

Municipal Planning and Zoning Recommendations to Assist With Housing Development In Vermont

Vermont League of Cities and Towns
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As is the case with everyone right now, we are hearing multiple stories of people who are considering new jobs in municipal government in Vermont and are unable to take them because there is no housing available. Most recently we have heard this does not mean no housing in a price range manageable with an agreed-to pay rate, or housing that is a serious fixer-upper, or an affordable rental or even within wide commuting distances. This means NO housing options. As you are hearing from housing experts across the state, the housing situation is dire.

We have given some thought to new suggestions for statutory changes that would relieve permitting pressure on housing development, that we have not yet seen discussed. Below please find some of those proposals.

1. Revisit 24 VSA 4465 (b)(4), so that the threshold to establish eligibility to appeal a municipal permit is narrower than current language, which has been used on many occasions to appeal permits and stall projects, particularly for multi-unit housing projects. Disallow appeals that seek to reduce the number of units below the number allowed in the local zoning ordinance or bylaw:

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."

2. Authorize municipalities to establish vacancy taxes for residential properties in town centers that have been vacant for an extended period of time and allowed to fall into disrepair so those residential units are taxed at a higher rate than the rate charged to occupied residential buildings (effectively the converse of tax stabilization agreements).

3. Seeking designation as a designated downtown, growth center or neighborhood development area is onerous. The numbers of those designations proves the point. The Downtown Board hears applications from municipalities for designation for growth centers, designated downtowns, neighborhood development areas, new town centers and village centers. Our experience is that the Downtown Board generally approves an area that is smaller and more constrained than the area for which the city or town made an initial application. As a result the benefits that might serve to encourage housing development are restricted to a smaller geographic area than the municipality considers optimal for those investments.

The board should be directed to interpret eligibility for designations liberally so as to assure sufficient area to construct housing close to downtown and densely settled areas. We strongly support the independent evaluation of the designation programs that is proposed in several bills. As well, the statute should be amended to allow for additional options for actions that make municipality eligible for designation.

24 VSA Chapter 76A 2793 Designation of Downtown Development District

(b)... municipality has:

(2) (C)... a commitment by the legislative body to implement at least one of the following:

(iv) design to build out Complete Streets pattern of development

(v) commitment to implement weatherization and fuel switching in municipal buildings within the designated area

(D) (vii) develop plan to convert under-utilized commercial space to housing

(E) Delete section

There are only six Growth Centers:

Bennington, Colchester, Hartford, Montpelier, St. Albans City, Williston

There are only nine Neighborhood Development Areas:

Brattleboro, Burlington, Essex Junction, Manchester, Putney, Randolph, South Burlington, Westford, and Winooski

And two Designated New Town Centers:

Colchester and S. Burlington. Berlin is only conditionally approved.

23 Designated Downtowns

Barre, Bellows Falls, Bennington, Brandon, Brattleboro, Bristol, Burlington, Middlebury, Montpelier, Newport, Poultney, Randolph, Rutland, Springfield, St. Albans, St. Johnsbury, Stowe, Vergennes, Waterbury, White River Junction, Wilmington, Windsor, Winooski.

4. Acknowledge that not all housing will be built in designated centers and that housing development outside of those areas is generally cheaper to construct. Facilitate housing development outside of the six growth centers, nine neighborhood development areas, two designated town centers or 23 designated downtowns where municipal bylaws provide for clustered multi-unit housing development (conservation subdivision) in residentially zoned areas outside of designated areas.

5. Direct review of on-site sewage, wetlands and stormwater regulations to assure they both meet essential environmental standards for facilities, affordability and also allow for development of housing. Require such regulations and permits to eliminate conflicting permit requirements *at the agency level within a specified time period before them being issued to the applicant.*

6. Eliminate Agency of Natural Resources permits for connections to municipal water and wastewater facilities.

7. Amend regulations regarding applications for feasibility studies for central wastewater to allow need to develop housing as a problem that needs to be solved (not restricting reasons to environmental degradation).

8. Eliminate the language in Act 250 that establishes jurisdiction based on “construction 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 6001 (3)(A)(iv). Likewise, consider amending 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”.

9. Require Act 250 and state permitting programs to render a permitting decision within a certain number of days or they are deemed issued as is the case with local zoning permits:

24 V.S.A. § 4448(d) “If the administrative officer fails to act with regard to a complete application for a permit within 30 days, whether by issuing a decision or by making a referral to the appropriate municipal panel, a permit shall be deemed issued on the 31st day.”