

To: Members of the House of Representatives
From: Karen Horn, Director Public Policy & Advocacy
Date: May 3, 2023
Re: S.100, Housing Opportunities Made for Everyone (HOME)

The Vermont League of Cities and Towns does not support the version of S.100 that was voted out of the House Environment and Energy Committee. While we applaud the committee for taking the suggestions of the House Rural Caucus, the concerns raised by VLCT, representing all 247 cities and towns in Vermont, were not adequately addressed in the bill. We fear the result is that the bill may fail to generate the necessary housing Vermont needs now.

Additionally, with few exceptions, the bill restricts the authority of local planning and zoning officials to tailor new zoning requirements to circumstances in their communities, exhibiting distrust of those local officials' capacity and experience. At the same time, it greatly expands who can appeal a local zoning permit, only increasing the potential for appeals of land use decisions at the local level. If this bill seeks to increase access to housing by increasing the housing units approved at the local level, this provision works wholly counter to that public policy initiative.

Local officials asked that:

- The legislature eliminate Act 250 jurisdiction for housing projects in designated areas. This is where all agree that housing should be built, and environmental advocates and developers have supported this idea in the past. ***S.100 provides an exemption only until July 1, 2026, for only priority housing projects (projects that already are exempted from Act 250 in most communities). In order to secure the exemption, by June 30, 2026, a person must request and receive an Act 250 jurisdictional opinion that construction will be substantially complete by June 30, 2029.***
- In municipalities with zoning and subdivision, the construction of four or fewer housing units not count toward determining jurisdiction over any other project. ***S.100 instead provides that the construction of four or fewer units in an existing structure located entirely within a designated center would count as one unit toward the total number of units.***
- The 10/5/5 rule in Act 250 be eliminated. This provision requires developers who build ten units of housing in five years, within five miles of each other, to go through Act 250. ***S.100 increases the threshold to 25 units within five years in designated areas, including a village with zoning and subdivision regulations, only until July 1, 2026. In order to secure***

the exemption, by June 30, 2026, a person must request and receive an Act 250 jurisdictional opinion that construction will be substantially complete by June 30, 2029. The 10/5/5 rule remains in effect outside the 31 square miles that comprise designated areas.

- The ability of “any ten persons who may be any combination of voters or real property owners within a municipality ...” to appeal a zoning permit be eliminated. ***S.100 would expand the definition of those who may appeal to any person aggrieved, whether or not within the municipality. A person aggrieved means a person who alleges an injury to a particularized interest protected by the provisions of law in Title 24, Chapter 117, attributable to an appropriate municipal panel, administrative, or municipal official. Title 24, Chapter 117 includes seventeen distinct goals, twelve broad plan elements including energy, transportation, economic development, forest blocks, rare and irreplaceable natural areas, to name a few.***
- The legislature establish a reasonable process for delegating Act 250 criteria review to local governments that adopt bylaws addressing Act 250 criteria and demonstrate capacity to administer Act 250 locally – thereby eliminating duplicative and expensive permits that cost developers time and money. ***S.100 would require a report by December 31, 2023, from the Vermont Association of Planning and Development Agencies with a proposed framework for delegating administration of Act 250 permits to municipalities.***
- The legislature better define what a homeless shelter is. ***The bill tells communities they will no longer have input on where an emergency shelter is built, and inadequately defines what a shelter is. Shelter is defined as “any facility, the primary purpose of which is to provide a temporary shelter for the homeless in general or for specific populations of the homeless and that does not require occupants to sign leases or occupancy agreements”.***

Inadequate state support and public health or safety wraparound services have resulted in municipal emergency medical and public safety services in communities hosting hotels being strained almost to the breaking point.