

MEMO

To: House General, Housing and Military Affairs
From: Karen B. Horn, Director Public Policy & Advocacy
Re: S. 226 Testimony
Date: April 11, 2022

The housing situation is dire in every part of the state. Both Speaker of the House Krowinski and President Pro Tempore Balint cited housing as a top priority for the legislature at the beginning of this session. In our survey of members last year, housing was cited as *the* highest priority issue facing the state, their residents, and, importantly, their prospective residents.

We agree with Senator Ram Hinsdale that S. 226 is primarily a housing bill with permitting reform measures that will make it more possible to develop housing in Vermont. We need to make it easier and affordable to develop housing. It is neither now, and people who would like to be our neighbors are denied that opportunity as a result.

Housing is tied to everything in Vermont – the rebuilding of the economy, the welcoming of historically marginalized populations to our communities, the likelihood of finding employees, the health of our school systems, the vibrancy of our downtowns, and meeting the basic needs of every Vermonter. S. 226 is a comprehensive effort to address the unprecedented scarcity of housing in the state.

Designated Centers

We support the amendments addressing designation of Neighborhood Planning Areas and New Town Centers, and for expanding tax credit eligibility to projects in neighborhood development areas.

Act 250

We support the amendments to Act 250 that are in Section 5 of the bill relating to priority housing projects that would allow up to 49 housing units to be built in a municipality with a population of less than 6000 before triggering Act 250. However, those amendments also need to eliminate language that establishes jurisdiction based on development of housing projects...“constructed or maintained on a tract or tracts of land, owned or controlled by a person, *within a radius of five miles of any point on any involved land and within any continuous period of five years*”. (10 VSA 6 001 (3)(A)(iv)) Likewise, amend section (19)(A)(i) for purposes of housing, to remove the language regarding “*within a radius of five miles of any point on any lot, or within the jurisdictional area of the same District Commission within any continuous period of five years*”. We can think of no reason to retain such arbitrary language, which results in penalizing those developers who might consider building more than one housing development within a reasonable timeframe in the places that need it most.

The language at Section 6 of the bill, removing jurisdiction for priority housing projects in designated centers is long overdue. It recognizes that local governments, which have gone to the effort of securing designation, have designed their communities in thoughtful ways and have the capacity to assure that local permitting addresses the issues that a specific proposal raises. We urge you to eliminate Act 250 jurisdiction for all development in designated downtowns, new town centers, neighborhood

development areas, growth centers, village centers and in Tax Increment Financing Districts (TIFs), which frequently overlap designated centers.

Funding

Sections 7 through 9 and 14 - 20 of the bill provide a variety of funding mechanisms, tax credits and other sources to encourage the construction or improvement of homes and conversion of underutilized commercial space to housing in designated areas. These infusions of funds are available in this moment due to federal dollars being available and they are vital to writing down costs to a point at which safe, energy efficient housing choices in compactly settled, walkable neighborhoods are again within reach of Vermonters. The Municipal Bylaw Modernization Grants in Sections 10 through 12 will facilitate revisions to bylaws to provide for those housing choices.

Connections to Municipal Water and Wastewater Systems

For years we have urged the legislature to change the statute to delete purely duplicative permitting for connections to municipal water and wastewater systems. Today, if a new or renovated building is to be connected to a municipal water or wastewater system, the owner must secure a permit from the municipality and the same permit from the Agency of Natural Resources (ANR). This double process is inefficient and wasteful of very scarce ANR resources at a time when that agency has enormous new responsibilities related to climate change and environmental justice. The process is unnecessarily expensive for the owner seeking to make improvements. Two tables at the end of my testimony provide the water gallonage requirements for specific numbers of residential units and the ANR fees for securing permits to connect those units to water and wastewater systems. We support the testimony you are hearing from Jeff Wennberg, retired Public Works Commissioner in Rutland City.

The 16 page long Wastewater System and Potable Water Supply Rules may be found here:

<https://dec.vermont.gov/sites/dec/files/dwgwp/wastewater/pdf/finalwspwrules.effective2007.09.29.pdf>

Subchapter 6 of that rule, at pages 43 - 48, establishes the requirements for delegation and says that a municipality may not request partial delegation of the wastewater system and potable water supply permit program under 10 VSA § 1976.

We urge you to pass Section 20 in S. 226. The agency supports this change. We urge you to validate your confidence in the professionals at the local level who are charged with operation and maintenance of the most valuable asset a municipality may own, and the professional engineers or licensed designers who install and document those authorizations.

Municipal Land Use Permits

Housing developments that would result in multiple housing units tend to face opposition in communities around the country and we have seen that play out many times in Vermont. The simple fact is that while those who are resident in a neighborhood have a strong interest in the details of what happens in their backyard, those who might want to live in units not yet built, have no backyard and much less of a focused interest in the outcome of a particular permit process. They are effectively

marginalized by the system and lack the opportunity for meaningful participation. S. 148, the Environmental Justice bill begins to address this issue. A recent Governing Magazine article highlights this issue. <https://www.governing.com/now/public-meetings-thwart-housing-reform-where-it-is-needed-most>

We urge you to amend 24 VSA 4465 (b)(4), to narrow the threshold for establishing eligibility to appeal a municipal permit so as to mitigate its use to stall or reduce the size of projects, particularly for multi-unit housing projects. The statute could disallow appeals that seek to reduce the number of units below the number allowed in the local zoning ordinance or bylaw, or disallow such appeals in designated areas. The statute reads,

24 V.S.A. §4465(b)(4) “Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.”

Thank you for your commitment to making changes that will help untangle this Gordian knot.

*Karen Horn, Director
Public Policy & Advocacy*

§1-808(f) Design Flow Table 1 (*page 67 of Wastewater and Potable Water Supply Rules*)

Design Flow for Residential Units

(a) The design flow for single family residential units shall be calculated on the following requirements:

- (1) The design flow for each person shall be 70 gallons per person per day;
- (2) the first three bedrooms shall be assumed to have two persons per bedroom;
- (3) each additional bedroom may be assumed to have one person per bedroom. When a building will be subject to rental use or when it is likely there will be extended or frequent high occupancy use, the system should be sized for at least 2 persons per bedroom; and
- (4) the design flow for a single-family residence on its own individual lot shall be based on a minimum of two bedrooms.

(b) When five or more single family residential units are connected to a single soil based disposal system, a designer may choose to use the following design flows that are based only on the number of residential units without regard for the number of bedrooms:

Number of Single Family Units Project Design Flow

5 units	1575 gallons per day
6 units	1830 gallons per day

7 units	1830 gallons per day
8 units	1830 gallons per day
9 units	1830 gallons per day
10 units	2800 gallons per day
11 units	3036 gallons per day
12 units	3264 gallons per day
13 units	3484 gallons per day
14 units	3696 gallons per day
15 units	3900 gallons per day
16 units	4112 gallons per day
17 units	4369 gallons per day
18 units	4518 gallons per day
19 units	4712 gallons per day
20 units	4900 gallons per day
20+ units	# of units X 245 gallons per day

Note: Single family residential units with only one bedroom, such as condominiums and apartment buildings will not benefit from the use of the design flows listed above. Single family residential units, with two bedrooms each, will benefit from use of the table when 11 or more units are connected to a single soil-based disposal system.

Note: Wastewater disposal systems with a design capacity of 6500 GPD or more may also require an Indirect Discharge Permit.

(c) Single family residential units connected to a wastewater disposal system with a design capacity of at least 50,000 gallons per day may use a design flow of 210 gallons per unit per day, regardless of the number of bedrooms.

(d) There is no reduction allowed in Table 1 design flows based on the use of low flow plumbing fixtures as the design flow assumes their use.

(e) Multi-unit elderly housing projects may be calculated on 1.5 person per unit.

DRINKING WATER AND GROUNDWATER PROTECTION DIVISION
APPLICATION FEE SCHEDULE
For permit applications subject to 10 V.S.A Chapter 64
Effective 7/1/2015

Design flow for the potable water supply and/or wastewater system*	Fee Category	Fee per Application
560 gpd or less	RO1	\$306.25
Greater than 560 gpd and less than or equal to 2,000 gpd	RO2	\$870.00
Greater than 2,000 gpd and less than or equal to 6,500 gpd	RO3	\$3,000.00

Greater than 6,500 gpd and less than or equal to 10,000 gpd	RO4	\$7,500.00
Greater than 10,000 gpd	RO5	\$13,500.00

Source: <https://dec.vermont.gov/sites/dec/files/dwgwp/fees/pdf/RegionalOfficeFees.pdf>