Use of Tax Increment

Guideline	Issue/Risk	Proposed resolution
Non-municipal sponsor submits invoice for payment of financing and sponsor confirms that increment was used for debt service.	An invoice for payment of financing provides no assurance that the non-municipal sponsor used debt proceeds for eligible housing infrastructure improvement costs. The guidelines do not require municipalities to perform procedures to validate the costs are eligible and that the infrastructure improvement was constructed as promised nor do the guidelines compel non-municipal sponsors/developers to provide documentary evidence to substantiate eligibility of costs and that the debt financed the infrastructure improvement as promised.	Add the following to the CHIP guidelines: • Require municipalities to implement procedures to verify the sponsor used debt for eligible public infrastructure project costs and the infrastructure improvement was constructed as promised by the sponsor, and to validate total cost of the public infrastructure project. • Require sponsors/developers to provide documentary evidence to municipalities.
	Risk exists that transactions between the municipality and private developer and/or sponsor will not be transparent and that the private developer or sponsor will receive tax increment for ineligible costs.	Add explicit requirements to CHIP guidelines that 1) the Housing Infrastructure Agreement between the municipality and the developer shall include a detailed description of the infrastructure improvement and the expected cost of the infrastructure improvement that will be financed via CHIP, and 2) the developer must provide documentary evidence to substantiate the cost and eligibility of the infrastructure improvement and that the infrastructure improvement was constructed as promised.
Tax increment can be used to pay debt service of non-municipal sponsors, including private developers.	Risk that municipalities will be obligated to pay for debt service that exceeds tax increment.	Require a provision in the Housing Infrastructure Agreement which limits a municipality's payments for a sponsor's debt service to the tax increment generated by the housing development project and that shortfalls are the non-municipal sponsor/private developer's obligation.

Reporting & compliance

Guideline	Issue/Risk	Proposed resolution
Conduct annual financial audits and provide results to VEPC.	Unlikely to provide any assurance regarding accuracy of information provided by municipality to VEPC or that CHIP is being administered appropriately. 1) External auditors use materiality to make decisions about audit procedures in financial audits. Unlikely to include tests of CHIP if the tax increment and debt service are lower than the materiality level used by the auditors.	Specify procedures to be performed and level of desired assurance. Examples: Verify that the developer's use of debt proceeds was for eligible costs and for the infrastructure that the developer committed to construct according to the Housing Infrastructure Agreement. Validate the amount of education and municipal tax increment retained. Consider a tiered approach based on the significance of the infrastructure improvements (e.g., higher levels of usage of tax increment to repay debt would mean additional procedures).
Requires annual reporting on the number of actual housing units created and biennial verification of affordability covenants and primary residence occupancy.	Unclear if sponsors/developers can be held accountable for shortfalls in actual units created and violations of affordability covenants and/or primary residency occupancy requirements.	Require that the expected outcomes be stated in the Housing Infrastructure Agreement including the percentage of floor area that will be dedicated to primary housing, the number of housing units, those that will be affordable, and the expected overall housing development value. In the CHIP guidelines, specify the consequences of not achieving the outcomes. If the sponsor/developer issued the debt, require a reduction in the amount of the CHIP debt the municipality is authorized to pay. If the municipality issued the debt, require the sponsor/developer to pay for a portion of the CHIP debt service. Also, specify the consequences of violations of affordability covenants and primary residence occupancy during the 20-year period of debt repayment, implementing similar limits and obligations.

Guideline	Issue/Risk	Proposed resolution
Requires municipalities to report numerous data points to VEPC on an annual basis and to submit substantial change requests for VEPC review if certain criteria are met.	The ongoing oversight effort by VEPC is likely to be significant. We understand that a program manager has been hired but this may not be sufficient to manage the volume of oversight activity that will occur under CHIP if the program limits are met. Act 69 (2025) caps the total amount of education tax increment retention for projects approved by VEPC at $2 billion ($200 million in each year of the 10-year period VEPC may authorize CHIP Housing Development Projects). This could lead to approval of numerous projects in multiple municipalities. In comparison, a single program manager oversees the TIF district program with combined tax increment retention projected at $234 million. There are nine TIF districts in eight municipalities. If CHIP rolls out in a similar manner, this could mean 72 Housing Development Projects in 60+ municipalities.	Establish a reasonable level of Housing Development Projects that can be monitored by a single program manager and once that level is exceeded, hire additional staff.

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Community and Housing Infrastructure Program (CHIP) Guidelines

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DRAFT Community and Housing Infrastructure Program (CHIP) Guidelines

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I. Purpose

The Community and Housing Infrastructure Program (CHIP) is established under 24 V.S.A. Chapter 53, Subchapter 7 to "encourage the development of new primary residences for households of low and moderate income across both rural and urban areas of all Vermont counties that would not be created but for the infrastructure improvements funded by the Program."

The purpose of this document is to provide guidance on the processes and requirements related to the formation, development, and implementation of CHIP sites within Vermont.

II. Program Description

The Community Housing Infrastructure Program (CHIP) utilizes tax increment financing for public infrastructure improvements that support the development of new affordable and moderate-income primary housing. It is a targeted use of the tool, allowing municipalities to retain a portion of the property tax revenue resulting from increased values within a defined housing development site. These funds may be used to repay the debt incurred for eligible infrastructure improvements. CHIP is designed to complement local and state planning priorities and foster coordinated public-private partnerships. Projects must meet statutory criteria and be approved by the Vermont Economic Progress Council (VEPC) before debt is incurred.

III. Key Definitions

Additional definitions can be found in the enacting legislation.

- **Affordable Housing:** See 24 V.S.A. Chapter 117 § 4303.
  (A) Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:
    (i) the county median income, as defined by the U.S. Department of Housing and Urban Development;
    (ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or
    (iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.
  (B) Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:

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(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;
(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or
(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

- **Housing Development:** The construction, rehabilitation, or renovation of any building on an approved Housing Development Site. An approved Housing Development (that is not an Affordable Housing Development or Moderate-Income Housing Development) may retain up to 75% of the education tax increment and at least 85% of new municipal tax increment.

- **Affordable Housing Development:** A housing development where at least 15% of the units are designated as affordable housing with a recorded covenant or deed restriction ensuring long-term affordability. These units must remain affordable until any debt incurred under CHIP is repaid. Units must be used as the tenant's or owner's primary residence. An application serving an affordable housing development does not have to meet the "but-for" test. The municipality may retain up to 85% education tax increment and at least 85% of the new municipal tax increment.

- **Moderate-Income Housing Development:** A housing development in which at least 25% of the units are for households earning 150% or less of AMI and are also subject to affordability restrictions until CHIP debt is repaid. Units must be used as the tenant's or owner's primary residence. A municipality with an application serving a moderate-income housing development may retain up to 85% of the education tax increment and not less than 85% of the new municipal tax increment.

- **Housing Infrastructure Project:** A set of infrastructure improvements that support a specific CHIP housing development. These improvements must be directly tied to enabling the housing development.

- **Housing Development Site:** The whole parcel or parcels where the housing development will occur. If the development is to occur over multiple parcels, the parcels must be contiguous. Only parcels where the housing development is to occur can be included in the development site, unless contiguous parcels are under common ownership and share a SPAN, in which case they must also be included. Sites must be formally designated by the municipality and approved by VEPC. Site boundaries define the area within which the original taxable value is established and tax increment is generated. Once established, the boundaries of the Housing Development Site shall not change.

Commented [SJ1]: Unless required by statute, do NOT require parcels to be contiguous (Think 1705 and Spiller Property)

Commented [BE2]: This was an addition after the subcommittee's review, this was related to a request that VCLT had pointing out there may be instances where including a commonly owned contiguous parcel may be undesirable for the municipality.

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- **Improvements:** the installation, construction, or reconstruction of infrastructure that will serve a public good and fulfill the purpose of the program; and the funding of debt service interest payments for a period of up to four years, beginning on the date on which the debt is first incurred. Improvements do not need to be within the Housing Development Site, but the applicant must demonstrate that the proposed improvements enable the proposed housing development.

- **Related Costs:** expenses incurred and paid by a municipality or sponsor that are directly related to the creation, implementation, and administration of the municipality's housing infrastructure project, including reimbursement of sums previously advanced for those purposes.

- **Sponsor:** An entity responsible for financing the public improvements. This may be the municipality, a developer, or a public-private partnership.

Commented [SJ3]: Include housing non-profit, community trust, and RDC/RPCs

- **Developer**: The party responsible for constructing the housing development. Developers must enter into a binding Housing Infrastructure Agreement with the municipality.

- **Original Taxable Value (OTV)**: The assessed value of taxable real property within the housing development site on April 1 of the year the site is approved by VEPC.

- **Tax Increment**: The difference in property tax revenue generated by the increase in assessed value over the original taxable value (OTV). A portion of the increment may be retained by the municipality to service debt on eligible infrastructure costs , pay for eligible related costs, and/or pay for eligible direct costs associated with the eligible infrastructure project.

- **Housing Infrastructure Agreement:** A legally binding agreement among the municipality, sponsor, and developer that includes terms related to infrastructure financing, affordability, unit production, timelines, and performance guarantees.

- **Public Hearing:** Unless a municipal charter requires greater notice, the municipal legislative body shall hold a public informational hearing on the question by posting warnings at least 15 days in advance of the hearing in at least two public places within the municipality and in the town clerk's office and on the town's website If the municipality does not have two public places to post their warning, they may post their warnings in adjacent communities.

- **Increment:** Municipalities whose infrastructure projects will result in an affordable or moderate-income housing development are eligible to retain up to 85% of the education tax increment. Municipalities whose infrastructure projects will result in any other type

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of housing development are eligible to retain up to 75% of the education tax increment. All projects must retain at least 85% of the municipal tax increment.

Housing Type	State Tax Retained	Municipal Tax Retained	Units Required	Area Median Income (AMI) Limit	"But For" Test
Affordable: Rental (Total annual cost ≤ 30% of gross income)	Up to 85%	85% to 100%	At least 15% of units must be affordable	≤ 80% AMI	Not required
Affordable: Owner-Occupied (Total annual cost ≤ 30% of gross income)	Up to 85%	85% to 100%	At least 15% of units must be affordable	≤ 120% AMI	Not required
Moderate-Income	Up to 85%	85% to 100%	At least 25% of units must be affordable	≤ 150% AMI	Required
Market Rate	Up to 75%	85% to 100%	N/A – No requirement	No cap	Required

Commented [SJ4]: Do not require

*Eligible housing must be for permanent residents

- **Public good**: A benefit resulting from a CHIP-supported project that is shared broadly by the community, rather than serving only individual or private interests. Public goods may include, but are not limited to: long-term increases in housing affordability, improved infrastructure access, reduced displacement, support for local workforce housing, and contributions to sustainable, compact development consistent with state, regional, and local plans. Public good must be articulated beyond the value created for the development and should serve to advance equity, livability, and resilience within the community."

- **60% Floor Area**: 60% of the indoor floor area must qualify as "housing" (i.e., primarily serve residential uses). Floor area to be considered "housing" includes all housing units dedicated to primary residences, shared spaces that are accessible to residents or exist solely to serve residential units (including but not limited to hallways, elevators, stairwells, common rooms, or mechanical and utility spaces directly serving residential units). Space that does not count toward the 60% includes, but is not limited to: residential units not dedicated to primary residents, commercial space, or space operated by the municipality or another entity for uses not directly serving residential units

Commented [SJ5]: Include childcare and health care in the "60% floor area" requirment

- Further clarification for the purpose of calculating the eligible floor area, we refer to the 2018 International Building Code, which defines Gross Floor Area as:

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The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, ramps, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

- **Primary Residence:** A homestead is the principal dwelling and parcel of land surrounding the dwelling, owned and occupied by the resident as the person's domicile as defined by the Vermont Department of Tax. Or, if the unit is a rental unit, the lease agreement stipulates the tenant occupies the unit as their permanent residence. Both owner occupied and rental units must remain a primary residence for the duration of the outstanding CHIP debt

IV. Eligibility Criteria

Applicants:

Eligible applicants are Vermont municipalities (cities, towns, or incorporated villages) that seek to create infrastructure for a housing project.

Projects:

Eligible projects include public infrastructure improvements that directly support the development of an eligible housing development project. Eligible Housing Development Projects must result in new or rehabilitated housing developments where at least 60% of the floor area of the projected housing development is dedicated to primary housing residences, or the project housing development meaningfully addresses the purpose of the program. If the projected housing development does not meet the criteria for an affordable housing development, the project must meet the but-for test.

Improvements:

Eligible improvements may include, but are not limited to, the following:

- Utilities, such as power transmission lines and conduit, telecommunications lines, telecommunications towers, digital infrastructure, and power or telecommunications equipment; drinking water, wastewater, and storm water, infrastructure including: water sources; green and gray stormwater practices; distribution/collection and conveyance piping and pump stations; and treatment systems, facilities, and equipment and regulatory required pertinent equipment.
- Transportation improvements such as publicly accessible roads, streets, bridges, parking lots, facilities, garages, and structures, multimodal facilities, public transit stop equipment and amenities, street and sidewalk lighting, roundabouts, crosswalks and/or other pedestrian crossing treatments, traffic calming features, sidewalks, streetscapes, way-finding signs and kiosks; traffic signals, medians, turn

lanes, and property acquired or used for right of way such as hiking and biking trails, pathways to facilitate multimodal transportation, bicycle and pedestrian lanes, paths, and bridges, street furnishings.
- Site preparation for development or redevelopment including acquisition, demolition, environmental remediation of contaminated property, and mitigation of a flood-prone area.
- Soft costs such as consulting, design, architects, engineering, accounting , legal, project management, associated application fees, or other professional services directly related to the implementation and construction of eligible Site Improvements
- Privately owned publicly accessible improvements that meet the purpose of the CHIP program, public good definition, and directly support the housing development project are eligible.

Eligible Related Costs:

Related costs are costs associated with the creation, implementation, and administration of the CHIP site. Eligible related costs include, but are not limited to the following:
- Cost of plans, studies, or reports that are specific to preparing a CHIP Plan, a Finance Plan, an application to the Council, or a subsequent amendment required to maintain the CHIP site.
- Costs of providing public notification about, and obtaining public approval for, a CHIP Plan, a Finance Plan, and CHIP debt, CHIP application, or CHIP amendment.
- Costs such as consulting, design, architects, engineering, accounting, legal, project management, or other professional services incurred during preparation or implementation of a CHIP Plan, Finance Plan, CHIP application, or CHIP amendment
- . Costs such as consulting, design, architects, engineering, accounting, legal, project management, or other professional services incurred during preparation or implementation of a CHIP Plan, Finance Plan, application or amendment, and administration of the program including administrative fees paid by the municipality.
- Application fees charged by the Council for third-party analysis of CHIP Plans, CHIP Financing Plans, or CHIP amendments.
- The CHIP-related costs of the independent annual municipal audit
- Municipal employee and staff costs directly related to the administration and implementation of the CHIP Site. These costs may only be paid with municipal tax increment.

Costs that are not eligible related costs, or improvements are:
- Annual municipal operating costs.
- Public transportation operating costs.
- Annual maintenance or repair costs.
- Purchase of vehicles.
- Interior furnishings.

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- Operating equipment or apparatus.
- Other expenditures for non-capital assets with the exception of debt service interest payments as outlined under eligible improvement costs.

VI. Application and Approval Process

I. Pre-Application Coordination

Municipalities must complete a CHIP Interest Form and submit it to VEPC staff for review prior to submitting a full application to VEPC.

II . Housing Development Plan and Housing Development Site

- Create a housing development plan and housing development site:
- Develop a housing development plan that includes:
    - Description of the proposed housing infrastructure project
    - Proposed housing development
        - Proposed housing development site, including anticipated floor area dedicated to housing. If less than 60%, a narrative about how this project meaningfully addresses the purpose of the program.
    - Identification of a sponsor
    - A tax increment financing plan, including:
        - a statement of costs and sources of revenue;
        - estimates of assessed values within the housing development site;
        - the portion of those assessed values to be applied to the housing infrastructure project;
        - the resulting tax increments in each year of the financial plan and the lifetime education property tax increment retention;
        - the amount of bonded indebtedness or other financing to be incurred. This includes
        - Amount anticipated to be approved by voters, including estimates of necessary principal, interest, costs of improvements, and related costs
            - Or, if sponsor is taking on the debt, a copy of the agreement, contract, or other obligations that have been voted and approved by the municipal legislative body within the development agreement
        - other sources of financing and anticipated revenues; and
        - the duration of the financial plan.
    - A pro forma projection of expected costs of the proposed housing infrastructure project

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- A projection of the tax increment to be generated by the proposed housing development
- A development schedule that includes a list, cost estimate, and a schedule for the proposed housing infrastructure project and proposed housing development
- A determination by the legislative body of the municipality that the proposed housing development furthers the purpose of the program.

- Develop a housing development site by identifying its boundaries and the properties within it, titled "Proposed Housing Development Site [municipal name], Vermont"
- Hold one or more public hearings, after public notice, on the proposed housing infrastructure project, including the plans developed above
- Adopt the plan by action of the municipal legislative body and record it with the municipal clerk and lister.

I. Housing Infrastructure Agreement

- Create a Housing Infrastructure Agreement between the municipality and the project developer. The agreement must:
  - Identify the sponsor for the project
  - Identify the developer and housing development
  - Obligate the tax increments retained for financing and related costs for the infrastructure project
  - Provide that any housing unit within the housing development be offered exclusively as a primary residence until all indebtedness for the housing infrastructure project has been retired. This condition shall be satisfied by providing a landlord certificate or homestead declaration every 2 years.
  - Provide for performance assurances to reasonably secure the obligations of all parties under the housing infrastructure agreement.
  - The terms of this agreement must be noticed to the municipality before the municipal legislative body can sign on as a party.

II. VEPC Review & Approval

- The municipality will submit their municipally approved Housing Development Plan, Housing Development Site, and Housing Infrastructure Agreement to VEPC for review. The council will determine whether the municipality has:
  - Properly created a housing infrastructure project and housing development site
  - Executed an acceptable housing infrastructure agreement for the housing infrastructure project with a developer and, if the municipality is not financing the housing infrastructure project itself, a sponsor;
  - Approved or pledged to use at least 85% of incremental municipal tax revenues for the housing infrastructure project.
- Additional VEPC Application Determinations:

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  - Affordability: The Council will determine whether the proposed housing development meets the criteria of "affordable housing development" or "moderate-income housing development" and set the maximum education tax increment at 85% if either criterion is met or up to 75% if neither criterion is met. The Council has the discretion to set the increment retention lower than these maximums, depending on the application circumstances. VEPC will utilize the Vermont Housing Finance Agency's most recent home purchase price and rental affordability thresholds chart based on HUD median income estimates to determine if the affordability threshold is met for affordable and moderate-income housing developments.
  - But-For Test: The Council will review each application other than those for which the housing development is an affordable housing development to determine whether the infrastructure improvements proposed to serve the housing development site and the proposed housing development would not have occurred as proposed in the application or would have occurred in a significantly different and less desirable manner than as proposed in the application but for the proposed utilization of the incremental tax revenues.
    - A non-exhaustive list of factors VEPC may consider around the question of what is a "significantly different and less desirable manner" may include, but is not limited to: a housing development occurring significantly later than it could occur with CHIP financing, a housing development that would include fewer units without CHIP financing, a housing development that is significantly less affordable than could occur with CHIP financing
  - Floor Area: VEPC will determine whether the housing development will have at least 60 percent of the floor area dedicated to housing, or if it meaningfully addresses the purpose of the program.
- Site Visits
  - Upon a determination by VEPC staff that a municipality has submitted a complete application, VEPC staff will schedule a site visit of the proposed housing development site.
- VEPC Approval
  - The application shall be submitted to the VEPC Council and approved or denied by the council within 90 days of the site visit.
- Post-VEPC Approval
  - Municipality instructs lister/assessor to certify OTV.

VII. Financing and Debt Requirements

- Debt must be incurred within five years of site creation. VEPC may issue an extension up to eight years. Upon the first incurrence of debt, VEPC and the Department of Taxes will be notified.

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- Municipal voters must approve each instance of municipal borrowing in a warned vote. This information shall includes:
  - the amount and types of debt and related costs to be incurred, including principal, interest, and fees;
  - terms of the debt;
  - the housing infrastructure project to be financed;
  - the housing development projected to occur because of the housing infrastructure project; and
  - notice to the voters that if the tax increment received by the municipality from any property tax source is insufficient to pay the principal and interest on the debt in any year, the municipality shall remain liable for the full payment of the principal and interest for the term of the indebtedness.
  - If interfund loans within the municipality are used, the information must also include documentation of the terms and conditions of the loan.
- Allowed instruments include bonds, loans, interfund loans (interest-free), and bond anticipation notes. Bond anticipation notes or other forms of temporary financing may not be used as a first incurrence of debt. In instances where a municipality would like to use temporary financing as a last incurrence of debt, the debt incurrence period may be extended not more than 6 months solely for the purpose of obtaining final bond financing when voter bond authorization is granted by March 31st in the CHIP site's final year of debt incurrence.
- The housing development site shall continue until the date and hour the indebtedness is retired or, if no debt is incurred, the debt incursion period ends.

Commented [SJ6]: Coordinate this section with 24 V.S.A. § 3254 Special Assessment Districts. Special Assessment Districts DO NOT require a municipal bond vote if all property owners within the district consent in writing.

VIII. Use of Tax Increment

- Municipal and education increments may only be used to pay for:
  - CHIP debt service
  - related costs
  - direct payment of the cost of a housing infrastructure project, as long as the payment was included in the CHIP financing plan and subject to the same vote provisions as public debt
  - A municipality may provide an increment to a sponsor upon receipt of an invoice for payment of the financing, and the sponsor shall confirm to the municipality once the increment has been applied to the financing

- Retention period: 20 years beginning the first fiscal year in which debt is incurred
  - Example: If a town votes in March 2027 (FY27) and incurs that debt in July 2027 (FY28), retention begins in FY28 (using GL27) and is retained through FY47 (GL46),

- Increment amount:

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- Municipalities whose infrastructure projects will result in an affordable or moderate-income housing development are eligible to retain up to 85% of the education tax increment.
- Municipalities whose infrastructure projects will result in any other type of housing development are eligible to retain up to 75% of the education tax increment.
- All projects must retain at least 85% of the municipal tax increment, and may retain up to 100%.
- Adjustment of percentage: During the 10th year following creation of the site, the municipality will submit an updated financing plan to VEPC. VEPC will determine, based on the debt actually incurred and the increment actually generated, whether the percentage being retained is appropriate or if it can be lowered while still allowing the municipality to service remaining debt.

- Excess increment:
  - Excess increment in any tax year may be
    - 1) used to prepay debt
    - 2) placed in the municipality's CHIP fund and used for future financing payments, or
    - 3) used for defeasance of the financing
  - Excess increment remaining once the financing is retired must be returned to taxing authorities in the appropriate proportions.

IX. Reporting and Compliance

A municipality must:

- Develop a system to identify, collect, and maintain all data and information to fulfill annual reporting requirements
- Notify VEPC and the Department of Taxes of any CHIP debt, public votes, or votes by the municipal legislative body immediately. They will need to provide copies of public notices, agendas, minutes, the vote tally, and a copy of the information provided to the public.
  - A municipality must hold a public vote if the CHIP infrastructure project(s) will be financed through a municipal bond. If the CHIP infrastructure project(s) are financed by the sponsor in another fashion, only approval from the municipal legislative body at a properly warned hearing is required. The municipality must provide copies of the warning, minutes, and vote of municipal legislative body.
- Conduct annual financial audits and provide results to VEPC
- Submit annual reports on or before February 15 to VEPC and the Department of Taxes on a form prescribed by the council. These will include (but are not limited to):

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- Annual and total municipal and education property tax increments generated
- Expenditures for financing and related costs
- Current balance
- Expenditures for infrastructure improvements
- Scope and value of projected and actual improvements and developments in the housing development site, including the number of housing units created;
- Sale prices for initial offerings of any housing units;
- Rental prices for initial offerings of any rental housing units
- Number and types of housing units for which a permit is being pursued under 10 V.S.A. chapter 151 (State land use and development plans) and, for each applicable housing development, the current stage of the permitting process;
- Projected and actual incremental revenue amounts;
- Allocation of incremental revenue, including the amount allocated to related costs;
- Projected and actual financing; and
- Amount of public funds flowing to private ownership or usage
- Biennial verification of affordability covenants and primary residence occupancy

- VEPC may request supplemental reports or perform audits at any time.

X. Amendments

Once approved, the CHIP Housing Development Plan, CHIP Finance Plan, and Housing Infrastructure Agreement serve as the foundational documents for each CHIP Site's implementation, providing the intentions of the municipality, sponsor, and developer regarding CHIP debt and financing, improvements, and development/redevelopment. These plans were presented at a public hearing, voted on by the municipal legislative body, and approved by the Council.

Any significant changes require the Council's review and approval before proceeding. To apply for a Substantial Change Request (or amendment), the municipality must submit a narrative explaining the desired change and rationale, as well as a revised CHIP Housing Development Plan, CHIP Finance Plan, and Housing Infrastructure Agreement. These revised documents must be approved by the municipal legislative body at a properly warned hearing.

A non-exhaustive list of changes that would require Council review include but are not limited to:

- An increase in the CHIP-funded portion of a project of 20% or more.

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- Adding, removing, or substituting a public infrastructure project in the CHIP Housing Development Plan or Finance Plan.
- An increase in the Council-approved CHIP debt ceiling.
- An extension of the 5-Year requirement to incur first CHIP debt.
- A change in the number or distribution of affordable or moderate-income units that would reduce the units below the threshold allowing for the increased increment retention percentage (85% versus 75%)
- A change in the percentage of floor area dedicated to housing that would reduce the percentage below the 60% threshold.
- If the town and developer make material modifications to their development agreement that impacts the infrastructure improvements and/or anticipated increment generated by the private development.
- If the developer is not able to meet the requirements set out in the Development Agreement and/or the anticipated timeline for the infrastructure or private development is significantly delayed (2 or more years).
- Changes in the sources of funding for the CHIP-funded portion of a project.
- Any bond structured to generate bond premium proceeds which will be used to pay for improvements or for debt service (principal and interest), not previously submitted as part of an approved CHIP Finance Plan.
- Any Payments In Lieu of Taxes (PILOTS) or other negotiated payments not previously submitted as part of an approved CHIP Finance Plan.

Any of the above changes and others that the Council determines to be a substantial change made without Council approval need to be reviewed through the issue-resolution process outlined in 24 V.S.A. § 1910f (b).

Any changes to a VEPC approved CHIP project not meeting the substantial change thresholds shall be reported to the VEPC staff immediately. VEPC staff will review the proposed change and may determine that a substantial change request is required.

XI. Contact Information

Vermont Economic Progress Council (VEPC)
Email: accd.chip@vermont.gov
Email: accd.vepc@vermont.gov

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MEMORANDUM

TO: Vermont Economic Progress Council

FROM: Timothy S. Sampson

DATE: October 16, 2025

RE: **Draft CHIP Guidelines –Further Suggested Revisions**

This follows the memo I provided addressing the prior draft of the CHIP Guidelines. I appreciate your consideration of my prior comments, and thank you for the opportunity to comment further on the revised draft. I think the latest draft reflects a lot of progress toward a workable set of guidelines, and I applaud your work across so many layers of input.

I do have several remaining concerns:

1. Public v Private. I applaud the effort to thread the needle on the difficult topic of "public good", and I think the draft is an improvement that should be workable in practice. I remain concerned, however, that the fourth bullet in the example list of eligible improvements under Section IV continues to state that improvements must be "publicly accessible". Such a public / private dichotomy is not part of CHIP, and the use of the term here seems contrary to the earlier definition of "public good" which plainly includes privately owned and accessible improvements. The list of eligible improvements under Section IV should not create a "public accessibility" requirement of its own. If it is a private improvement that meets the test for "public good", then it should be CHIP eligible. I suggest that "publicly accessible" be deleted from that sentence.

2. Public Vote. The draft Guidelines have consistently, and appropriately, provided that a public vote is required only for the issuance of municipal debt, not in connection with private financing or other aspects of a CHIP project. However, the latest draft appears to inject the concept of a public vote onto the development agreement itself.
    a. Specifically, Section VI.3 includes new language that seems to require that the development agreement be the subject of a public vote. This new language is copied nearly verbatim from Section VII in the draft Guidelines addressing the issuance of public debt. Including the language in Section VI.3 suggests a public vote is required for the development agreement. That is not required under CHIP (or TIF for that matter). Also, I don't see the cited section of the Vermont Statues - 24 V.S.A. §1909(a)(e). The language appears taken from 24 V.S.A. § 1894(i), which - again - is addressing a public vote before the issuance of public debt, not the development agreement.
    b. The concern also arises in the third bullet of Section VIII which now says that increment can be used for direct payments of the cost of infrastructure only if the

project was “subject to the same vote provisions as public debt”. That simply will not be the case in the event of privately financed infrastructure, as the Guidelines seem to acknowledge in other places.

Together, these two new provisions appear to suggest a substantial expansion of when a public vote would be required for a CHIP project. These provisions are not based in the CHIP legislation, they are contrary to other portions of the Guidelines, and they could have a very chilling effect on CHIP becoming the tool it is meant to be. I encourage you to reconsider this direction and to eliminate these two new additions.

3. <u>60% Floor Area</u>. Two comments:
    a. I encourage you to eliminate the citation to the 2018 IBC (or any specific citation for that matter) and allow floor area to be determined in accordance with applicable law. Here is an excerpt of a response I got from a professional architect on this point: “It does not make sense to reference a specific code and/or year since that changes. We’ve never even looked at the 2018 because the Vermont code is still under the 2015 NFPA while also referencing the 2015 IBC. Although any moment now (so they’ve been saying for several years) it is going to be updated to (I think) the 2020”. This statement illustrates well how it would be cumbersome, expensive, and likely confusing for a project to need to satisfy competing definitions of floor area.
    b. I am surprised to see the elimination from the prior draft of the phrase “residential units not dedicated to primary residents” from the list of uses that don’t count toward the 60% threshold. There is no argument that second homes don’t count toward the 60% threshold, but does the elimination of the term mean a CHIP eligible project can have no second residences? That would pose a substantial risk to project viability and, in my view, does not make sense. If an otherwise CHIP eligible project could have up to 40% commercial space, I see no reason why could it not have up to 40% of its dwelling units available to others than primary residents. A related point: it is my understanding that the requirement of Section VI.3, that “any housing unit within the housing development be offered exclusively as a primary residence until the Final Repayment Date” means any of the housing within the qualifying 60% of the project (not any housing unit outside of the qualifying 60%). Again, secondary residences don’t count toward the 60% “housing” that is required, but should not preclude a project from including secondary residences beyond the threshold. If you have a different view of this, I encourage you to make that clear as it could be a substantial point of misunderstanding.

4. <u>Private Reimbursement Mechanism</u>. I continue to believe that the Guidelines should not over-prescribe the private reimbursement mechanism. That topic should be left to project-specific development agreements, where the flow of funds can be addressed in a deal-specific way. The new opportunity CHIP presents for private financing of eligible infrastructure

requires thoughtful consideration about those mechanics in light of what private lenders or other funding sources will actually be willing to loan against and administer. My prior comments had suggested a revision to the paragraph following the third bullet in Section VIII and I ask you to reconsider those suggestions. Again, a development agreement can work out the mechanics of how a developer demonstrates that the use of funds has been put to a CHIP eligible purpose and how the municipality can then reimburse the developer with the use of the tax increment. The current draft attempts to characterize how this may occur in a way that is too specific.

5. Geothermal. I applaud the addition of geothermal in the example list of eligible infrastructure. However, I encourage you to delete the “community-scale” qualifier. First, it is hard to know what that means. Second, I am concerned that what may be understood as a “community-scale” project may happen on a phased basis and that the initial phase may not be considered “community-scale”, but if there’s no first phase, there’s no later phase. Thus the qualifier may have the effect of eliminating the opportunity it would seem to encourage. Finally, geothermal – like all the other items in the example list of eligible infrastructure – will still need to make the case that it is in the “public good”. That’s where the relationship to “community-scale” is best evaluated under the framework of the Guidelines.

Again, thank you for your consideration. Please feel free to reach out if I can be any help.