January 20: Off to the Races – Week 2 is All About Regulatory Hurdles

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The 2026 session is off to the races, and the VLCT advocacy team ran around the State House to deliver another four testimonies, primarily focused on the authorities, statutory processes, and limitations of local government for land use regulation. As legislators grapple with a constrained budget cycle and colliding property tax and housing crises, they are looking to regulatory levers, rather than appropriations, to speed up housing and infrastructure investment.

In this *Weekly Legislative Report*, we review testimonies this week from VLCT related to municipal authority over some agricultural activity, the siting of telecommunications infrastructure, zoning for home building, and more.

Municipal Authority Over Agricultural Activity

On Tuesday, VLCT Advocacy testified to the Senate Committee on Agriculture regarding our new policy position(opens in a new tab) to regulate agricultural operations in Act 250 exempt areas. Josh and Samantha walked committee members through the new Act 250 Tier 1A exemption process created by Act 181 – which requires months of local and regional planning and an extensive approval process before the Land Use Review Board (LURB).

The current estimate for Tier 1A and Tier 1B eligible areas(opens in a new tab) is 2.1% of the state's land area, pending the ongoing regional mapping and LURB approval process. Initially, 10-12 communities are expected to seek Tier 1A status, while the total number of Tier 1B areas could be closer to 100. Most municipalities in Vermont will receive no new Act 250 exemption when Act 181 is fully implemented.

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To be eligible to apply for a Tier 1A area, a municipality must meet strict statutory criteria:

1. A municipal plan (200 adopted)

2. Boundaries are consistent with Future Land Uses (FLUs) (RPC/LURB approval & adoption)

3. Have adopted permanent zoning & bylaw (142 adopted)

4. Adopted flood hazard and river corridor bylaws consistent with or stronger than statute

5. Have permanent land development regulations that further smart growth principles

6. Area must be compatible with the character of adjacent National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resources

7. Identified and planned for the maintenance of significant natural communities, including rare, threatened, and endangered species

8. Public water and wastewater systems have the capacity to support development (43 municipalities operate water & sewer)

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9. Demonstrate staff adequate to support capital planning, development review, and zoning administration.

When hearing the process for the adoption of regional plans and Tier 1A and Tier 1B areas, Senator Joe Major said(opens in a new tab), "I know that we are Government, but just your explaining of the bureaucracy of that is ridiculous. It has more hurdles than a steeple chase in the Olympics."

Our sentiments exactly, Senator.

To create an Act 250-exempt area, the municipality must navigate months or years of local, regional, and state processes that accommodate broad public input and numerous actions of the municipal legislative body. The municipality must meet stringent statutory criteria for capital planning and capacity, historic settlement patterns, and a high regulatory standard. Most importantly, the municipality must demonstrate a community-driven plan for growth that aligns with state and regional goals for housing.

The future Tier 1 areas represent existing residential neighborhoods and mixed-use commercial districts served by municipal water and sewer along major state transportation corridors that are generally within regional job sheds.

This week, Josh and Samantha will offer the same testimony to the House Committee on Agriculture, Food Resiliency, and Forestry – and work to continue consensus building with the related agencies, advocates, and farm groups about how to plan for the next 50 years of local land use planning in a way that supports resilient working lands and more affordable – and available – housing.

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More on Housing

VLCT Advocacy was back before the House Committee on General Affairs and Housing last week, this time to discuss municipal land use regulatory authority, existing local planning and zoning processes, and the Act 250 exemption process, as well as to provide a primer on the use of form-based code in Vermont. This testimony was split between the morning and afternoon and lasted for more than an hour with questions and discussion from committee members seeking to understand the various levers of control available to pro-housing communities.

Samantha also provided a walk through of the new process for the approval of regional plans and Tier 1 areas before the Land Use Review Board (LURB). Currently three of the eleven future regional plans are in the pre-application stage before the LURB. VLCT is seeking to demonstrate that Act 250 exemption is not a municipal authority – it is a long public process that begins with municipal and regional planning and rests on the final authority of the state body (the LURB) to affirm or deny each municipality's proposed exempt areas according to statutory constraints. As such, legislative reforms to Act 181 could expedite and improve Tier 1 approval to unlock more of the housing growth Vermont communities want, need, and have planned for.

The House Committee on General Affairs and Housing is expected to vet a number of forthcoming proposals and bills related to model codes, zoning for the use of off-site manufactured homes, ADA accessibility for housing and lodging, and short-term rental regulation.

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Last week, VLCT Advocacy also joined the Let's Build Homes coalition in support of their 2026 legislative platform(opens in a new tab) to support new housing development. Let's Build Homes is aligned with VLCT in seeking solutions to

- reduce or eliminate appeals of municipal zoning permits
- expand housing opportunities in Tier 1 areas
- ensure Tier 3 mapping and regulations do not negatively impact rural housing supply

Let's Build Homes has also presented a number of proposals to lower the cost of construction and to provide low-cost capital for home builders.

Lastly, our partners at the Vermont Bond Bank announced the launch of the Housing Infrastructure Loan Program(opens in a new tab) last week. VLCT Advocacy supported funding for the new program in last year's housing omnibus law Act 69(opens in a new tab). The Housing Infrastructure Loan Program supports the creation of housing by lowering the cost of expanding municipally owned water, wastewater, and transportation infrastructure including projects supported by tax increment finance (TIF) and the Community and Housing Infrastructure Program (CHIP). The pilot round will be awarded at the end of March 2025, with quarterly applications and awards starting mid-2026.

Municipal Monetary Liability Cap

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VLCT made a second appearance in the Senate Committee on Government Operations, this time to outline our 2026 Legislative Priorities. Samantha and Josh discussed VLCT's proposals(opens in a new tab) for new revenue authorities for cannabis, gas, and short-term rentals, outlined our requested modernizing reforms for the Public Records Act (currently being taken up by the house committee), and again raised the issue of municipal liability.

VLCT is again calling for legislative action to create a monetary liability cap for municipalities commensurate with the State's cap of $500,000 per person or $2 million per occurrence. While the majority of public services are delivered by municipal government, only state government enjoys this liability protection. The absence of a monetary liability cap for municipalities is affecting the insurability of some critical public infrastructure and imperiling the ability of local government to deliver the public services that Vermonters want and need. Issues of insurability for municipalities have halted plans for skate parks and complicated plow routes, and they could jeopardize accessibility to other public facilities such as swimming pools, sports fields, playgrounds, and pedestrian infrastructure. A liability cap for municipalities will not affect the ability of victims of crime or civil rights violations to pursue compensation for damages.

Last session, the house introduced **bill H.138(opens in a new tab), an act relating to maximum liability of municipalities for tort claims**, cosponsored by House Judiciary chair Martin Lalonde and freshman Representative Ian Goodnow. Goodnow is particularly well positioned to advocate for H.138 as both a practicing attorney and former Selectboard Chair from Brattleboro.

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While H.138 did not receive a hearing last year, VLCT believes that this session the issue of municipal liability is ripe for action. First, because municipal budgets and local taxpayers are under increasing pressure – making the unresolved risk of civil lawsuits less and less tolerable. Second, because a handful of other legislative policy priorities are pushing this issue. The legislature wishes to explore opportunities for intermunicipal collaboration and regionalization and is looking to city and town governments to take on new initiatives such as chloride (road salt) reduction strategies, 3-acre permits, and enhanced emergency planning for dam failure. In each of these scenarios, local governments would be better motivated to do more if their outstanding liabilities were better controlled.

The issue of municipal liability is niche – if we don't make a big deal about it, no one else will. **If your city or town has explored expanding services or taking on new infrastructure and decided against it for liability reasons, please tell us about it.** Email advocacy@vlct.org(opens in a new tab) to join our advocacy efforts to establish a monetary cap for municipal liability.

Sunset Under Debate for Certificate of Public Good for Telecoms

The House Energy and Digital Infrastructure Committee has begun the session with bill **H.527**(opens in a new tab)**, a simple one-page act that would extend the current sunset date for 30 V.S.A. § 248a**(opens in a new tab) from July 1, 2026, to July 1, 2029. What we call "248a" is the process the Public Utility Commission uses to approve a Certificate of Public Good for any proposed telecommunications projects (aka cell towers). The same law

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creates “substantial deference,” whereby the PUC must defer to municipal and regional plans in decisions related to the siting of telecommunications facilities.

VLCT advocacy testified before the committee last Friday in favor of extending the sunset. A guiding principle of VLCT’s 2025-2026 municipal policy is “local discretion to pursue sustainable housing, economic development, recovery, and resiliency, including substantial deference to municipal planning, zoning, and siting decisions.”

Samantha provided the committee with an overview of municipal land use regulatory authorities and statutory municipal planning processes and discussed the opportunities for municipally led engagement during the 60-day notice period prior to an application for a Certificate of Public Good.

It is VLCT’s position that substantial deference should be maintained for siting decisions, and that while we are all navigating a multi-years-long implementation of Act 250 reforms is an irrational time to upend the current permitting process for critical telecommunications infrastructure. The committee has heard testimony from citizens advocating to revert permitting from 248a to Act 250, as well as from telecommunications providers in favor of the 248a process. Samantha noted in her testimony that the current draft Tier 3 rule would trigger Act 250 review for utility projects located more than 50 feet from existing transportation facilities (roads and driveways).

The House Energy and Digital Infrastructure Committee is expected to vote on H.527 later this week, and the bill may or may not take a stop in the House Environmental Committee, which maintains jurisdiction over Act 250.

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What We're Tracking

The House chamber implemented a pre-session bill request deadline for this year, so we've already seen a lot of new pieces of legislation that have been introduced and sent off to committee. So far, 308 new bills have been released for introduction across both chambers. This is in addition to the 574 bills still active from last year. VLCT is already tracking 28 new bills from 2026 with the potential to affect local government. Committee bills may be introduced later and are likely to come for housing, tax changes, public records, and transportation. Here are a few bills we're tracking:

- **H. 633**(opens in a new tab) An act relating to requiring municipalities to hold a vote concerning the operation of cannabis retail establishments
- **S. 212**(opens in a new tab) An act relating to potable water supply and wastewater system connections
- **S.213**(opens in a new tab) An act relating to the use of smart meters by public water systems
- **S. 255**(opens in a new tab) An act relating to establishing a pilot Law Enforcement Governance Council in Windham County
- **S. 263**(opens in a new tab) An act relating to the use of automated traffic law enforcement (ATLE) systems by municipalities

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- **H. 578**(opens in a new tab) An act relating to penalties and procedures for animal cruelty offenses

- **H. 270**(opens in a new tab) An act relating to confidentiality for peer support counseling among emergency service providers

What We're Reading

At the start of every legislative session, several new reports are published by legislative working groups, committees, state agencies and boards, and the non-partisan Joint Fiscal Office. These reports provide the factual and fiscal foundation for much of the State House to debate around new legislative proposals.

Here are some recently released reports we are interested in, as well as some recent reporting from local press related to top issues for local government.

- 2025 Report to the Legislature: Overdose Prevention Center Evaluation (opens in a new tab), Vermont Department of Health

- Municipal Grant Payback Report(opens in a new tab), Vermont Agency of Transportation

- Municipal Funding Efficiencies Evaluation(opens in a new tab), Vermont Agency of Transportation

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- Funding Shortfall Pushes Vermont's Transportation System to 'a Breaking Point'(opens in a new tab), Vermont Public

- Gov. Scott's $75 Million Property Tax Buydown Could Become Bargaining Chip in Budget Talks(opens in a new tab), VTDigger

- Cambridge Projects 6% Tax Increase with Town Budget(opens in a new tab), News & Citizen

- Shelters Crushed by Costs of Animal Cruelty, Advocates Tell Vermont Lawmakers(opens in a new tab), Vermont Public

Get Involved

Now that the State House doors have opened on the new session, the **most important key to our success is your input and participation** in VLCT's advocacy work. Don't forget to register to attend our Advocacy Chats to learn what mid-session progress has been made on the issues that matter most to local government. There you'll also hear what your municipal colleagues from around the state have to say about the hot topics and be able to share your concerns for the legislature. You can register here to join us on Monday, January 26 at 1 PM(opens in a new tab).

- You can find (and share) all of our latest legislative reports and testimony as well as VLCT's complete 2026 Legislative Policy on our

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main Advocacy webpage(opens in a new tab).

- Before you visit the State House, check VLCT's Effective Testimony Guide for Municipal Officials(opens in a new tab) for best practices and answers to frequently asked questions.

- To support VLCT's advocacy work; participate in policy development, testimony, and legislative actions; or just learn more, reach out to Josh and Samantha by email at jhanford@vlct.org(opens in a new tab) and ssheehan@vlct.org(opens in a new tab).

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