

Proposed MINIMUM Scenario for Vermont Energy Codes and Related Matters

ROUGH DRAFT 8/6/23

Goals

- 1) Simple, integrated authority over construction
 - a. Clear chain to ultimate authority, a “scaffolding” of support
 - b. Some local authority, at least for education, advice, and collecting certificates
 - c. Coordinated codes (including energy codes)
- 2) Clear roles and responsibilities for owner, builder, designer, official
- 3) Statewide database of certificates of building permits, certificates of occupancy, and energy certificates
- 4) To the greatest extent possible, respect Vermont’s tradition that a person’s house is their “castle.” Minimize enforcement; encourage education, assistance, and incentives.
- 5) Remain mindful that Vermont is a Dillon’s Rule state: local governments may only exercise powers that the state expressly grants to them.

Statewide Authority – Some of this must be done by statute; some may be done in Agency rulemaking.

- 1) Confirm the scope of authority that the authority having jurisdiction has over all new and existing construction in Vermont, all building types.
- 2) Rename the Division of Fire Safety the Division of Fire and Building Safety (DFBS), and invest all authority over building codes – including energy codes – in it.
- 3) Create an Energy Code Advisory Board to DFBS; allow Public Service to have significant participation and influence on this board.
- 4) Extend DFBS authority to all residential structures. This means adopting an amended version of IRC.
- 5) Make administration and enforcement of IRC voluntary by town (NH model), with approval by DFBS. If a town does not enforce, no one needs to enforce (NH and ME models).
- 6) Encourage all DFBS fire marshals to be trained for energy code project review and inspections, but allow DFBS to make its own rules.
- 7) Develop a statewide training program for municipal officials and builders, possibly making use of vocational/technical centers.
- 8) As #6 becomes established, make residential contracting a trade and move its regulation to DFBS.
- 9) Create and maintain a statewide database following the ANR model of WW permit history for all properties.
- 10) Write Vermont’s base energy code with the smallest towns in mind. Offer a stretch code as a voluntary step up with incentives both for those municipalities and for building owners.

TIER ONE – Cities and Towns with Building Departments (voluntary choice)

11 towns and cities already administer Vermont building codes by municipal agreement with DFS. More to be encouraged. This will relieve some pressure on DFBS.

- 1) Allow these municipalities to adopt more restrictive codes than state code, with approval by DFBS.
- 2) Require these municipalities **at a minimum** to administer and enforce all codes for public buildings (which they do now, only adding commercial & multi-family energy code oversight).
- 3) Encourage these municipalities to administer energy codes for private (small residential) buildings and possibly even IRC administration.
- 4) Require these municipalities to either train all officials to review and inspect for all energy codes, or appoint specialists on staff. Make these officials available to assist builders and homeowners with energy code compliance.
- 5) These municipalities could possibly be in charge of local code training for builders and building owners.
- 6) **Optimally** certificates of occupancy will begin to be required for all building types by these municipalities, even if small residential does not have plan review or site inspection.

TIER TWO – Cities and Towns with Residential Building Official (voluntary choice)

Xxx towns currently require building permits for construction. Not all of these towns require certificates of occupancy.

- 1) Administer and enforce energy codes for private (small residential) buildings. The municipality could add administration of other building codes for private (small residential) buildings if they wish.

- 2) All public buildings would continue to be administered by the state.
- 3) Authority would flow to these municipalities through a municipal agreement.
- 4) **At a minimum**, the building official would be trained in energy codes and inspection, be available to offer advice on incorporating energy codes in projects, and collect completed energy certificates for submission to DFBS. **Optimally** this official would inspect all residential projects like in other states.
- 5) Confirm residential construction agreements are filled out before granting building permits.

TIER THREE – Towns without Building Officials (default – mandatory if not filled above)

Xxx towns currently have no zoning or building regulation. The population of these towns ranges from xxx to xxxx.

- 1) Require these towns to appoint an Energy Code Constable. This person might be an existing town official (for example, zoning administrator, town clerk or lister), a volunteer fire fighter, or they could be voted into authority.
- 6) Require the constable to be trained in energy codes, to be available to offer advice on incorporating energy codes in projects, and to collect completed energy certificates for submission to DFBS.
- 2) The constable shall review changes to the Grand List with town listers and the town clerk once a year to confirm all improvements subject to energy codes have submitted an energy certificate.
- 3) The constable shall regularly forward submitted energy certificates to DFBS.

Legal considerations

- 1) Require residential construction contracts to include a section confirming compliance with RBES and other building codes in the agreement, as applicable.
- 2) Make lack of a certificate of occupancy a title defect for building types and jurisdictions where they are required. (This may already be in statute.)
- 3) Make lack of an energy certificate a title defect for all new and renovated buildings in Vermont.
- 4) Eliminate the requirement for an energy certificate to be notarized.
- 5) Create a statute of repose in Vermont, even if it is conservative (10 years).

Tax considerations

- 1) Consider waiving an increase in property taxes for energy-related upgrades for a period of time, hopefully equal to the payback time for making the upgrades.