

Fair Housing and Land Use Planning & Regulation in Lamoille County, Vermont

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Comments on how land use planning and regulation can facilitate and further fair housing, a review of local and regional plans and land use ordinances, and a fair housing checklist for Lamoille County towns to follow in revising their plans and bylaws.
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The Concept of Fair Housing

The *Fair Housing Act* of the United States of America prohibits discrimination based upon race, color, religion, gender, familial status, national origin, or disability in the selling, renting or advertising of housing.¹ The equivalent fair housing law of the State of Vermont extends this prohibition to discrimination based upon age, marital status, sexual orientation, or reception of public assistance.² The intent of these acts is to ensure that all Americans have equal access to the housing that meets their needs, whether or not they, for example, have children, be elderly, belong to a certain racial group, or possess a disability that requires a reasonable, self-funded modification to a housing unit.

The Responsibility of Local Communities

There are federal and state agencies and entities charged with the enforcement of fair housing laws. There is also the possibility that a local municipality could create its own fair housing enforcement process. However there are many other aspects of fair housing that local communities in Vermont need to be aware of. Any Vermont municipality that wishes to be eligible for federal block grant funding through the U.S. Department of Housing and Urban Development (HUD) is required to "...certify that it *affirmatively furthers fair housing*."³ This is a requirement that goes beyond enforcing fair housing laws in a reactive manner and finds municipalities in the position of taking steps to prevent violations and barriers in the first place.

¹ 42 U.S.C. 3604

² 9 V.S.A. §4503

³ from page 10 of *Grant Application Guide and Instructions*, 2006, Vermont Community Development Program, Vermont Agency of Commerce and Community Development.

The purpose of this report is to take the requirement to affirmatively further fair housing and apply it to the land use planning and regulation roles of Vermont towns.

Specifically, this report will focus on the towns in Lamoille County, Vermont, served by the Lamoille County Planning Commission. What follow are comments on how land use planning and regulation can facilitate and further fair housing, a review of local and regional plans and land use ordinances, and a fair housing checklist for Lamoille County towns to follow in revising their plans and bylaws.

Steps to Affirmatively Further Fair Housing

In April of 2002, the Vermont Association of Planning and Development Agencies (VAPDA) produced a pair of reports on the basics of fair housing and examples of activities to further fair housing. These handouts summarized 8 steps that can be taken by municipalities, alone or in concert with other organizations.⁴ Some of the steps include:

- 1. Education and Outreach.** Municipal officials, developers, real estate agents, and others need to be aware of their fair housing obligations. Likewise, local residents in general need to be aware of the housing opportunities available to them and the avenues to follow when they believe they have been the victims of discrimination. Combating NIMBYism and the resistance of residents to nearby housing of a certain type should be a goal of this activity. At the core of this effort is the need for the municipality to clearly state its support for fair housing in all policies and activities.
- 2. Monitoring Practices.** By gathering primary and secondary data, municipalities can contribute to monitoring the practices of lenders, housing providers, the local real estate market and others. This activity will help to identify fair housing violations and impediments and also encourage all actors to follow the law in their practices.

Where Municipal Activities and Fair Housing Intersect

Municipalities carry out four broad categories of activities that affect housing. Each category can trigger municipal fair housing responsibilities.

1. Regulatory Activities – When a municipality enacts and administers regulations (e.g., zoning or building/housing codes) that affect existing or potential residential properties;
2. Provision of Services – When a municipality provides routine services in residential areas or to residents;
3. Provision of Subsidies – When a municipality offers financial incentives (e.g., grants, loans, or loan guaranties) or special services (e.g., special infrastructure projects or housing rehabilitation services) to residential property owners or to residents; and
4. Proprietary Activities – When a municipality buys or sells real property, particularly if the property was used or will be used as a residence.

Taken from page 2 of *The Basics of Fair Housing*, April 2002, VT Association of Planning and Development Agencies.

⁴ From *Examples of Activities to "...affirmatively further fair housing,"* April 2002, VT Association of Planning and Development Agencies. Please consult this document for more detail on the various activities.

3. Investigative Testing and Auditing.

These are special monitoring activities that focus on specific parties. An example would be recording differences in a landlord's reaction to an undercover prospective tenant and to a second undercover person who is virtually identical save for being a member of a different race.

4. Enforcement. It is the option of a municipality to adopt and enforce its own fair housing regulations. One option would be to adopt provisions that are equivalent to federal and state fair housing laws⁵. At the very least, towns will not be eligible for federal funding for fair housing enforcement unless their laws are determined to be substantially equivalent with federal law.⁶ However, towns must be mindful of the time and resources involved in administering (e.g. accepting and investigating fair housing complaints) and enforcing these regulations.

Notes on Accessible Formatting

In order to ensure that your fair housing outreach materials are accessible, the Vermont Center for Independent Living has provided the following formatting tips:

1. Make sure that the font is 14 point Verdana.
2. Do not use Colored fonts. Black is the best.
3. Language should be clear and concise. Write at a 4th grade level.
4. Graphics should be used for decoration only, unless you are using universally designed symbols.
5. Make sure you have some copies in alternative formats, e.g. Braille, audio tape, and large print.
6. Do not use dark paper. White or light tan is the best.
7. Headings should be in 16 or 18 point, bold.
8. Lots of "white space" is good.
9. If possible, double space between sentences and triple space between paragraphs.

From December 2006 email communication with VCIL

5. Promoting Desegregation of Public Housing and Increasing Geographic Choice in Housing. While not applicable to many Vermont towns, these are two areas in which municipal officials can assert leadership.

6. Land Use Policies. This activity is the focus of this report. Land use policies can formulate and implement the vision for a community, and municipal officials need to be sure that vision does not exclude fair housing opportunities in text and in reality. Specifically, land use policies affect the size, configuration and location of developable lots in a town; what types of development, including housing types, are allowed; and the degree and burden of scrutiny that certain land uses will be held to before permitted, if at all.

⁵ 42 U.S.C. 3604 and 9 V.S.A. §4503

⁶ From 01/05/07 email communication with Rob Meehan, Champlain Valley Office of Economic Opportunity.

Analysis of Lamoille County Plans and Bylaws

The Lamoille County Regional Plan

The Lamoille County Regional Plan⁷ was re-adopted in December 2006. It is a goal of the regional plan that regulatory and non-regulatory land use policies further housing opportunities that meet the needs of the population in a fair and equal manner. As of late, particular attention has been paid to affordable housing and the housing needs of the elderly. While the Lamoille County Planning Commission (LCPC) highly values the control that each member municipality has over its land use planning and regulation, the regional plan urges towns and villages to consider the following housing policy issues:

1. Housing development is often scattered across the countryside. Scattered housing can lead to inefficiencies in servicing Lamoille's growing population. Scattered housing is often situated on lands that are highly productive for agriculture and/or forestry.
2. Housing needs to be affordable to all households in Lamoille County. A mix of housing types will be required to address a growing and diverse population. Lamoille County's high proportion of service industry employment necessitates an adequate supply of housing for low and moderate income moderate income housing.
3. The aging of our society requires the use of approaches that offer housing choices for older, independent residents.
4. The preservation of many Lamoille communities' attractive character is at least partially depended on encouraging the conservation and/or renovation of the existing housing stock of the community and its neighborhoods.
5. Housing in Lamoille County is predominantly serviced by private septic systems and individual waterwells. The lack of extensive municipal sewerage systems and water supplies is a constraint to concentrated housing development.
6. The approval of appropriate housing proposals, including plans of subdivision, needs to be carried out in an efficient and timely manner, while ensuring that the interests of the community are respected.
7. The local control of density bonuses for Planned Residential Developments (PRDs), Planned Unit Developments (PUDs), Transfer of Development Rights (TDRs) and low income and affordable housing is currently underutilized.

⁷ Available online at www.lcpcvt.org

LCPC will advocate that all Lamoille County municipalities consider the checklists in this report as tools to address the issues above and to facilitate and further fair housing opportunities in general.

Town and Village Plans and Bylaws

The vast majority of town plans in Lamoille County consider housing affordability and availability data and make statements in support of multi-family, affordable, accessible, and elderly housing, along with accessory dwelling units and housing variety in general. Most zoning bylaws include language in compliance with state statutes concerning accessory dwelling units⁸ and residential care and group homes⁹ and use planned unit developments (PUDs) as regulatory tools. Conversely the majority of bylaws treat any multi-family units in excess of duplexes as conditional uses, rather than permitted uses.

Many of the towns exhibit plan language and bylaws policies that facilitate and further fair and affordable housing opportunities; and then many of the same also include some potential impediments. The following are highlights for each town and applicable village in Lamoille County.

Please Note: Readers of this report are advised to inquire with local officials about any proposed or adopted updates to town plans and bylaws before making conclusions on the basis of this analysis. In addition, readers should inquire about any possible revisions to relevant state and federal statutes over time.

Belvidere

The Town of Belvidere currently has no subdivision or zoning bylaws. The 2005 Municipal Plan contains adequate data on housing cost challenges. There is a discouraging statement made against the conversion of single-family homes to multifamily structures, citing growth worries. However, elsewhere in the plan, there are statements in support of multi-family, affordable, accessible, and elderly housing, along with accessory dwelling units and housing variety in general. Nevertheless no specific regulatory or non-regulatory tools are proposed to facilitate and further affordable and fair housing opportunities.

Cambridge Town & Village

The Town and Village of Cambridge currently have no zoning bylaws, but they do have a joint plan and subdivision ordinance. The 2003 Municipal Development Plan contains adequate data on housing cost challenges. The plan includes statements in support of multi-family, affordable, accessible, and elderly housing, along with accessory dwelling units and housing variety in general. The 2006 subdivision regulations contain a provision for PUDs, but the utility of this without zoning is questionable.

⁸ Specifically, 24 V.S.A. §4412(1)(E)

⁹ Specifically, 24 V.S.A. §4412(1)(G)

Jeffersonville (part of Cambridge Town)

The Village of Jeffersonville does not have subdivision or zoning bylaws. The 2003 Municipal Plan does not go into much depth. The plan includes support for PUDs. However, there are discouraging remarks about a senior housing complex and a low-income housing project in the village and about multi-family housing in general.

Eden

The Town of Eden currently has no subdivision or zoning bylaws. The 2002 Town Plan contains adequate data on housing stock and cost challenges. There is a discouraging statement made against the conversion of single-family homes to multifamily structures. The plan also publishes community survey data unfavorable to mobile homes, multi-family units or apartment complexes.¹⁰ However, elsewhere in the plan, there are statements in support of affordable, accessible, and elderly housing, along with housing variety in general. No specific regulatory tools are proposed to facilitate and further affordable and fair housing opportunities, but there is support for pursuing funding to develop senior housing. It should be noted that proposed 2007 revisions¹¹ to the Eden Town Plan include an expanded piece on local and regional affordability data and sections on special needs housing and fair housing that are very encouraging and could lay the foundation for future policies.

Elmore

The Town of Elmore has zoning bylaws adopted in 2005. In Elmore, ALL multi-family dwellings are conditional uses (other towns at least allow duplexes as permitted uses). The bylaws include thorough and specific language in compliance with state statutes concerning accessory apartments, residential care and group homes, and child care homes. The bylaws also include provisions for planned residential developments (PRDs). On-site parking waivers and PRD density bonuses for affordable and elderly housing are a commendable inclusion and could do much to further affordable and fair housing opportunities.

Hyde Park Town

The Town of Hyde Park has zoning bylaws amended in 2005. The bylaws include PUDs. The bylaws specifically include language on accessory dwelling units, residential care and group homes, and child care homes in compliance with state statutes. These bylaws seem to be facilitative of fair housing and present no apparent barriers.

Hyde Park Village

The Village of Hyde Park has zoning bylaws that were adopted in 2000. The bylaws seem to put the availability of municipal water and sewer to good use. Dense lots are permissible in many areas. PRDs and PUDs are allowed. One area of concern is that, while accessory uses are permitted in many zoning districts, the bylaws seem to be

¹⁰ While there is little land use planning utility in surveying local residents on these topics, since state statutes give towns little to no authority to exclude or control these uses, this type of data could be used to frame a discussion about the importance of public outreach and education concerning fair and affordable housing opportunities.

¹¹ Acquired from Lamoille County Planning Commission on 01/10/07.

missing language specifically permitting accessory dwelling units inside or attached to residential buildings and with the 30% floor area allowance. The bylaws include language specifically citing outdated¹² state law obligations concerning care and group homes and licensed child care facilities. A simple update to current statutory sections should be addressed at the earliest convenience.

Johnson Town

The Town of Johnson currently has no subdivision or zoning bylaws. The 2006 Municipal Development Plan contains an extensive section on housing data. PUDs are called for by the town plan, but specific support for fair and affordable housing or for other regulatory and non-regulatory tools to facilitate and further such opportunities seems to be lacking. It should be noted that the town has a Housing Committee, the mission of which may address these issues in time.

Johnson Village

The Village of Johnson currently has no subdivision or zoning bylaws. The 2003 Municipal Development Plan contains an extensive section on housing stock and affordability data and calls for a strategy to improve affordable housing opportunities in Johnson. Stated policies voice strong support for housing affordability, elderly housing and cooperation with other organizations and initiatives, however no specific regulatory tools are proposed. The plan does state support for the Village's proposed 2003 zoning bylaws, which included PUDs and specific language in compliance with state statutes concerning accessory apartments, residential care and group homes, and child care homes.

Morristown & Morrisville

Morristown and Morrisville have joint zoning bylaws adopted in 2006. The bylaws seem to put the availability of municipal water and sewer to good use. Dense lots are permissible in many areas. Many zoning districts list both multi-family (3+) units and dwelling units in accessory buildings as permitted uses. PUDs are allowed. The bylaws specifically include language on accessory dwelling units, residential care and group homes, and child care homes in compliance with state statutes. These bylaws seem to be facilitative of fair housing and present no apparent barriers.

Stowe

The town of Stowe has zoning bylaws adopted in 2005. Of particular note are PRD and PUD density bonuses for affordable housing. There are also density bonuses for residential units in floors above commercial units in certain zoning districts. There are areas of concern for accessory dwelling units, however. While Stowe allows accessory dwelling units an increased threshold (50% of livable floor area), there is no specific language permitting them on a broad basis. Furthermore, there seems to be a categorical prohibition on accessory buildings being used as dwelling units. This should be reviewed for compliance with state statutes.^[Update Available at Footnote 13] The Stowe bylaws do not

¹² Was 24 V.S.A. §4409(d) & (f), and is now 24 V.S.A. §4412(1)(G) & (5)

¹³ **01/02/07 Update:** Discussions with Stowe Planning Director Tom Jackman have revealed that Stowe's zoning bylaws were being reviewed during the development of this report and that the language forbidding

include specific language in compliance with state statutes concerning residential care and group homes.

Waterville

Waterville has no subdivision or zoning bylaws. Waterville’s 2003 town plan does not deal with housing or fair housing data in much depth. No regulatory or non-regulatory tools for facilitating and furthering fair and affordable housing opportunities are proposed. However, the brief housing section does state specific goals to “encourage adequate housing for all of its citizens, regardless of age, income, race or handicap.”

Wolcott

The Town of Wolcott has zoning bylaws adopted in 2006. The bylaws include provisions for PUDs. Language for accessory dwelling units as permitted uses is included, but the stipulation that an accessory unit be occupied by no more than two persons may not mirror state statute and might warrant a review. The bylaws contain specific language for compliance with state statutes concerning residential care and group homes and child care homes.

accessory buildings from being dwelling units would most likely be revised for clearer compliance with state statutes.

Fair Housing Checklists for Town Planning and Land Use Regulation

This checklist is provided as a tool that municipal officials can use to assess their land use plans and regulations in light of fair housing concerns and to consider whenever drafting or revising plans and bylaws.

The checklist is first broken into sections for municipal plans, subdivision bylaws, and zoning bylaws with an additional section on non-regulatory activities. Within each section the checklist items are organized by the following themes when applicable:

1. assessing needs & impediments
2. removing barriers
3. supporting fair housing opportunities
4. providing incentives for fair housing opportunities

Different themes are applicable to different sections based on the activity. For instance, a municipal plan, as a pre-implementation document, can express support for fair housing and set the stage for initiatives, but cannot actually create fair housing opportunities. The latter is in the realm of bylaws, conversely which do not have the role of assessing needs & impediments.

Municipal Plan Checklist

Assessing Needs & Impediments

- Make note of the presence of groups identified in fair housing regulations.** A town plan should attempt to record the presence of all groups against whom discrimination is prohibited by fair housing laws. This is not to say that data will be available on all groups or that the presence of one group precludes a vigilant stance against discrimination against ALL groups. Municipal planning officials should do their best to make note of these groups as the starting point to assessing housing needs and as a base line for exposing fair housing impediments later. It is specifically suggested that the municipal plan include information on:

- the elderly (65+),
- people with disabilities,
- the foreign born,
- racial and ethnic groups represented by local residents,
- families with children, and
- families on public assistance and/or making less than 80% of the median family income.

Projections for any of these groups would be very useful for planning and should be included if available. Data from the past that could illustrate trends over time are also very useful.

[Secondary¹⁴ data sources: U.S. Census Bureau; VT Dept. of Disabilities, Aging & Independent Living (DAIL)]

- Seek income data for all groups of people.** The inability to afford housing could be an added burden for those who already may be discriminated against in housing situations in the first place. Housing affordability is a substantial piece of fair housing. Town plans should pay particular attention to those earning less than 80% of median family income, since that is one of the focus categories of affordable housing policies. Towns plans should place a priority on any data that cross-tabulates income with any of the groups identified above.

[Secondary data sources: U.S. Census Bureau; VT DAIL]

- Assess the population with accessibility or special care needs.** Whether disabled, elderly or otherwise, it would be prudent for the town plan to make note of the numbers of people who require accessibility modifications in housing units or special housing units, either of which potentially could be discriminated against.

[Secondary data sources: U.S. Census Bureau; VT DAIL]

- Analyze monthly housing cost data.** Data on the monthly costs of homeownership and rental should be available to include in the town plan. One useful piece of information would be to compare these monthly costs with monthly income and wage data. Costs that are more than 30% of household wages and/or income could indicate a housing affordability problem.

[Secondary data sources: U.S. Census Bureau; VT Dept. of Labor]

- Analyze the mix of housing units.** The town plan should make note of the number of single family homes, multi-family units and structures, mobile homes, and special needs or accessible housing units in town. These numbers will add to the baseline of information needed for a fair housing conversation. A plan should make a point of comparing the accessible and special housing needs data above with the reported supply of such housing.

[Secondary data sources: U.S. Census Bureau; VT DAIL]

- Analyze home sales prices.** Another piece of the housing affordability puzzle is the cost of home purchase. Data can be gathered that shows the prices of all homes sold in town in a given period of time. A town plan should compare the changes in home sale prices with changes in household income and wages. Do the trends match up? Is one climbing more quickly than the other?

[Secondary data sources: local realtors; VT Property Transfer Tax Database; www.housingdata.org]

¹⁴ The ideal would be for a planning commission to conduct its own primary data gathering activity for the town plan. This, however, is normally prohibitive in terms of time and costs. While local knowledge and observations should always be a part of town plan data, secondary data sources play a substantial role. A town's Regional Planning Commission also should be contacted when data sources are sought.

- Analyze local and regional wages.** The ability of residents to pay for housing is largely contingent upon their ability to find a job nearby that pays enough to make housing affordable. A regional view is important; a town plan should include wage data from the region at large as well as local job centers.
[Secondary data source: VT Labor Dept.]

- Research the number of housing discrimination complaints in town.** Contact with state and federal agencies could result in data on the number of housing discrimination complaints in a town, as well as changes over time. Granted, these complaints will only reflect housing discrimination that is reported, but this data is one of the more direct indicators of fair housing problems in an area.
[Contact: Vermont Human Rights Commission - www.hrc.state.vt.us; CVOEO Fair Housing Project - www.cvoeo.org/vti/fair.htm; U.S. HUD Fair Housing and Equal Opportunity - www.hud.gov/offices/fheo]

- Research possible segregation and geographic marginalization.** Using the secondary data above and primary observations, are there potential areas of segregation in town? Do multi-family and/or special needs units tend to be located in low income areas? Do people of certain racial groups tend to be housed separately from other groups? These are examples of common situations that could stem from active impediments to fair housing in an area. They are symptoms, rather than the cause, but they should be recorded if they exist.

- Take a regional view.** Housing is often more a regional problem than a local one. Comparing a town to the surrounding regional could also reveal any special or unique situations in that community. For all of the checklist items above, a town plan should consider the regional situation as well as the town's and compare whenever possible. Housing affordability should be a particular item of regional concern.

Removing Barriers to Fair Housing

- Highlight potential impediments caused by current bylaws.** If municipal planning officials can conclude that any impediments to fair housing revealed by the assessment steps above have roots in current land use bylaws, the town plan is an ideal place to address the issue. All land use bylaws are required to be compatible with the municipal plan, and plan revision is the stage at which the effects of current bylaws are periodically measured. Language in the plan, backed by data and information, can make a powerful case for eventual bylaw revision. Granted the removal of actual barriers and impediments does not happen at the municipal plan stage, but this is where the process starts.

- Review plan language and remove any statements that conflict with fair housing.** Citing the linkage between plans and bylaws above, any language in a municipal plan that is contradictory to the precepts of fair housing is a conceptual barrier that potentially could justify harmful bylaws. This language could be buried in the vision for a certain neighborhood in town that bars mobile homes and multi-family units. Or it could express a view of the town that includes a constricting definition of “family” and/or paints an image of single family homes, unwelcoming to other types. Municipal planning officials need to recognize the responsibility they hold in setting the land use agenda for a town. The language in a town plan could likely appear in land use bylaws, which have a very real effect. The town plan needs to set the stage for fair housing. This is addressed in the next theme below.

Supporting Fair Housing Opportunities

- Make a statement in support of fair housing.** The town plan should include a statement that one of the town’s goals is to support fair and equal housing through its land use policies. An example statement could be “This town’s policies will support the goal that all residents of this town, regardless of race, sex, sexual orientation, age, income, marital or familial status, religious creed, color, national origin or handicap of a person, may enjoy fair, equal and affordable access to housing opportunities.”
- Call for land use policies that will facilitate fair and affordable housing opportunities.** After reviewing current land use policies, the town plan is the ideal place to include language in favor to future revisions to zoning and subdivision bylaws that could allow for more opportunities to provide more affordable housing and housing variety. Items called for may include higher densities allowed in some zoning areas, accessory apartment language in compliance with state law¹⁵, planned unit developments (PUDS), and fairer treatment of multi-family units, mobile homes and special needs housing. Many of these items are covered below.
- Call for land use policies that provide incentives for fair and affordable housing opportunities.** Building upon the item above, the town plan could also include a call for land use policies that provide incentives for affordable or *visitable*¹⁶ units, either by allowing higher densities or providing subsidies in the

¹⁵ 24 V.S.A. §4412

¹⁶ Unit accessibility modifications are usually the responsibility of the unit resident, at their expense, with reasonable facilitation provided by the landlord or seller, and multi-family structures of 4 or more units are subject to accessibility requirements under the U.S. Fair Housing Act (42 U.S.C. 3601 et seq.). However, unit *visitability* is a concept that can be encouraged for all other housing. In addition to the existing Vermont accessibility requirements for residential construction (20 V.S.A §2907) that at least one exterior door is at least 36 inches wide and that all first floor interior doors between rooms are at least 34 inches wide with at least 32 inches of clear passage, visitability would add the requirement that at least one

permitting process. These items are covered below: inclusionary zoning provisions, density bonuses, permit fee waivers, and expedited permit review processes.

- **Set the agenda(s) for other municipal initiatives that will facilitate and/or further fair and affordable housing opportunities.** The town plan is also a good vehicle for providing support and vision for other local community initiatives that can affirmatively further fair housing outside of the realm of land use planning and regulation. Just as the town plan section on scenic and historic resources can advocate for the creation of a local historical society, the housing section could call for the creation of a local housing commission, local fair housing enforcement standards, the use of public and grant funds to develop housing opportunities, the intent to partner with public, private and nonprofit entities for same, and more.

exterior entrance is at grade (no steps), approached by an accessible route. Visitability is defined on page 4-12 of the *Fair Housing Planning Guide*, Vol. 1, 1996, Office of Fair Housing and Equal Opportunity, United States Department of Housing and Urban Development.

Subdivision Bylaw Checklist

Removing Barriers to Fair Housing

- Review requirements for minimum lot sizes.** In concert with review of zoning bylaws, if they exist, subdivision requirements on minimum lot size should be reviewed to ascertain if higher densities are possible. This potentially could work to help decrease the size and cost of land associated with housing costs and further affordable housing.

Supporting Fair Housing Opportunities

- Allow for planned unit developments (PUDs)¹⁷.** Also in concert with zoning bylaw review, subdivision regulations could include provisions for PUDs, which allow for smaller lots and higher densities, allowing for potentially cheaper land costs, more cost-efficient property access and provision of municipal services, and possible shared wastewater facilities. In some towns reliant upon lot-based septic systems, PUDs may be the only prudent method for allowing unit densities lower than 1 acre.

¹⁷ See 24 V.S.A. §4417

Zoning Bylaw Checklist

Removing Barriers to Fair Housing

- Review requirements for minimum densities and set-backs.** In concert with review of and revisions to subdivision bylaws, if they exist, zoning requirements on minimum lot size, units per acre and set-backs should be reviewed to ascertain if higher densities and shorter distances to roads and services are possible. This could allow for potentially cheaper land and unit costs and more cost-efficient property access and provision of municipal services.
- Review for language that may discriminate against multi-family units, mobile homes and mobile home parks, affordable housing and special needs housing.** State law¹⁸ stipulates that mobile homes, modular housing and prefabricated housing cannot be treated any differently than conventional housing in land use bylaws. The statute also holds that mobile home parks and multi-unit or multi-family dwellings cannot be excluded. In addition, state licensed group homes shall be treated as permitted single-family residential use. All land use regulation language should be in line with these requirements and in no way exclude or discriminate against these housing types. This includes de facto exclusion by way of overly stringent requirements upon certain housing types. In order to affirmatively further fair housing, this treatment should also apply to affordable housing, public housing, and other special needs housing.
- Eliminate maximum bedroom requirements.** Limits to the number of bedrooms per housing unit are not often used. However, if found in bylaws, they could have the effect of discriminating against groups of people who tend to desire a certain number of children and/or live with extended family members.

Supporting Fair Housing Opportunities

- Allow for planned unit developments (PUDs).** Also in concert with subdivision bylaw review, zoning bylaws could include provisions for PUDs, which allow for smaller lots and higher densities, allowing for potentially cheaper land costs, more cost-efficient property access and provision of municipal services, and possible shared wastewater facilities.
- Include language in compliance with state law¹⁹ allowing accessory apartments.** Accessory apartments that have sufficient wastewater capacity and do not exceed 30% of the habitable floor area of a single family dwelling must be allowed in land use bylaws. Furthermore, municipal officials could recognize

¹⁸ 24 V.S.A. §4412

¹⁹ Ibid.

accessory apartments as tools for both affordable housing and family care for those with special needs and expand their definition to make them even easier to permit. Examples would be to increase the floor area limit to 50% or allow increases to the height and width of the primary dwelling unit.

- Include language in compliance with state law²⁰ concerning residential care and group homes and child care homes.** Licensed or registered residential care or group homes serving up to 8 persons and licensed or registered child care homes serving up to 6 children are to be considered to constitute a permitted single-family residential use. There are further stipulations for more rigorous uses. Zoning bylaws should specifically cite compliance with these standards. Many ordinances already do, albeit to outdated sections of the statute before revisions were made.
- Explore language that allows for reasonable regulatory accommodations.** The U.S. Fair Housing Act prohibits the "...refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling."²¹ A municipality should discuss the possibility of allowing such accommodations in land use regulation when required for accessibility or special needs.

Providing Incentives for Fair Housing Opportunities

- Allow density and lot coverage bonuses²² for affordable and visitable units.** In concert with a review of subdivision regulations, if they exist, density and lot coverage bonuses for developments with affordable and/or visitable units should be explored. This tool, which is not uncommon, provides an incentive for housing developers to play a part in affirmatively furthering fair and affordable housing opportunities. Towns may also want to consider relaxing parking space requirements as an added incentive, if appropriate.
- Provide permit fee waivers and/or expedited permit review processes for developments providing affordable and visitable units.** Another recognized incentive is to subsidize certain types of development by waiving or reducing permitting fees and/or expediting the permitting process.

²⁰ Was 24 V.S.A. §4409(d) & (f) and is now 24 V.S.A. §4412(1)(G) & (5)

²¹ 42 U.S.C. 3604(a)(3)(B)

²² For an example of inclusionary zoning and density and lot coverage bonuses for affordable housing units, see Article 14 in the zoning ordinance of the City of Burlington, VT, retrieved online 12/28/06 from www.ci.burlington.vt.us/planning/zoning/znordinance/article14.html

- **Consider inclusionary zoning²³ for affordable and visitable units.** While density bonuses can provide incentives for affordable and visitable housing units, inclusionary zoning provides a mandate. Using inclusionary zoning, a municipality can require that housing developments include a certain percentage of affordable and/or visitable units. This inclusion may be based on land use zone, number of acres developed or number of units developed.

²³ For an example of inclusionary zoning and density and lot coverage bonuses for affordable housing units, see Article 14 in the zoning ordinance of the City of Burlington, VT, retrieved online 12/28/06 from www.ci.burlington.vt.us/planning/zoning/znordinance/article14.html

Non-regulatory Activities

Towns and municipal officials engage in many non-regulatory activities that can have an effect on land use and fair housing opportunities. While many activities to further fair housing have been discussed above, here are three common examples that could be implemented easily.

- Do municipal officials have regular contacts with landlords, developers, sellers and real estate agents?** One should not assume that all acts of housing discrimination are committed with deliberate and malicious intent. Mailings, flyers and other forms of outreach that educate important housing actors on the subject of fair housing could do much to further the cause.

- Is the municipality receptive to working with nonprofits on housing developments and fair housing initiatives?** Municipalities can work together with other organizations to provide fair housing opportunities. One common example is for the municipality to pursue grant funding for an affordable housing development.

- Do municipal officials make regular use of educational and training opportunities?** In many cases, the effort to affirmatively further fair housing starts with the knowledge and skill levels of municipal officials. They will also need to keep up-to-date on the latest issues and solutions.

Further Resources

What follows are lists of organizations, publications and sources of data for municipalities to use as they follow the above checklists.

Organizations

Office of Fair Housing and Equal Opportunity
United States Department of Housing and Urban Development
Washington, DC
www.hud.gov/offices/fheo
(202) 708-1112

Fair Housing Project
Champlain Valley Office of Economic Opportunity
Burlington, VT
cvoeo.org/vti/fair.htm
(802) 651-0551

Vermont Human Rights Commission
Montpelier, VT
www.hrc.state.vt.us
(800) 416-2010

Department of Housing and Community Affairs
Vermont Agency of Commerce and Community Development
Montpelier, VT
www.dhca.state.vt.us/Housing
(800) 828-3211

Department of Disabilities, Aging & Independent Living
Vermont Agency of Human Services
Montpelier, VT
www.dad.state.vt.us
(802) 241-2400

Publications

Fair Housing Planning Guide, Vol. 1, 1996, Office of Fair Housing and Equal Opportunity, United States Department of Housing and Urban Development.
(online at www.hud.gov/offices/fheo/images/fhpg.pdf)

Fair Housing Act Design Manual, revised, 1998, Office of Fair Housing and Equal Opportunity, United States Department of Housing and Urban Development. (online at www.huduser.org/publications/destech/fairhousing.html)

The Basics of Fair Housing, April 2002, VT Association of Planning and Development Agencies. (online at www.dhca.state.vt.us/Housing/FairHousingBasics.doc)

Examples of Activities to "...affirmatively further fair housing," April 2002, VT Association of Planning and Development Agencies. (online at www.dhca.state.vt.us/Housing/FairHousingActivities.doc)

Shaping the Future of Long Term Care and Independent Living (2005-2015), May 2006, Department of Disabilities, Aging & Independent Living, Vermont Agency of Human Services. (online at www.dad.state.vt.us/WhatsNew/ShapingTheFuture20052015May2006.pdf)

Statutes

U.S. Fair Housing Act
42 U.S.C. 3604 et seq.
Online at www.hud.gov/offices/fheo/FHLaws

Vermont Statute: Discrimination; Public Accommodations; Rental and Sale of Real Estate
9 V.S.A. Chapter 139
Online at www.leg.state.vt.us/statutes/fullchapter.cfm?Title=09&Chapter=139

Vermont Statute: Accessibility Standards; Residential Construction
20 V.S.A. Chapter 174 §2907
Online at www.leg.state.vt.us/statutes/fullsection.cfm?Title=20&Chapter=174&Section=02907

Vermont Statute: Municipal and Regional Planning and Development
24 V.S.A. Chapter 117
Online at www.leg.state.vt.us/statutes/fullchapter.cfm?Title=24&Chapter=117

Data Sources

Vermont Indicators Online
<http://crs.uvm.edu/indicators>
Produces profiles for towns and counties that include data from various federal and state agencies. Includes historical data when possible.

Vermont Housing Data

www.housingdata.org/profile

Produces housing data profiles for towns and counties that include data from various federal and state agencies. Includes analysis of housing sales prices.

Employment and Wage Data

Vermont Dept. of Labor

www.vtlmi.info/indnaics.htm

Includes data on employment and wages by industry sector.

Vermont Dept. of Disabilities, Aging & Independent Living

www.dad.state.vt.us

A source for special needs population data as well as population projections.

Your Regional Planning Commission

www.vapda.org

To Contact the Lamoille County Planning Commission

65 Northgate Plaza, Suite 8

P.O. Box 1009

Morrisville, VT 05661

Website: www.lpcvt.org

Phone: (802) 888-4548

Email: lpc@lpcvt.org