

March 14, 2025

Testimony to the House Environment Committee Regarding Changes to the 3 Acre Rule





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Regarding Changes to the 3 Acre Rule

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VLCT Environmental Policy Committee

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- Bill Fraser, **Montpelier** City Manager
- Ann Lawless **Wheelock** Selectboard Chair
- Karen Barber, **Huntington** Selectperson
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- Peter Carbee, **Washington** Assistant Town Clerk



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- Matthew Lawless, **Shelburne** Town Manager
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- Harry Shepard, **Stowe** Public Works Director
- Nicholas Storellicastro, **Barre City** Manager

Clean Water Funding and Regulation

Municipalities support efforts to protect Vermont's precious rivers, streams, and lakes and to build climate resilient communities. VLCT supports legislative action that would generally:

- Avoid cost-shifting to municipalities and property taxpayers
- Uses limited state and municipal funds in the most cost effective and high impact way to achieve statewide goals
- Build resilient infrastructure designed for intended use, which can withstand more extreme weather and meets stormwater management standards

Changes to the 3 Acre Program



Only 177 of 677 3 Acre sites have received permits, and serious concerns related to equity, the cost of treatment, and feasibility for developed areas persist.

VLCT seeks changes to the 3 Acre Rule to:

- Delay the deadline for property owners to receive permit coverage
- Allow cost to be a factor in assessing feasibility and the engineering for treatment
- Eliminate requirements for subdivided residential sites with multiple owners
- Considerations for sites in the Hudson River and Connecticut River watersheds
- Only require treatment at the time of redevelopment for privately owned parcels
- Protect municipal liability in the communities where the municipality is able and willing to acquire the permit and stormwater systems

3 Acre Parcel Acreage by Owner Type

Municipalities and School Districts together own 13.6% of acreage that is subject to the 3 acre rule.

Owner	Acres	How Many Parcels
Federal	69.75	2
Municipal	725.54	101 (includes schools)
Nonprofit	149.77	14



Private	5270.4	594
Public/Private	7.6	2
State	246.15	19
Trust	33.54	7
Grand Total	6502.75	739

Municipal Liability Related to 3 Acre for Residential Subdivision

Our 2025 Legislative Priorities include action to extend to municipal government the same protections from monetary liabilities that the legislature has enacted for the State.

- The 3 Acre legislation as drafted would exacerbate, not resolve, municipalities' general liability concerns
- Liability for stormwater systems concerns include:
 - Accidents involving damage to property and personal injury
 - Failure, maintenance, and replacement of the system
 - Landowner disputes, appeals, permit defense, etc.
- There is no monetary liability cap for municipal government.



Municipalities Lack Underlying Liability Protection

VLCT is reluctant to discuss plans for municipalities to acquire "the full legal responsibility for the stormwater system" without commensurate action to protect general monetary liability.

- VLCT supports H.138 to provide municipalities a monetary cap for liability in parity with the State of Vermont
- Since 2011: The maximum liability of the State under Sec. 1. 12 V.S.A. chapter 189 is \$500,000.00 to any one person and a maximum aggregate liability of \$2,000,000.00 to all persons for each occurrence
- Liability protection would apply to school districts
- Would not affect suits related to criminal conduct or violations of civil liberty

Regional Stormwater Utilities

- There are 7 active stormwater utilities in Vermont: Burlington, South Burlington, Shelburne, St Albans City, St Albans Town, Williston Town.
- Another 4 are in the planning stage: Montpelier, Essex Junction, Proctor, and St. Johnsbury.
- In our fall membership survey, VLCT inquired about the potential regionalization of a wide variety of municipal services. Of the 88 municipalities surveyed, 14%



said stormwater services would be positively impacted, **33% said stormwater services would be negatively impacted by regionalizing.**

- Of those surveyed that also had a 3 acre site, the highest reported obstacle to receiving a permit was a lack of funding for implementation, followed by competing priorities.

Municipal Impact Fees and Special Assessment Districts

VLCT generally supports expanding municipal authorities for local revenue setting.

However, for funding the treatment of impervious 3 Acre sites there are some impracticalities to consider with an impact fee or special assessment district funding strategy:

- Generally, these fee types are used for enhanced public services, not in service to statewide goals or for broad public benefit
- Would most likely only feasible when paired with substantial grant support (raising local matches)
- Still ultimately places the financial burden on municipal government and ultimately taxpayers and rate payers
- Only logical for residential subdivisions, not for municipal owned or privately owned single parcel 3 Acre sites
- In some cases, may require a town vote



July 10, 2024 Municipal Flood Damages

- More than 50 communities reported over \$100 million damages
- Of the municipal entities impacted by July 2024 severe storm, one third (1/3) make up 91% of the total estimated damages
- Two thirds (2/3) of the municipalities impacted were also impacted in July 2023.
- Of these towns that were impacted in both 2023 and 2024
- 64% are towns with less than 2000 population
- 82% are towns with less than 5000 population

Attachments

[Presentation used by Samantha Sheehan during her testimony](#)

