

**MEMORANDUM OF AGREEMENT**

**Amongst the  
DEPARTMENT OF BUILDINGS AND GENERAL SERVICES, AGENCY OF ADMINISTRATION,  
DIVISION FOR HISTORIC PRESERVATION, AGENCY OF COMMERCE AND COMMUNITY  
DEVELOPMENT,  
and the VERMONT ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING  
MUNICIPAL ENERGY RESILIENCE PROGRAM**

WHEREAS, the General Assembly of the State of Vermont enacted Act 172, An Act Relating to Municipal Energy Resilience Initiatives (2022); and

**WHEREAS**, Section 3 of Act 172 directs the Department of Buildings and General Services (BGS) of the Agency of Administration to establish the Municipal Energy Resilience Grant Program (MERP) to award grants to support dependable and sustainable connections to critical municipal services for all Vermonters, targeting communities in need of energy resilience investments; and

**WHEREAS**, for the development and implementation of MERP, BGS is partnering with the Regional Planning Commissions, Vermont League of Cities and Towns, Efficiency Vermont, and Vermont Energy and Climate Action Network; and

**WHEREAS**, municipally owned buildings in cities, towns, incorporated villages, fire districts and all other governmental incorporated units, except school districts, are eligible for MERP; and

**WHEREAS**, the MERP Implementation Grants will address weatherization, thermal efficiency, and supplemental/replacement of fossil fuel heating systems with more efficient renewable or electric versions that may have adverse effects on properties included in, or eligible for inclusion in, the Vermont State Register of Historic Places, hereafter referred to as historic sites or properties; and

**WHEREAS**, the Vermont Historic Preservation Act (22 VSA chapter 14) requires the State Historic Preservation Officer (SHPO) cooperate with state agencies in the planning and conduct of specific undertakings affecting historic properties and preservation objectives; and

**WHEREAS**, the Vermont Historic Preservation Act directs any agency, department, division, or commission to consult with the Vermont Advisory Council on Historic Preservation (VACHP) before demolishing, altering, or transferring any property that is potentially of historical, architectural, archaeological, or cultural significance, including any property listed in the State Register of Historic Places; and

**WHEREAS**, VACHP shall delegate to the Vermont Division for Historic Preservation (VDHP) the authority to review and resolve any impacts on historic properties and archaeological sites in accord with state law and this MOU for those municipalities awarded MERP Implementation Grants to ensure that the State of Vermont's stewardship of its historic properties and archaeological sites complies with the Vermont Historic Preservation Act.

**NOW, THEREFORE**, BGS, VDHP, and VACHP agree as follows to ensure consultation for the MERP Implementation Grants to promote efficient and appropriate use of state funds and to satisfy the requirements of the Vermont Historic Preservation Act and Act 172:

**I. DEFINITIONS**

- A. For purposes of this agreement, the definitions provided in 36 CFR Part 800.16 (a) through (z) of the regulations for the National Historic Preservation Act (54 U.S.C. § 306108) and in the Vermont Historic Preservation Act (22 VSA chapter 14 § 701) apply.
- B. “Historic property or resource” is “any building, structure, object, district, area, or site that is significant in the history, architecture, archaeology, or culture of this State, its communities, or the nation;” and includes any resource that is fifty (50) years of age or older that retains sufficient integrity.
1. Integrity: the ability of a property to convey its significance. Criteria for the State Register recognizes seven aspects or qualities that, in various combinations, define integrity. To be considered eligible for the State Register of Historic Places, a property will always possess several, and usually most, aspects of integrity. The seven aspects of integrity are: Location, Design, Setting, Materials, Workmanship, Feeling, and Association.
- C. “Site” is “any aboriginal mound, fort, earthwork, village location, burial ground, historic or prehistoric ruin, mine, cave, or other location which is or may be a source of important archaeological data.” Archaeological sites are the place(s) where the remnants of a past culture survive in a physical context that allows for the interpretation of these remains. The physical evidence, or archaeological remains, usually take the form of artifacts, features, and cultural deposits. Historic archaeological sites may include standing or intact buildings or structures that have a direct historical association with below-ground archaeological remains.
- D. “Altering” addresses both exterior and interior work on historic properties. The treatment approach depends on the property’s significance, existing physical condition, extent of documentation available, and the State of Vermont’s goals for the property. The four treatment approaches to be considered as altering are:
1. Preservation: the act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials, and features rather than extensive replacement and new construction. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project. However, new exterior additions are not within the scope of this treatment. *Preservation requires retention of the greatest amount of historic fabric along with the building’s historic form.*
  2. Rehabilitation: the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. *Rehabilitation acknowledges the need to alter or add to a historic building to meet continuing or new uses, and require code updates, while retaining the building’s historic character.*
  3. Restoration is the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project. *Restoration allows for the depiction of a building at a particular time in its history by preserving materials, features, finishes, and spaces from its period of significance and removing those from other periods.*
  4. Reconstruction is the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location. *Reconstruction establishes a limited framework for recreating a vanished or non-surviving building or space with new materials, primarily for interpretive purposes.*

## II. EXEMPT PROPERTIES AND ACTIVITIES

- A. If a project meets **all** the following requirements, it is exempt from review under this agreement:
1. Project does not involve any property that is listed in or eligible for the State Register of Historic Places; and

2. Project consists of rehabilitation or alteration of buildings or structures less than 50 years old; and
  3. Project does not involve ground disturbance, as defined in Stipulation III.B, below.
- B. A project that does not satisfy **all** the criteria listed above will nonetheless be exempt from review under this agreement if it is limited solely to the exempt activities listed in Appendix A.
1. Refer to Appendix A for a list of Exempt Activities, which **DO NOT** require review by VDHP.

### III. PROJECT REVIEW RESPONSIBILITIES

- A. All projects to be reviewed by VDHP require submittal of a MERP Project Review Form (Appendix B template) by municipalities.
1. If the submitted documentation is sufficient, VDHP shall complete the review in thirty (30) days.
  2. If additional information is required to complete the project review evaluation, VDHP shall notify the municipality within fifteen (15) days of receipt of documentation.
  3. VDHP, upon receipt of sufficient documentation, shall complete the project review evaluation within thirty (30) days.
    - a. VDHP, if appropriate, may respond that the project will not result in an adverse effect on a historic resource based on the information in the MERP Project Review Form.
    - b. VDHP may consult with municipalities to review plans and explore alternatives that avoid changes to the character-defining elements for which a resource is designated as historic, ensuring there are no adverse effects; or
    - c. VDHP may request that municipalities arrange for further review by a qualified archaeological professional, a qualified historic preservation professional, or both, but will do all possible consultation to avoid this request.
      - 1) For purposes of this agreement, a qualified professional is one who:
        - a) Meets the Secretary of the Interior's *Professional Qualifications Standards*, found in 36 CFR 61 (48 FR 44738-9); and
        - b) Is identified on the Vermont Division for Historic Preservation's Historic Preservation and Archaeological Consultant List. This list is updated annually.
- B. Project Review Submittal Documentation:
1. Ground-disturbing activities include, but are not limited to:
    - a. new construction;
    - b. construction of roads and parking lots;
    - c. land clearance and tree cutting in preparation for construction;
    - d. excavation for signage, footings, pads, and foundations; and
    - e. installation or replacement of sewer, water, storm drains, electrical, gas, fuel tanks, leach lines, and septic tanks, unless included in Appendix A: exempt activities.
  2. For any project that may affect archaeological resources and requires a qualified professional consultant, the submittal to VDHP must address the following:
    - a. All archaeological studies must meet the *Guidelines for Conducting Archaeology in Vermont* and the Secretary of the Interior's *Standards and Guidelines for Archeology and Historic Preservation*.
    - b. Vermont Archaeological Inventory (VAI) site number should be acquired prior to the commencement of construction.
    - c. If necessary, a VAI form should be completed by a qualified professional consultant.
  3. For any project that may affect any above-ground historic resources, the submittal to VDHP must include the following documentation for review:
    - a. Historic building information;
    - b. Project description and related consultant reports;
    - c. Project plans;
    - d. Digital photographs (and historic images if available); and
    - e. As necessary, qualified professional consultant comment letter outlining the scope of the project, historic resources to be impacted, and the effect(s) of the project on historic resources.

The completed MERP Project Review Form (Appendix B) and all accompanying documentation should be submitted electronically to VDHP at [ACCD.ProjectReview@vermont.gov](mailto:ACCD.ProjectReview@vermont.gov)

4. Municipalities should notify VDHP of any changes to the project scope after submittal for review and VDHP concurrence.
5. In the event that municipalities and VDHP cannot resolve any questions about the impact of a project on historic resources, VACHP will be engaged to assist in resolving the issue(s).
6. Projects having an **adverse effect** on historic resources that cannot be avoided or mitigated may, at the discretion of SHPO, be referred to the VACHP for review at the next scheduled meeting.

#### **IV. EFFECTIVE DATE**

- A. This agreement shall take effect on the date it is signed by the BGS, SHPO, and VACHP chair. The agreement will remain in effect as long as MERP is active, unless terminated pursuant to this agreement.

#### **V. AMENDMENTS**


- A. Any party to this agreement may request that it be amended or modified, whereupon BGS, SHPO, and VACHP will consult to consider such revisions that support and ensure obligations under the Vermont Historic Preservation Act are met. Any resulting amendments or addenda shall be developed and executed among BGS, SHPO, and VACHP in the same manner as this agreement.

#### **VI. TERMINATION**

- A. Any party to this agreement may terminate this agreement by providing thirty (30) calendar days' notice to the other parties, provided that the parties will make every reasonable effort to consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

**EXECUTION AND IMPLEMENTATION** of this Memorandum of Agreement evidences that BGS has satisfied its responsibilities under the Vermont Historic Preservation Act for the MERP Implementation Grants.

**Signatories:**

DocuSigned by:  
  
EC8F68F55FBC42C  
\_\_\_\_\_  
Jennifer M.V. Fitch, P. E. 7/1/2024  
Acting Commissioner, Buildings and General Services Date

DocuSigned by:  
  
E88B1289163F42E...  
\_\_\_\_\_  
Laura V. Trieschmann 6/17/2024  
Vermont State Historic Preservation Officer Date

DocuSigned by:  
  
E835D0A6AF584E7...  
\_\_\_\_\_  
Edward Clark 6/14/2024  
Chair, Vermont Advisory Council on Historic Preservation Date

# Vermont Division for Historic Preservation

## MERP PROJECT REVIEW FORM

The Vermont Historic Preservation Act (22 VSA chapter 14) directs any agency, department, division, or commission to consult with the Vermont Advisory Council on Historic Preservation (VACHP) before demolishing, altering, or transferring any property that is potentially of historical, architectural, archaeological, or cultural significance; and states that the State Historic Preservation Officer (SHPO), through the administration of Vermont Division for Historic Preservation (VDHP), shall cooperate with state agencies in the planning and conduct of specific undertakings affecting historic properties and preservation objectives. The VACHP delegated to VDHP the authority to consult with municipalities awarded Municipal Energy Resilience Program (MERP) Implementation Grants to review and resolve any impacts on historic properties and sites in accord with state law.

\*Refer to Appendix A of the Memorandum of Agreement amongst the Department of Buildings and General Services, Agency of Administration, the Division for Historic Preservation, Agency of Commerce and Community Development, And the Vermont Advisory Council on Historic Preservation for a list of Exempt Activities. Exempt Activities will **NOT** require review by VDHP.

To start the review process, please complete this form and submit it, with the information requested below, to VDHP at [ACCD.projectreview@vermont.gov](mailto:ACCD.projectreview@vermont.gov).

1. Contact information:
  - a. Name:
  - b. Email address:
  - c. Phone number:
  
2. MERP Project Information:
  - a. Awarded Project Name:
  - b. Building Name:
  - c. Address:
  
3. Please provide a short description of the proposed project applicable to VDHP Review:
  
  
  
  
  
  
  
  
  
  
4. Project information:
  - a. Project involves ground disturbance: Yes  No
  - b. Historic Resource is more than fifty (50) years old: Yes  No
  - c. Historic Resource is listed in the State Register of Historic Places  
(check [Online Resource Center](#)): Yes  No  In Historic District  Unsure
  
5. Anticipated project start date:
  - a.  Expedited review requested (for emergencies or prior consultation only)
  - b.  Preliminary/conceptual review
  - c.  Final documentation review
  
6. Please also submit as appropriate:
  - a.  Project location map (can be annotated google map or similar)
  - b.  Site map (shows the proposed ground disturbance)
  - c.  Project Construction
  - d.  Photographs of Historic Resource (show project areas)

when applicable, please submit:

- e.  Archaeological Resource Assessment (ARA)
- f.  Phase 1 Report (archaeology)
- g.  Qualified Professional Consultant report

*Please email this form and supporting materials to [ACCD.ProjectReview@vermont.gov](mailto:ACCD.ProjectReview@vermont.gov)*

---

**TO BE COMPLETED BY VDHP:**

- Determination of Eligibility Recommendation
  - Not Eligible or Historic
  - Eligible
  - Listed or Previously Determined EligibleDate of Determination or Listing:  
VDHP Staff Making Determination:
  
- No Historic Properties Affected
  - No Historic Resource Present in Area of Potential Effect
  - Work will have No Effect on Historic Resource
  
- Historic Properties Affected
  - Qualified Professional Historic Preservation Consultant will be required
  - Qualified Professional Archeological Consultant will be required
    - Archeological Resource Assessment (ARA) required
    - Phase 1 archeological investigation required
  
- Concur with ARA  Concur with Phase 1 Archaeology
  
- No Adverse Effect
  
- Adverse Effect
  - VACHP consultation required DATE:
  - Project MOA or other agreement docs executed DATE:
  - Conditions: DATE:

Comments:

**X:** \_\_\_\_\_  
For: **Vermont Division for Historic Preservation**

**APPENDIX A  
EXEMPT ACTIVITIES**

Activity		Description	Scopes that can be designed to be exempt	Scopes that <i>cannot</i> be designed to be exempt
<input type="checkbox"/>	Non-Historic Buildings and Structures	<p>Rehabilitation of non-historic buildings and structures, (i.e. those less than 50 years old), except when alteration to the existing building or structure may impact a surrounding historic district.</p> <p>“Impact” means that the project produces a change which is visible from the public right of way within the historic district.</p>	<ul style="list-style-type: none"> <li>• Ensure that the non-historic building energy project does not impact the surrounding historic district. If this requirement is satisfied, then any energy project may proceed without VDHP review.</li> </ul>	<ul style="list-style-type: none"> <li>• Any building at least 50 years old, and any of the below categories of projects are not exempt.</li> <li>• Any building less than 50 years old, within a historic district, and the project impacts the surrounding district, <i>and</i> any of the below categories of projects are not exempt</li> </ul>
<input type="checkbox"/>	Mechanical, Electrical, Plumbing (MEP) Systems	<p>Repair, replacement, and installation of MEP systems provided that such work does not involve ground disturbance, alter, or permanently change the appearance of the interior or the exterior of the building, affecting character-defining features of the building.</p> <p>“Ground disturbance” refers to digging to a depth greater than 6 inches, or digging in an area greater than 100 square feet. Projects involving digging to a depth less than 6 inches in an area of less than 100 square feet will not be seen as involving ground disturbance.</p> <p>Work that requires the installation of new ducts through the interior; new electrical wiring; new plumbing pipes and fixtures; installation of fire and smoke detectors; or</p>	<ul style="list-style-type: none"> <li>• Air source heat pumps where exterior equipment is not located on the front of the building</li> <li>• Boiler replacement</li> <li>• Boiler retrofit to biomass</li> <li>• HVAC retro commissions (e.g. adding or fine-tuning variable frequency drives to system fans)</li> <li>• Electric vehicle supply equipment (EVSE) installation projects that meet the criteria for exemption approved by the Vermont Division for Historic Preservation (VDHP) and the Vermont Advisory Council for Historic Preservation (VT ACHP)—exemption memo attached.</li> </ul>	<ul style="list-style-type: none"> <li>• Electric Service Panel upgrades (<i>note that other energy project scopes may depend upon a building amp upgrade</i>)</li> <li>• Ground source heat pumps</li> <li>• Heat recovery ventilation (HRV) or energy recovery ventilation (ERV) systems, whether or not they require new ductwork</li> <li>• Electric vehicle supply equipment (EVSE) installation projects that do not meet the criteria for exemption approved by VDHP and VT ACHP</li> <li>• Air source heat pumps where exterior equipment is located on the front of the building</li> <li>• Installation of a rooftop HVAC unit where there was not one previously</li> </ul>



Activity		Description	Scopes that can be designed to be exempt	Scopes that <u>cannot</u> be designed to be exempt
		<p>new ventilation systems shall not be exempt.</p> <p>Refer to <i>Preservation Briefs 24: Heating, Ventilating, and Cooling Historic Buildings: Problems &amp; Recommended Approaches</i></p>		
<input type="checkbox"/>	Exterior Repairs	<p>Repair or partial replacement of deteriorated porches, cornices, exterior siding, doors, balustrades, stairs, or other trim when the repair or replacement is done <i>in-kind</i> to closely match existing material and form.</p> <p>Exempt exterior repairs may not involve ground disturbance.</p> <p>Removal of distinctive materials or alterations of features, spaces, and spatial relationships that characterize a property must be avoided and are not exempt.</p> <p>Grinding of mortar joints on historic buildings should be avoided and is not exempt.</p> <p>Refer to <i>Preservation Briefs 47: Maintaining the Exterior of Small &amp; Medium Size Historic Buildings</i></p>	<ul style="list-style-type: none"> <li>• Accessibility improvements to the building's exterior which use in-kind materials and do not drastically alter the building's character.</li> </ul>	<ul style="list-style-type: none"> <li>• Exterior repairs with non in-kind materials</li> <li>• Any accessibility improvement which involves ground disturbance (e.g. installing a ramp, installing an elevator)</li> </ul>
<input type="checkbox"/>	Windows	<p>Caulking; weather stripping; re-glazing and repainting of windows; and repair, replacement or installation of storm windows (exterior, interior,</p>	<ul style="list-style-type: none"> <li>• Any enumerated activity in the first paragraph under the 'Description' column</li> </ul>	<ul style="list-style-type: none"> <li>• Window replacement will only be exempt if the windows are non-historic (installed less than <u>30</u> years ago); however, if the MERP assessment</li> </ul>

Activity		Description	Scopes that can be designed to be exempt	Scopes that <u>cannot</u> be designed to be exempt
		<p>metal or wood) provided they match the historic shape and size of the historic prime windows and that the meeting rail coincides with that of the prime window. Color should match trim, if possible.</p> <p><u>Replacement of historic windows is not an exempt activity.</u> If replacement windows are being proposed, the qualified professional must provide a statement to VDHP of the condition of existing windows; why the existing windows cannot be retained; safety considerations such as the presence of lead-based paint hazards; cost considerations of retaining existing windows vs. installing replacements including ongoing maintenance; and rationale for the design and selection of new windows, along with how the replacement windows will meet the Secretary of the Interior's Standards for Rehabilitation. <u>Energy efficiency shall be considered as part of the evaluation of the proposed replacement windows.</u></p> <p>Replacement of non-historic windows (installed less than thirty years ago) <u>is</u> an exempt activity.</p>	<ul style="list-style-type: none"> <li>Any non-historic window repair/replacement</li> </ul>	<p>finds that energy savings will be achieved by window replacement, and the payback is less than the expected useful life of the equipment, this will help the project's case during VDHP review.</p>
<input type="checkbox"/>	Roof Repair	Repair of historic roofing with in-kind material that closely matches the existing design and form.	<ul style="list-style-type: none"> <li>Rooftop solar panel installation, provided that a) roof repair/replacement is not</li> </ul>	<ul style="list-style-type: none"> <li>Installation of any rooftop HVAC unit where there was not one previously</li> </ul>

Activity		Description	Scopes that can be designed to be exempt	Scopes that <i>cannot</i> be designed to be exempt
		<p>A “historic” roof is one that is likely original to the date of construction, <u>or</u> a roof that has been replaced with materials in-kind to the original roofing.</p> <p>Therefore a historic building may or may not have a historic roof, whereas a non-historic building will only have a non-historic roof.</p> <p>Replacement of non-historic roofing is <u>not</u> an exempt activity, unless the material is in-kind.</p> <p>Refer to <i>Preservation Briefs 4: Roofing for Historic Buildings</i></p>	<p>required, or b) roof repair /replacement uses in-kind materials</p>	<ul style="list-style-type: none"> <li>• Use of non-in-kind materials on any roof replacement, historic or not</li> </ul>
<input type="checkbox"/>	<p>Insulation</p>	<p>Insulation in ceilings, attic, and basement spaces provided it is installed with “appropriate vapor barriers”, including the eligible air sealing and insulation scopes outlined here.</p> <p>Refer to <i>Preservation Briefs 3: Improving Energy Efficiency in Historic Buildings</i></p>	<ul style="list-style-type: none"> <li>• Air sealing the building shell—e.g. caulking, weather stripping, and other air infiltration controls around exterior-facing windows and doors</li> <li>• Air sealing with spray foam is permissible <u>except</u> in highly visible areas or on historic finished surfaces</li> <li>• Installing thresholds which do not harm or obscure historic windows or trim—any such materials are considered historic if they are original to the historic building’s date of construction or more than thirty years old.</li> <li>• Insulation—e.g. non-toxic fiberglass, foil-wrapped, or loose-fill or</li> </ul>	<ul style="list-style-type: none"> <li>• Insulation which must be installed from the exterior of the building, and exterior materials must be removed or replaced</li> <li>• Using spray foam for insulation, not just air sealing</li> <li>• Air sealing/insulation projects which require a mechanical ventilation system to be installed, to direct moisture out of the building as it becomes more airtight.</li> </ul>

Activity		Description	Scopes that can be designed to be exempt	Scopes that <i>cannot</i> be designed to be exempt
			dense-pack cellulose—which does not harm or damage historic fabric, nor causes any permanent visible alteration to the exterior siding, <b>AND</b> the building already has a mechanical ventilation system	
<input type="checkbox"/>	Interior surfaces (floors, walls, ceilings)	Repainting; refinishing; repapering; replacing drywall or sheet flooring; or removal/replacement of suspended ceiling tile	<ul style="list-style-type: none"> <li>• Replacing drywall or flooring as part of a project to add insulation, or install a vapor barrier and remedy any moisture issues—so long as there are no changes in design or materials used</li> <li>• Removal or alteration of interior walls that are less than 50 years old</li> </ul>	<ul style="list-style-type: none"> <li>• Removal or alteration of interior walls which are at least 50 years old</li> </ul>
<input type="checkbox"/>	Asbestos Abatement	<p>Necessary removal of asbestos found in mechanical, electrical, and/or plumbing (MEP) equipment, or ventilation pipe joints, provided it does not involve the removal of contributing historic elements</p> <p>“Contributing historic elements” would be anything that contributes to the historic building’s character. For example, removing historic wood paneling to access the building systems would <i>not</i> be exempt.</p> <p>Such remediation which is limited to an open-access area (i.e. a basement of an attic) will usually be exempt, barring the above.</p>	<ul style="list-style-type: none"> <li>• Removal of vermiculite-containing insulation for the targeted air sealing of MEP penetrations, and replacement with new insulation, which does not involve removing historic elements such as historic paneling</li> <li>• Removal of vermiculite debris in ductwork</li> </ul>	<ul style="list-style-type: none"> <li>• Any asbestos removal not related to MEP or insulation projects</li> </ul>

Activity		Description	Scopes that can be designed to be exempt	Scopes that <i>cannot</i> be designed to be exempt
		Asbestos is presumed present in vermiculite-containing insulation		
<input type="checkbox"/>	Site improvements	Repair of existing roads, driveways, sidewalks, and curbs, if repairs are done with like material, and there are no changes in dimension or configuration	<ul style="list-style-type: none"> <li>Repairs to driveways or sidewalks after EV charging station installation, wheelchair ramp installation</li> </ul>	<ul style="list-style-type: none"> <li>Partial or complete replacement of features, the use of alternate materials, expansion of features, or ground disturbance greater than 6 inches of depth</li> </ul>
<input type="checkbox"/>	Underground utilities	Emergency repair of water, gas, electric, storm and wastewater systems if it occurs within the original trench or footprint	<ul style="list-style-type: none"> <li>Emergency repair to underground utility systems resulting from disturbance or alteration related to another project scope</li> </ul>	<ul style="list-style-type: none"> <li>Expanding the footprint and capacity of underground utilities (e.g. for EVSE installations)</li> </ul>
<input type="checkbox"/>	Generators	Temporary or permanent installation of generators that are placed inside existing buildings or that occupy an area under 50 square feet behind the building they serve	<ul style="list-style-type: none"> <li>Installation of battery backup systems for on-site solar generation, provided that the system is placed inside an existing building; or placed behind the building, and has a footprint smaller than 50 square feet</li> </ul>	<ul style="list-style-type: none"> <li>Solar battery installation which requires new construction for storage, or is placed in front or to the side of a building, or is placed outside and has a footprint larger than 50 square feet</li> <li>This section does not cover the installation of solar panels (see "Roof Repair", above)</li> </ul>
<input type="checkbox"/>	Electric Vehicle Supply Equipment	Installation, maintenance, repair, or expansion of EVSE and charging stations on historic resources.	Refer to Appendix B: Exemption from Historic Preservation Review Process for Electric Vehicle Supply Equipment in Vermont (approved January 19, 2023)	

## APPENDIX B

# Exemption from Historic Preservation Review Process for Electric Vehicle Supply Equipment in Vermont

Approved January 19, 2023

WHEREAS, on October 26, 2022, the federal Advisory Council on Historic Preservation (ACHP) approved an exemption that would relieve federal agencies from historic preservation review requirements under the National Historic Preservation Act (NHPA) regarding the effects of the installations of certain electric vehicle supply equipment (EVSE) on historic properties. *See*, Approval of exemption regarding electric vehicle supply equipment, 87 Fed. Reg. 66,201, (Nov. 2, 2022);

WHEREAS, to meet the State of Vermont's electrical vehicle (EV) priorities and the potential effects of expanded EVSE infrastructure programs on historic properties, the Vermont State Historic Preservation Officer (VT SHPO) and the Division for Historic Preservation (VDHP) support the adoption of the same exemptions for EVSE on state undertakings involving historic properties (known and potentially eligible);

WHEREAS, the Vermont Advisory Council on Historic Preservation (VT ACHP), having reviewed the federal exemption, approved the exemptions for EVSE on state undertakings involving historic properties (known and potentially eligible) on January 19, 2023; and

WHEREAS, EVSE can be wall- or pole-mounted, collocated or stand alone, and vary in design, size, charging speed and energy use.

NOW, THEREFORE, VT SHPO and VT ACHP agree to exempt the following from VDHP review:

### **A. Exemption from VDHP Review**

All projects undertaken by state agencies and their subgrantees or subcontractors, in order to account for pass-through funds, are exempt from the VDHP Review requirements to take into account the effects of the installation, maintenance, repair, or expansion of EVSE and charging stations on historic resources, provided these projects:

1. Take place in existing parking facilities with no electrical infrastructure modifications beyond the existing capacity and are located as close to an existing electrical service panel as practicable;
2. Use reversible, minimally invasive, non-permanent techniques to affix the infrastructure;
3. Minimize ground disturbance to the maximum extent possible, and ensure that it does not exceed previous levels of documented ground disturbance;
4. Use the lowest profile EVSE reasonably available that provides the necessary charging capacity;
5. Place the EVSE in a minimally visible intrusive area; and
6. Use colors complementary to surrounding environment, where possible.

**Exemption from Historic Preservation Review Process for Electric Vehicle Supply Equipment in Vermont**

Each state agency remains responsible for considering the effects of components of its undertakings on subject to this exemption on historic properties, in accordance with 22 V.S.A. § 723, subpart B of the Section 106 regulations or according to an applicable program alternative pursuant to 36 CFR 800.14.

**B. Tribal Lands**

This exemption shall not apply on Tribal Lands, or to activities that may affect historic properties on Tribal Lands, unless the Tribal Historic Preservation Officer, Tribe, or a designated representative of the Tribe has provided prior written notification to the VT SHPO and federal ACHP that it agrees with the use of the exemption on its lands. This applies to federally recognized and state recognized Tribes. Tribes can agree using the process outlined in the federal ACHP exemption.

**C. Duration**

This exemption will be in effect for the duration of the federal exemption by the ACHP in accordance with 36 CFR 800.12(c)(7).

**D. Termination**

The VT SHPO or VT ACHP, in agreement, may terminate this exemption if it is determined that the purposes of 22 V.S.A. § 723 are not adequately met. This exemption is automatically terminated upon the termination of the federal exemption by the ACHP in accordance with 36 CFR 800.12(c)(7).

**E. Amendments**

This exemption may be amended upon approval of VT SHPO and VT ACHP.

**Signatories:**

DocuSigned by:

*Laura V Trieschmann*

1/20/2023

E88B1289163F42E...

Laura V. Trieschmann  
Vermont State Historic Preservation Officer

Date

DocuSigned by:

*Edward Clark*

1/20/2023

E835D0A6AF584E7...

Edward Clark  
Chair, Vermont Advisory Council on Historic Preservation

Date