

Local Officials Eager to Partner to Build More Housing

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Vermont's 247 cities and towns are on the front lines of Vermont's housing crisis – responding to a record number of emergency calls at hotels filled with the housing insecure, re-evaluating their zoning laws to facilitate housing development, and partnering with developers to create innovative housing solutions. But as Winooski Mayor Kristine Lott said recently at a Vermont Mayors' Coalition news conference in the State House, we can't do it alone.

To solve the housing crisis, we must build more housing. The Legislature could ensure the State is a meaningful partner by modestly tweaking Act 250 to exempt state designated areas, reducing the ability of project opponents to file frivolous appeals to both municipal zoning decisions and Act 250 decisions, eliminating the Act 250 provision that establishes jurisdiction over a developer's projects within five miles and five years of each other, encouraging the modernization of municipal zoning bylaws, and continuing to fund innovative affordable housing development.

Rep. Seth Bongartz of Manchester and Sen. Kesha Ram Hinsdale of Chittenden County recently crafted bills (Bongartz's is H.68 and Ram Hinsdale's has not yet been introduced at the time of this article) that would (a) mandate that towns allow duplexes everywhere they allow housing, (b) mandate multi-units be allowed and create a new statewide maximum lot size of a fifth of an acre where sewers exist, and (c) reduce the number of parking spaces required when building housing. These proposals would affect every community in Vermont, but they may not have their intended impact. Several towns are ahead of the Legislature, having adopted nearly every proposed provision, and yet the crisis continues in their communities. Just ask Mayor Lott in Winooski. Another 40 or so communities in Vermont have no zoning restrictions at all, yet they also struggle to encourage housing development.

Modernizing local zoning can be an effective way to promote housing development, but doing so with a one-size-fits-all mandate ignores the fact that local planning commissions, closest to their communities, know more about a community than Montpelier does. Over the past two years, the Legislature and Governor Phil Scott have provided more than \$1 million in state

funds to help communities rewrite their zoning bylaws. These grants have helped 56 municipalities – from Newport City to Newfane – adopt best practices, including those being considered by the Legislature and those in the State’s [“Zoning for Great Neighborhoods”](#) guide. This approach has incentivized towns to make improvements while respecting the local zoning processes that volunteers have spent decades constructing.

While these municipalities have been aggressively updating their local land use laws, the Legislature has been repeatedly studying whether to amend its own statewide land use planning law, Act 250. To our knowledge, they have never studied the impact of local zoning on housing development or the environment. Act 250, not local zoning, is the single largest impediment to the construction of more homes in Vermont. The law was enacted in 1970 in part as a reaction to many towns having no local zoning policies in place. That is no longer the case. Today, housing developers frequently must navigate and pay two sets of permitting fees and legal fees and face the uncertainty in appeals twice, even when they are proposing smart growth in areas where Vermonters want development. Vermont should exempt Vermont’s state designated areas – growth centers, downtowns, village centers, neighborhood development areas, and new town centers – from Act 250.

The duplicative process also gives opponents of housing the ability to mount costly appeals that drive up the cost of developing housing and reduce the number of units being constructed. When the citizens of a community, through the rigorous zoning bylaw adoption process, democratically decide they want housing built in an area, an appeal to local zoning officials based on the number of units or an Act 250 appeal based on character should not be allowed. Current law also allows any ten individuals from a community to band together and second guess the community’s zoning decision by filing an appeal to a local decision, even when the project complies with all the bylaw requirements. This should be stopped. Land use decisions should be made by entire communities, not tiny subsections of them.

While the pressures of our housing market are largely set by national and global economic forces, Vermont has tried to keep pace with the rising cost of housing. According to the Agency of Commerce and Community Development’s 2022 Housing Budget and Investment Report, Vermont increased its housing development budget by 300 percent in 2022, from \$69 million to \$212 million. While costs escalate at a rate that outpaces incomes, the Legislature should consider giving municipalities new tools to build more housing, such as a project-based tax increment financing program. This program would allow towns across Vermont to use a tool similar to what larger cities like St. Albans City, Burlington, and South Burlington

have used to finance municipally owned infrastructure that in turn sparked construction of hundreds of new homes. The program allows municipalities to pledge future tax revenues from new developments to repay debt.

A full third of the Vermont Legislature recently co-sponsored H.111, authored by Rep. Katherine Sims, a Democrat from Craftsbury, and Rep. James Harrison, a Republican from North Chittenden. Among many program improvements, it would exempt from Act 250 jurisdiction housing development in state designated areas, reduce the ability of individuals to frivolously challenge local development decisions based on character, and eliminate the ability of any 10 community members to band together to challenge a project that doesn't directly impact them.

We are pleased to see the Vermont Legislature and Governor Scott considering modernizing our land use laws to facilitate more housing growth. However, changing local land use laws without changing state land use laws won't solve this crisis. Local officials are eager to partner with the State to solve Vermont's housing crisis. We recognize it may take a compromise, and we hope those defending Act 250 do too.