

**Affordable Housing in VT: Driving Histories and Possible Solutions**

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## 1. Project Overview

Vermont suffers from an acute housing shortage. One study estimates that Vermont will need to build between 30,000 and 40,000 new homes by 2030 to provide adequate affordable housing for its growing population (Black-Plumeau, 2023). From Burlington to Montpelier, in rural and higher density communities alike, Vermonters are suffering from an unstable housing environment. The problem affects large swaths of the population who live in, at best, substandard housing. The state's housing crisis especially impacts the unhoused. Not only does homelessness expose thousands of Vermonters to increasingly volatile natural elements, but it robs people and families of the social stability and safety that secure housing brings. While Vermont remains the state with the second smallest population in the United States, it holds the title for the second highest rate of homelessness just after California (Russell, 2023)

Vermont's housing crisis has harmful effects that go beyond the question of whether a resident has adequate physical housing. Factors relating to housing stability, quality, safety, and affordability all affect a person's health outcomes. So, too, do the physical and social characteristics of a person's neighborhood, which have the potential to impact the health and welfare of a community's residents.

The Vermont Public Health Association (VtPHA) is a membership organization that has interests in connecting a multitude of issues to a health equity lens to bring public health into the conversation of many other intersecting issues. Over this past semester, we became familiar with the affordable housing landscape in Vermont and the contemporary debates surrounding the housing crisis, and built relationships with legislators, housing experts, and our community partner. We committed ourselves to strengthening the understanding of affordable housing as a necessity for the most vulnerable members of our community. Our research translated into four tasks:

- Review and analysis of Vermont's current housing policy across the state as it relates to improving access to affordable housing.
- A comparative analysis of successful affordable housing policies based on their public health impact.
- Review and analysis of Vermont's land use and building policies across the state impacting housing policy decisions.
- Design of compelling/digestible presentation and booklet of policy recommendations for a public health caucus of VT legislators and VtPHA

As may be evident from these tasks, the goal of this project was not to propose new ideas on these issues, but rather to draw from pre-existing expertise. Doing so allows us to emphasize the connection between housing and health and to highlight policy gaps and successes. VtPHA has over 140 years of perspective regarding the intersection of health equity with issues such as mental health, climate change, gun violence, and now housing. **Rooted in VtPHA's values of health equity, integrity, community, and science, we seek to deliver on their four main tasks for our group by researching past and present Vermont housing and land use policy, comparing this policy to others from out of state, and delivering this information to policymakers in an easily digestible format.**

#### a. Health Equity Lens

Our project centered on the idea that housing is one of the most important social determinants of health. Some of the most important research done on this topic has found that a “housing first” model that seeks to address housing needs before other aspects of health saves the government a significant amount of money: in a compilation of 26 studies, it was shown that \$1 spent on Housing First programs could save \$1.44 in other health related costs (Peng et. al, 2020).

It is critical to understand inadequate housing through a health equity lens, and, in order to do this, one must also consider the complex, cyclical nature of the problem and its disproportionate impacts on vulnerable populations (CVOEO, 2023). The environment that we live in seems to affect, to various degrees, everyone's mental and physical health (Holt-Lunstad, 2015). However, modern exclusionary housing practices do not force all people into homelessness and housing insecurity equally. Throughout American history and today, minority and marginalized groups are more likely to experience homelessness, as well as inadequate, unaffordable housing (VAHC, 2023). Additionally, those who are struggling with issues of housing are more likely to struggle with mental illness (Baker, 2019).

In a cyclical manner, those already struggling with mental illness or addiction are more likely to be affected by dysfunctions within housing systems, including discrimination for various reasons in securing mortgages (Woodruff, 2022). In this way, lack of secure housing and mental illness interact as a positive feedback loop, and as American policies that deal with both of those crises routinely fail to meet the need and scope of the issues, millions of vulnerable people across the country remain uncared for and at further risk. The built environment—a concept that most simply describes how humans design and construct their physical environments—is clearly connected with mental health when looking at statewide and nationwide trends more broadly (Relman, 2023). The way we live in America is individualistic and segmented—over two-thirds of homes in the US are detached (physically separated), single-family homes (Statistica, 2023). In addition to perpetuating race and class segregation, detached, single family homes and poor infrastructure adds to negative health outcomes (Batterham, 2022).

Our project aimed to identify ways of increasing affordable housing that have been successfully implemented elsewhere and could be applied in Vermont. We also sought to analyze existing and proposed Vermont legislation that impact efforts to address the state's housing shortfall. In our process we identified challenges with weighing the environmental, social, and economic needs of communities across Vermont. One such challenge is the law known as "Act 250." Although Act 250 was initially promulgated to further laudable goals of environmental conservation, it has been used by opponents to negatively impact the ability of developers to build affordable housing in the state. As discussed further below, before a developer can undertake a relatively large-scale housing project, Act 250 requires an independent commission to conduct a public hearing on the environmental, social, and fiscal consequences of the proposed development (Duffort, 2023b). Opponents of affordable housing have often used this review process to delay and sometimes terminate projects, in the process adding prohibitive costs for developers seeking to expand the housing supply.

In this study, we have examined ways to eliminate barriers to the construction of affordable housing in the state, and we have strived to identify the connections between lack of access to housing and vulnerability to mental and environmental harms. We have sought to demonstrate that while housing development can negatively impact the environment, the lack of affordable housing negatively impacts the physical and mental health of the unhoused and those subject to unstable housing futures. We have sought to find ways to reconcile the tension between environmental conservation and access to safe and affordable housing.

## b. Project Process

### i. First Iterations and Ideas

The project deliverables and scope had several iterations during the first portion of the semester, yet each round of research became integral in our broad understanding of the Vermont housing landscape. Initially, our project plan was to study the housing crisis in Vermont while analyzing different regions within the state, such as "urban" (Burlington, Montpelier), "suburban" (Charlotte, Middlebury, Shelburne), and "rural" (Northeast Kingdom). Our goal was to collect case studies from other states that addressed regions with analogous housing density as these three categories. We also began with the understanding that we would supplement these studies with an extensive section addressing the public health issues associated with problems of affordable housing, touching upon ideas such as the social determinants of health as well as the other health issues around housing beyond just homelessness.

## ii. Adjusting our Focus

After our initial phase of research, we engaged in extensive conversations with two subject-matter experts: Jenny Hyslop, the Director of Housing at the VHCB, and Polliadh Major, the Director of Policy and Special Projects at the VHCB. After these conversations, we expanded the scope of our project. With the guidance from these experts, we sought to identify the ways that housing policy is already working in Vermont and to highlight the gaps, if any, in existing law. Based on the experts' advice, we opted to search for out-of-state bills that might be applied to Vermont's housing crisis. We identified three Vermont legislative proposals to focus on (S.100, H.111, and H.171). Our research looked not only at the historical and cultural context of the Vermont housing crisis, but also at the contemporary challenges to affordable housing.

Although we kept our end goal of preparing a booklet that would showcase other states' laws that have proposed novel approaches to solving affordable housing problems, we have also used our final report as an opportunity to explore some of the core issues underlying the housing crisis in Vermont. Our goal was to prepare a report in a format that could be delivered to legislators and lobbyists and that could act as an educational primer on the central conflicts surrounding the state's affordable housing crisis.

Using the framework prepared by the Vermont Coalition on Homelessness – the “VT Roadmap to End Homelessness” –we adopted the approach of embracing legislative solutions that have found success in other states (The Source for Housing Solutions, 2016). Having researched the history and drivers of the housing crisis and looked outside Vermont for applicable solutions, we determined that the central focus of our project should be investigating how Vermont's existing policies could be further supported and/or expanded.

It is our intention to deliver our policy recommendations to VtPHA, which will be able to utilize our work in refining that organization's specific policy stances. We will present a summary of our findings and recommendations at the VtPHA annual meeting on January 30, 2024. We will also seek to share our booklet with the Public Health Caucus and the Senate Committee on Health and Welfare in the Vermont state legislature.

## iii. Understanding Research Priorities

Our research and conversations with experts led us to believe that the barriers to affordable housing in Vermont fall into two broad categories: funding and regulation. In this context, funding refers to the amount of money the state budgets for housing. Some of the basic challenges we identified is that there is no shortage of critical public services that require state funding. Affordable housing competes for legislative dollars along with child care, paid medical leave, and other social services. More money for affordable housing often means less money for child care, paid medical leave, and other necessary programs. Regulation refers to the laws that govern the legal restrictions, allowances and exemptions that facilitate or impede housing

development. In our project, we have focused on those regulations that would offer long-term, holistic solutions and that would best promote the health and wellness of the community's most vulnerable members.

### c. Criteria For Analysis

In analyzing existing policy models both in and out of Vermont, we used several criteria employed by experts working in relevant and overlapping fields such as social services, community development, and housing policy. We based those criteria on the VHCB successful legislation model called "Strengthening the Housing and Services System: Recommendations and Strategies for Vermont." (Corporation for Supportive Housing, 2021) Among the criteria we used was (i) whether the policy model was sufficiently scalable to make a significant impact on Vermont's housing shortfall; (ii) whether it was sufficiently flexible to be useful for different types of communities; (iii) whether it was focused enough to address the individual needs of each resident; and (iv) whether it had the ability to coordinate all of the various social services that a Vermonter suffering from inadequate housing might need.

## Values and Other Essential Components of Successful Housing and Services Models from the Vermont Housing and Conservation Board (VHCB)



**Choice** - Individuals and households must exercise choice in their living situation and the services they are provided with.



**Person-Centered** - One's need is defined by the person, not the program. The program must be flexible enough to address the evolving need or have in place partnerships to support residents when the housing or service programs themselves do not have the right or support in place. No agency can cover all potential needs, so strategic partnerships are necessary between agencies.



**Relationship-Based** - Services depend upon care and respect between those receiving and those delivering services.



**Trauma-Informed** - Housing instability is traumatic and any staff supporting people with experience of this must take a trauma-informed approach. The agencies themselves must also take that trauma-informed approach to operations.



**Coordination of Services** - Navigating services, particularly in a rural state such as Vermont, can be challenging. The onus of navigating services should fall on agencies that offer integrated services or on collaborations between agencies to offer programs for individuals or households. The burden must not lie with the household to navigate these complex systems.



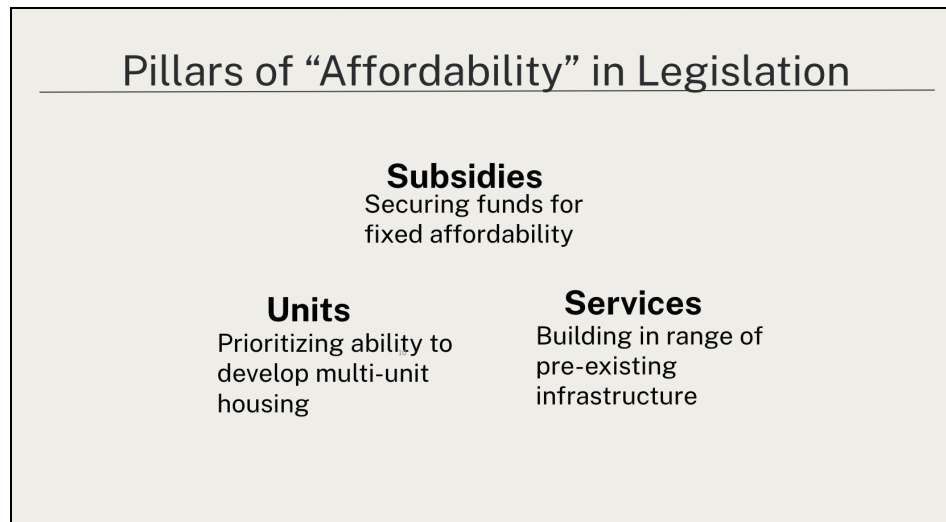
**Scalable and Efficient** - Services must be intensive enough and caseloads must be low enough so that staff have the time needed to spend with those they serve. Staff must also be qualified to address the complex needs of residents while simultaneously having adequate salaries. Services must be responsive to the cyclical nature of crisis, recognizing that tenants may experience prolonged periods of stability, interrupted by periods of instability.



**Flexible** - Services models and staffing patterns need to be flexible enough to address community need, fitting residents' availability and concerns.



**Assertive Engagement** - Service models commonly are office based and require people to attend appointments, ask for assistance and follow all requests from services providers. Many people will need long-term engagement to fulfill these requirements, and some may never be able to fulfill them, but still should have access to housing and services.



We also focused on the concept of “affordability” in legislation – whether the legislative proposal could be adequately financed to build affordable housing for those most in need. Where market rate rental costs exceed more than 30% of a renter’s income, the rental cost is unaffordable, leaving the renter with inadequate funds for other necessary living expenses (Barthel, 2023). We analyzed the concept of affordability in connection with three core areas: units, subsidies, and services. Most housing legislation prioritizes multi-unit developments, which increases the amount of housing infrastructure available. Building large multi-unit projects, however, does not address the affordability problem, which often means that the state will need to provide subsidies for those in need. Relatedly, it is often the case that affordable housing will need to be developed in areas with pre-existing infrastructure, such as utilities, public transportation and access to foods, in order to minimize project costs and to avoid the environmental damage caused by suburban sprawl.

## 2. Exclusionary Housing Practices In Vermont, Past and Present

Many housing crises have deep roots in a host of social and political inequities. Foremost among these inequities have been exclusionary zoning practices, which in many parts of the country have negatively impacted the construction of affordable housing. These exclusionary zoning laws have taken various forms: outright prohibitions on the construction of multi-family homes, minimum lot size requirements, minimum square footage requirements, and, at one time, even racial exclusions that denied black Americans the ability to purchase homes in certain restricted neighborhoods. restrictions on racial exclusions have been in place in various forms for many years across the United States.

Like other parts of the country, Vermont tolerated exclusionary housing practices for much of its history. In the early 20th century, many Vermont deeds included racist covenants, prohibiting the property owner from selling to a non-white person (Rogers-Bursen). Although the Supreme Court, in 1948, outlawed race-based covenants as unconstitutional, relics of these

racist and restrictive practices remained in the state's zoning codes long after that ruling. For example, some deeds continue to include covenants stating that "[n]o person of any race other than the white race shall use or occupy any buildings or any lot, except that this covenant shall not prevent occupancy by domestic servants" (Rogers-Bursen). Other covenants exclude Jewish persons from living in certain areas of Vermont. (Resmer, 2004). Although these covenants are legally unenforceable in a court of law, many homeowners have voluntarily abided by their terms, with the result that some Vermont communities have remained overwhelmingly white and Christian and that many non-white Vermonters have ended up living in segregated neighborhoods.

Although racist and religious covenants are much less prevalent today, many other exclusionary zoning practices are in place today (Schuetz, 2020). For example, across the state of Vermont, many zoning laws ensure that only prospective builders or developers with money may set up shop in their neighborhood (Vermont Media on Housing, 2023). Restrictions require more land area per dwelling, more parking area per dwelling, and a certain level of water, sewage, and electrical infrastructure investments to develop. Some zoning laws confine certain types of developments to undesirable, unhealthy, or economically unfeasible areas, where the investment needed would make the project financially unsound. Some codes restrict the types of dwellings allowed in certain areas, often favoring single-family units over multi-unit developments (Vermont Media on Housing, 2023).

#### a. The Effect of Act 250 on Vermont's Housing Crisis

In addition to these various zoning restrictions, Vermont's land use laws have negatively influenced the development of large-scale affordable housing (Huntley, 2023). Foremost among these laws is Act 250, a 1970 statute enacted to mitigate the environmental and community impacts of all future development projects. Among other things, the act established the Vermont Environmental Board and nine District Environmental Commissions to oversee and review any development decisions with "significant environmental, aesthetic, and/or community impacts" (State of Vermont Natural Resources Board). Under the act, before a developer can undertake such a project, an independent commission must conduct a public hearing on the environmental, social, and fiscal consequences of the proposed development (Duffort, 2023d). Act 250 applies whenever a developer seeks to build 10 new units of housing within a five-mile radius in a five-year time frame (Duffort, 2023d). Specifically, the statute provided for a government-sponsored review procedure by which all affected stakeholders, including environmental groups and existing community members, would have an opportunity to be heard regarding a proposed development. Negatively impacted stakeholders were also provided with the right to appeal any adverse decisions (Huntley, 2023).

Nothing in Act 250 suggested that the review process was designed to privilege environmental protection over the state's commitment to affordable housing. In fact, the

language of the statute acknowledges that these two goals are to stand, shoulder to shoulder. Section 302 of the Vermont Statutes recognizes: *“The dual goals of creating affordable housing for Vermonters, and conserving and protecting Vermont’s agricultural land, forestland, historic properties, important natural areas, and recreational lands are of primary importance to the economic vitality and quality of life of the State.”*

On the one hand, Act 250 has been successful in putting development decisions in the hands of local residents and for ensuring that environmental interests are adequately considered in connection with large-scale development projects. Proponents of Act 250 have credited the law with preserving the state’s rural character (Vermont Public), and many believe the statute’s review process is critical to safeguard the environment as development pressure mounts again (Vermont Public).

On the other hand, however, the Act has not furthered the separate goal of “creating affordable housing for Vermonters.” To the contrary, there is abundant evidence that suburban opponents of affordable housing have used the statute to delay and impose prohibitive costs on new housing developments (Brouwer, 2022). Just last year, for example, Shelburne’s Development Review Board held a hearing on a proposal to build a 78-unit facility on six acres near that town’s commercial center (Brouwer, 2022). Neighborhood associations and environmental groups joined together to oppose the project, leading the developer to significantly reduce the size and scale of the proposed development. Even that accommodation, however, was insufficient to mollify the project’s opponents who threatened to appeal any board decision to grant the developer the necessary permits. To date, the scaled-back project has not received the permits necessary to commence construction, and the builder’s construction costs have increased significantly (Brouwer, 2022).

### 3. Current Challenges, Changes, and Opportunities

As noted above, one of the underlying reasons for Vermont’s acute lack of housing is the existence of out-dated zoning regulations and land-use laws that impede the construction of anything but single-family homes in rural or suburban communities. To help solve Vermont’s growing housing crisis, it is critical for the state to enact legislation that allows for the building of multi-family projects in or immediately adjacent to existing neighborhoods, village, downtown, and designated growth centers serviced by public transportation.

#### a. Potential Legislative Solutions

Efforts to repeal or scale back Act 250 have met with only partial success. This past June, Vermont Governor Phil Scott signed into law a housing bill that made minor modifications to Act 250 (Duffort, 2023c). The new law, however, did not include a proposed provision that would have removed from the cumbersome Act 250 review process any projects

involving fewer than 25 new units of housing (Hirschfield, 2023).

Other legislature proposals to modify Act 250 have been introduced into the Vermont legislature. The most notable of these proposals are H.68, S. 100, and H. 111. Of the three, only S.100 has been enacted into law.

- H.68 was introduced in 2023 and would allow the construction of duplex housing anywhere in the state that single-family housing is permitted. H.68 would also set one-fifth of an acre as the maximum lot size in areas served by sewers (VLCT and H.68).

- H.111 would exempt “state designated areas” like downtowns, village and town centers, and existing neighborhoods from the jurisdiction of Act 250; although H.111 has not been enacted into law, many of its provisions have been incorporated into S.100 (see below).

- S.100, which was enacted into law in May 2023 as part of the “HOME bill”, narrows the scope of Act 250 with respect to certain smaller-scale housing developments, especially in downtown areas. The statute provides additional funding for the Vermont Rental Housing Improvement Program; it exempts smaller municipalities and rural areas from certain permitting requirements that were viewed as imposing prohibitive costs to the construction of middle- and low-income housing; and it brings decisions about infrastructure and development projects back to a local level and limits the challenges that an individual can make to a “project that doesn’t directly impact them” (Ted Brady, VLCT).

Each of these legislative proposals recognizes that Vermont’s housing policy can be usefully modified without compromising Act 250’s environmental conservation goals or the integrity of Vermont’s rural landscape. One question is whether the HOME bill goes far enough. If the current modifications to Act 250 are not sufficient to increase Vermont’s stock of adequate, affordable housing, the state legislature should seek to further streamline Act 250’s permitting process and its limitations on the construction of multi-use housing projects. Such legislative developments, if enacted, would facilitate the development of multi-unit housing for residents in need.

## b. Conservation: Housing and Land Use Policy in Vermont

Although legislative initiatives of the sort described above would lessen the ability of opponents of multi-unit housing to exploit Act 250 and related regulations, real change will likely not occur without a significant shift in community and cultural attitudes and a re-prioritizing of public values. Suburban opponents of affordable, multi-unit housing have resorted to a common set of complaints: They have lamented the loss of their supposed “community” ethos and character; they have decried alleged damage to the environment; some have even complained about increase in global warming. Many of these objections, to the extent

they are genuinely held, should be viewed as secondary to the need to provide all Vermonters with access to adequate, affordable housing (Brouwer, 2022).

#### i. NIMBYism and YIMBYism

Vermonters need to resist the appeal of “NIMBYism” (an acronym that stands for “not in my backyard” and describes the behavior of someone who does not want something to be built or done near where they live). There is nothing natural or pre-ordained about suburbs filled exclusively with single-family homes. In fact, Vermonters should be reminded that their single-family communities have been shaped and sustained by zoning regulations that, in essence, are deeply exclusionary (Hirschfeld, 2023). In a state that embraces ideals of inclusivity and equality, a public campaign to elevate access to housing to the same level as environmental conservation may change enough attitudes to soften community resistance to affordable housing projects.

Consider the case of Burlington’s southeast quadrant. That section of the city is characterized by large single-family homes; families there enjoy an average yearly income more than double that of the rest of the city (Cohen, 2020). Affordable housing advocates have long promoted the construction of new developments in the southeast quadrant, noting that such additional housing would not overly tax the existing infrastructure. Notwithstanding the need for such housing, some residents of the southeast quadrant have pushed back, identifying conservation issues as the principal reason for their opposition. CITE. These residents have proposed rules that would prevent development on over half of the land and would arbitrarily limit the quadrant to 3,800 dwelling units. Additionally, they have proposed that 70% of any parcel more than four acres in size would need to be conserved and off-limits to new construction (Cohen, 2021).

Conservation and affordable housing experts alike have aptly pointed out the hypocrisy in the opposition’s arguments against the multi-unit housing developments. As they have noted, building multi-unit housing developments in only rural areas, away from municipal areas like Burlington’s southeast quadrant or single-family suburban communities like South Burlington or Winooski, would likely cause far more harm to the environment, just in terms of the additional transportation, energy, sewage, and other resources that would be needed. Building new housing developments in only rural areas would also have ecological implications, including habitat destruction and fragmentation. Many of the arguments against multi-unit dwellings in city centers or single-family suburbs would appear to be pure NIMBYism, where residents are simply trying to maintain distance between themselves and the people they imagine would be moving into affordable housing units.

While the history of NIMBY (not in my backyard) exclusion was outlined as one of the drivers of the original housing crisis, progressive language advocating for more housing options has been co-opted by a new movement for development that will help the rich get richer: “yes in

my backyard”, or, “YIMBY”. YIMBY purportedly supports the construction of new housing developments in historically low-density areas, yet crucially, does not provide for subsidies that would enable Vermont residents in need to afford that new housing (McDonald, 2021). Housing subsidies are a necessary policy for affordability to incentivize “non-market rate,” or housing that has a fixed rate, to be built (Schuetz, 2020). Upzoning, which changes the code to increase unit capacity, is not always paired with subsidized fixed affordability, yet is often framed as a solution to the housing crisis. This is a common pattern across areas experiencing housing crises and gentrification (Davis, 2021).

One of the most powerful critiques of these so-called “righteous YIMBYs” characterizes them as pushing zoning reforms to achieve greater property tax revenues at the command of ambitious developers (Barthel, 2023). It is clear that minimum lot and house sizes are examples of policies that explicitly promote lower density and thus create a lack of housing—that is by design, not by accident. Several popular policies might permit greater unit density in a particular area, but do not increase affordability, as these policies allow new units to be rented at market rates rather than a fixed affordable price.

## 4. Case Studies

### a. Booklet

*Available using [this link](#) via Canva*

### b. Out-of-State Case Studies

In our search for successful housing legislation, we looked at existing policies in many states. Legislation has been passed across the country in attempts to improve health and housing outcomes. As we searched for examples of success, we used our interpretation of the Vermont Housing and Conservation Board (VHCB) successful legislation model from their “Strengthening the Housing and Services System: Recommendations and Strategies for Vermont” report (Corporation for Supportive Housing, 2021). With this in mind, we analyzed the scope, context, and measures of success of each bill, and then considered how they could be applied in a Vermont context (taking into account geographic, wealth, and population disparities). The case studies from Oregon, California, Massachusetts, and New Hampshire are examples, and certainly not the only ones, of legislation that changed its community for the better. They address housing crises from a variety of angles (such as mental health, zoning laws, and streamlined permitting) and present creative, realistic solutions for current housing problems in Vermont.

## **Oregon HB 2001 (2019)**

**Bill summary:** This bill provides more housing opportunities for Oregonians. It expands duplexes, triplexes, fourplexes, and cottage clusters, changes local zoning laws, and makes housing overall more affordable. It emphasizes and allows infilling in existing urban, residential areas and promotes long-term rent control and expedited processing of housing applications.

**Scope of bill:** State-wide, and applies to cities with over 10,000 residents and areas that are both urban and residential.

### **Context:**

- There has been a shortage of 5.5 million new housing units in the last 20 years. The housing market has not met the minimum projected units necessary
- Already record high house prices, continuing to rise
- Scarcity of developable land in urban areas available for building - developers thus unable to meet urban housing demand
- Increased demand for single-family housing due to low mortgage rates (below historic averages) and increases in remote working
- Labor shortages and fluctuating prices of building materials like wood leading to difficult and expensive construction

### **Measures of Success:**

- Clearly describe state's housing emergency: increases awareness of the issue, promotes swift resource allocation and implementation measures, and provides community and legislative support for those seeking housing
- Correct historic exclusionary zoning
- Makes urban/developed neighborhoods more diverse, climate resilient, and more connected as communities
- HB 2001 was supported by nearly 200 testimonials from members of the affected Oregon communities (suggesting that it would be well-received in states with similar climate and demographics (similar GDP per capita, similar unemployment rate, etc.))

### **Vermont Application:**

- Very similar to S.100, but this type of legislation would apply only to three Vermont urban centers with >10,000 residents and existing urban services: *Burlington, Rutland, and Essex Junction*
- The HOME Bill (S.100) now permits duplexes (and in some cases four-unit buildings) to be built anywhere single-family homes are permitted, and shifts power to local administrative authorities to approve and expedite some development projects. HB 2001 would increase the ability of developers to build triplexes and four-unit housing and

would also provide for rent control measures to increase affordability. It would also help to maintain statewide principles of geographic funding equity and focus on urban infilling of housing density.

Set forth below are pages and content from a booklet summarizing policy recommendations that we intend to distribute to a public health caucus of Vermont legislators and VtPHA. Our goal is that the booklet will provide a helpful reference guide of housing policy recommendations.

# Addressing missing middle housing, expediting housing applications, and improving affordability

## Oregon HB 2001 (2019)



### Bill Summary

This bill provides more housing opportunities for Oregonians. It expands duplexes, triplexes, fourplexes, and cottage clusters, changes local zoning laws, and makes housing overall more affordable. It emphasizes and allows infilling in existing urban, residential areas and promotes long-term rent control and expedited processing of housing applications.

### Scope

State-wide, and applies to cities with over 10,000 residents and areas that are both urban and residential.

### Context

- There has been a shortage of 5.5 million new housing units in the last 20 years. Scarcity of developable land in urban areas available for building - developers thus unable to meet demand
- Increased demand for single-family housing due to low mortgage rates (below historic averages) and increases in remote working

### Success

- Clearly describe state's housing emergency
  - Corrected historic exclusionary zoning
  - Makes urban/developed neighborhoods more diverse, climate resilient, and more connected as communities
- HB 2001 was supported by ~ 200 testimonials from members of the affected Oregon communities

### Applications in Vermont

- Very similar to S.100, but this type of legislation would apply only to three Vermont urban centers with >10,000 residents and existing urban services: Burlington, Rutland, and Essex Junction
- The HOME Bill (S.100) now permits duplexes (and in some cases four-unit buildings) to be built anywhere single-family homes are permitted, and shifts power to local administrative authorities to approve and expedite some development projects. HB 2001 would increase the ability of developers to build triplexes and four-unit housing and would also provide for rent control measures to increase affordability. It would also help to maintain statewide principles of geographic funding equity and focus on urban infilling of housing density.

**California Assembly Bill 2162 (2018)**  
***Article 11 Supportive Housing [65650 - 65656]***

**Bill Summary:** This bill changes the existing CA Planning and Zoning Law and aims to streamline the approval process for some development projects. It exempts housing projects classified as affordable, stable, and long-term from environmental impact assessments. It permits re-zoning to support the construction of additional units in California for low-income families and implements the concept of “use by right,” which allows owner-occupied and tenant-occupied units to maintain stable, reliable housing during development, planning, and permitting stages of supportive projects.

**Scope of Bill:** This is a state-wide bill that impacts all districts where multi-family units or mixed-use zoning is permitted.

**Context:**

- California’s Planning and Zoning Law provides a comprehensive and long-term general plan for development in the state and includes a requirement to inventory and assess housing needs and constraints to meet those needs, and to develop a program to meet housing needs including transitional housing and supportive housing.

**Measures of Success:**

- Incentivizes supportive housing projects (affordable, stable, and long-term) by offering a streamlined permitting and development process. For projects with fewer than 12 units, 100% of the units must be supportive to qualify under this law. For projects with more than 12 units, 25% of the units must be supportive.
- Targets supportive measures at homeless individuals, families, and individuals with disabilities

**VT Application:**

The provisions of this bill, if enacted in Vermont, would add to existing state law. Vermont H.171 (Act 81), which was signed by the Governor in June 2023, provides emergency/transitional housing for at-risk Vermonters and allocates \$40 million to affordable housing. This bill was enacted as a response to the phasing-out of hotel housing for unhoused individuals during the pandemic. California’s bill would provide additional protective and supportive measures for such individuals, especially those suffering from housing vulnerability. Because housing *is* health equity, legislation that incentivizes the construction and provision of housing for homeless Vermonters not only provides critical housing but also furthers health equity across the state.

# Streamlining housing approval and implementing “use by right” for supportive projects

California Assembly Bill 2162 (2018)  
Article 11 Supportive Housing [65650 - 65656]



## Bill Summary

This bill changes the existing CA Planning and Zoning Law and aims to streamline the approval process for some development projects. It exempts housing projects classified as affordable, stable, and long-term from environmental impact assessments. It permits re-zoning to support the construction of additional units in California for low-income families and implements the concept of “use by right,” which allows owner-occupied and tenant-occupied units to maintain stable, reliable housing during development, planning, and permitting stages of supportive projects.

## Scope

This is a state-wide bill that impacts all districts where multi-family units or mixed-use zoning is permitted.

## Context

- California’s Planning and Zoning Law provides a comprehensive and long-term general plan for development in the state and includes a requirement to inventory and assess housing needs and constraints to meet those needs, and to develop a program to meet housing needs including transitional housing and supportive housing.

## Success

- Incentivizes supportive housing projects (affordable, stable, and long-term) by offering a streamlined permitting and development process.
- Targets supportive measures at homeless individuals, families, and individuals with disabilities

## Applications in Vermont

- This bill would also add to existing Vermont law, Act 81, which targets vulnerable adults to establish emergency/transitional housing and allocates \$40 million to affordable housing
- Bill operates as a response to the phasing-out of hotel-housing for unhoused individuals during the pandemic
- California’s assembly bill expands the scope of protective and supportive measures to vulnerable individuals, especially those at risk of/experiencing health problems
- Housing is health equity, and incentivizing supportive development projects supports this goal.

## **Massachusetts State Statute 40B**

**Bill Summary:** This bill addresses housing affordability by giving flexibility to local zoning boards to provide middle housing, accessory dwelling units, and all multi-family units where long-term affordable solutions exist. It incentivizes long-term, stable housing and facilitates construction of high-density, affordable housing, and it gives local zoning boards flexibility to approve development projects with >20% affordability restrictions.

**Scope of Bill:** This is a state-wide bill and applies to all cities and towns in the Commonwealth of Massachusetts, specifically local zoning boards.

**Context:**

- Chapter 40B has existed for over 50 years

**Measures of Success:**

- 70,000 units have been built under this bill; over half of these units are for households earning less than 80% of the area's median income.
- Chapter 40B has allowed developers to work around local zoning regulations, and has incentivized the construction of affordable, subsidized, and/or supportive housing.
- 72% of projects proposed under this law have been in areas zoned as residential or mixed residential-agricultural, indicating that this bill has promoted infilling over expansion.

**VT Application:**

If enacted in Vermont, this bill would meaningfully add to state-funded public housing. It would help Vermont move beyond its heavy reliance on the private market to source affordable housing development. This bill would also allow approved developers to override zoning codes that restrict affordable housing. The Massachusetts law would also allow for a careful weighing of affordable housing development along with concerns of health, safety, conservation, and quality of life. Lastly, the bill would give communities input into the growth rate of their housing by giving them the right to approve developments that exceed certain building restrictions.

## Enabling local Zoning Boards of Appeals to approve affordable housing developments under more flexible rules

### Massachusetts State Statute 40B



#### Bill Summary

This bill addresses housing affordability by giving flexibility to local zoning boards to provide middle housing, accessory dwelling units, and all multi-family units where long-term affordable solutions exist. It incentivizes long-term, stable housing and facilitates construction of high-density, affordable housing, and it gives local zoning boards flexibility to approve development projects with >20% affordability restrictions.

#### Scope

This is a state-wide bill and applies to all cities and towns in the Commonwealth of Massachusetts, specifically local zoning boards.

#### Context

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#### Applications in Vermont

- This bill would meaningfully add to state-funded public housing. It would help Vermont move beyond its heavy reliance on the private market to source affordable housing development
- This bill would also allow approved developers to override zoning codes that restrict affordable housing
- The Massachusetts law would also allow for a careful weighing of affordable housing development along with concerns of health, safety, conservation, and quality of life
- The bill would give communities input into the growth rate of their housing by giving them the right to approve developments that exceed certain building restrictions.

## **New Hampshire HB 400 (2017)**

**Bill Summary:** This bill charges the state's Department of Health and Human Services with developing a 10-year plan to provide necessary mental health services for the state's residents. The bill seeks to provide a mechanism for connecting people with mental illness to the critical housing, employment, and mental health services they need to thrive. The bill's goal is to reduce homelessness, prevent readmission to psychiatric hospitals, and otherwise improve the quality of life for people needing mental health services.

**Scope of Bill:** State-wide

### **Context:**

- New Hampshire struggles to provide many people facing mental illness with emergency mental healthcare services and long-term mental health treatment.
- Hospitals and other mental health facilities suffer from a dire shortage of inpatient beds for people experiencing mental health crises.
- The state lacked a central repository of information concerning hospital bed availability across New Hampshire.
- The state did not have a standardized form for drug treatment approval for people with mental illness.
- Many professionals believe that the state did not afford adequate legal protections to people with mental illness before subjecting them to involuntary admission to state mental health facilities.

### **Measures of Success:**

- In January 2019, the New Hampshire Department of Health and Human Services submitted a detailed 10-year plan for improving mental health services, and the state committed significant sums for mental health care, including an expansion of Medicaid coverage for mental health and the establishment of a database for residential bed availability.
- By year-end 2019, the state added 86 transitional and community beds for those experiencing mental health crises.
- The state established a mental health prior authorization drug approval form.
- The state standardized procedures for admitting patients suffering from mental health crises to involuntary care.
- Notwithstanding HB 400, the state has experienced some obstacles to increasing mental health care coverage for New Hampshire residents in need. For instance, in 2023 New Hampshire Hospital closed 31 inpatient psychiatric beds, in part due to a lack of staffing.
- Some mental health advocates fault Governor Sununu's administration for spending too much attention on expanding the number of inpatient psychiatric hospital beds and not

providing adequate support for locating long-term housing for persons experiencing mental health crises.

- Many state hospitals have pushed back against efforts to expand the number of inpatient psychiatric beds in their facilities, with the result that many people suffering from severe mental illness end up languishing in emergency rooms.
- Some mental health advocates believe the system is “broken”; community mental health centers do not have enough beds and they need additional funding to hire critical staff.
- There is not enough affordable housing in the state, which prevents treatment facilities from releasing patients who are ready to be discharged but have no place to go.

### **VT Application:**

Like New Hampshire, Vermont desperately needs inpatient psychiatric beds. Just this year, the University of Vermont Health Network shelved plans to replace 15 inpatient psychiatric beds with a new 40-bed unit. Many Vermont residents who would benefit from long-term admission to a mental health facility instead are treated in emergency rooms on a short-term basis.

Similarly, like New Hampshire, Vermont suffers from a severe shortage of low-income housing, meaning that many patients do not have a place to live upon being discharged from a mental health facility. There are many aspects of HB 400 that would benefit Vermonters were a similar statute passed in this state. Most notably, additional funding to increase the number of inpatient hospital beds would relieve pressure on emergency rooms to care for psychiatric patients and would result in the provision of better mental health care. That said, as New Hampshire has begun to experience, unless and until Vermont commits sufficient resources to the problem, too few mental health patients will get the long-term care they need or have access to adequate housing after discharge from mental health facilities.

# Connecting People with Mental Illness to Critical Housing, Employment, and Mental Health Services

## New Hampshire HB 400 (2017)



### Bill Summary

This bill charges the state's Department of Health and Human Services with developing a 10-year plan to provide necessary mental health services for the state's residents. The bill seeks to provide a mechanism for connecting people with mental illness to the critical housing, employment, and mental health services they need to thrive. The bill's goal is to reduce homelessness, prevent readmission to psychiatric hospitals, and otherwise improve the quality of life for people needing mental health services.

### Scope

State-wide

### Context

- Previous failure to provide vulnerable people long-term mental healthcare services
- Mental health facilities suffered shortage of inpatient bed shortage

### Success

- In January 2019, the NH Dept. of Health and Human Services submitted a 10-year plan for improving mental health services, and the state committed significant sums for mental health care, including an expansion of Medicaid coverage for mental health.

### Applications in Vermont

- Like New Hampshire, Vermont desperately needs inpatient psychiatric beds
- Many Vermont residents who would benefit from long-term admission to a mental health facility instead are treated in emergency rooms on a short-term basis.
- Like New Hampshire, Vermont suffers from a severe shortage of low-income housing, meaning that many patients do not have a place to live upon being discharged from a mental health facility
- Additional funding to increase the number of inpatient hospital beds would relieve pressure on emergency rooms to care for psychiatric patients and would result in the provision of better mental health care.
- As New Hampshire has begun to experience, unless and until Vermont commits sufficient resources to the problem, too few mental health patients will get the long-term care they need

### c. Vermont Case Studies

Simply adding more housing to the market is *not* a viable solution to Vermont's housing crisis. Most notably, the state needs additional housing that is *affordable*. This means that housing costs should not exceed 30% of a tenant's income and that these costs should remain relatively fixed in amount. Building new, affordable housing is critical to protecting at-risk residents from eviction and financial hardships (JFO, 2022).

Additionally, housing solutions should not be relegated to rural areas far from public transportation and essential services; they need to be embedded in existing residential landscapes with access, by walking or public transportation, to essential resources. Multi-unit housing structures can take the form of duplexes, accessory dwelling units, complexes around a shared square or yard, or even high-rise buildings (this might mean changing height regulations in certain parts of the city).

A healthy neighborhood works towards dissolving barriers and disparities between those with wealth and everyone else. Mixed income neighborhoods *must* be the ultimate result of any successful affordable housing solution. Successful "middle housing" solutions are ones that adapt to an area's specific needs and capacity. There is no one-size-fits all fix, but there are certain criteria that must be met in order for there to be a more just and equitable housing landscape.

In this section, we highlight several examples of legislation from 2023 which address housing in Vermont and analyze them through the lens of VHCB's measures of success. The pages of our booklet (included below) contextualize and summarize each introduced bill and explore its implications and impact. This booklet will be used by VtPHA to advocate for future legislation and further its goals of promoting the health and well-being of Vermonters, with regard to the issue of housing.

# S.100 HOME Act (2023)

An act relating to housing opportunities made for everyone

*"makes multiple changes to programs and funding to promote housing"*



## Context

- 1970: Act 250 passed, designed to mitigate environmental and community impacts of all future VT development projects (10 V.S.A. § 6001)
- 2019: Commission on Act 250 made recommended changes to address housing crisis alongside conservation goals

## Measures of Success

### Choice

- Housing Choice Vouchers

### Trauma-informed

- Grants for first generation homebuyers
- Addresses NIMBYism: no appeals based on character

### Coordination of services

- Mobile Home Task Force: financial support for home repair, home improvement, housing transition, park infrastructure, legal assistance, and technical assistance

### Scalable and sufficient

- Local jurisdiction on some zoning decisions
- Vermont Association of Planning and Development Agencies - improving and coordinating effectiveness between municipal, regional, and state planning

### Flexible

- Changes made to Act 250

### Assertive engagement

- Rural Recovery Coordination Council
- Agency of Natural Resources
- Public Utility Commission
- Division of Fire Safety
- Mobile Home Task Force
- Vermont Housing Finance Agency
- Vermont Rental Housing Improvement Program

## Bill Summary

- Duplexes and multiunit dwellings permitted everywhere single-family units are permitted
- Raises jurisdictional threshold for housing units from 10 to 25
- Zoning decisions cannot be appealed on the basis of character
- Local authority to approve and expedite some development projects
- Act 250 modifications to speed up review and permitting for new houses

## Why was it Successful?

- Committee bill (bipartisan) and heard by eight committees in the GA + many witnesses testified for each
- Support for the bill was widespread and crossed party lines: 135/11 in the House, 27/2 in the Senate
- Collaborative effort:
  - The bill was the result of months of behind-the-scenes work that predated the start of the legislative session in January and involved environmentalists, planners, lawmakers and administration officials (VT Digger)
- "We have adhered to the 'Vermont Way,' which means recognizing that the environment and the economy go hand in hand, and we must maintain this critical balance." (Protem)
- Last-minute compromises made by House Environment and Energy Committee at last reading of the bill relating to Act 250 changes

# H.111 An Act Relating to Workforce Housing (2023)

Relating to land use, municipal zoning and rental housing

*changes related to housing investment and regulatory reform*



## Context

- January 2023 - introduced with 50 legislative co-sponsors
- While H. 111 remains a draft bill, several of its provisions have been incorporated into S. 100

## Measures of Success

### Person-centered

- Middle-Income Rental Housing Revolving Loan Program
- 25% of the units in the project required to be affordable to a household earning between 65 and 120% of the area median income
- Amended the Missing Middle-Income Homeownership Development Pilot Program. additional \$10,000,000 in funding

### Relationship-based

- Housing Resource Navigators at the Vermont Association of Planning and Development Agencies

### Trauma-informed

- Reduced barriers to entry for new developers that focus on low-income housing

### Coordination of services

- Towns allowed to issue authorizations for wastewater permits and greater municipal control over sewer services

### Scalable and sufficient

- Vermont Rental Housing Improvement Program
- \$500,000 for Municipal Planning Grants

### Flexible

- Act 250 exemptions
- Municipal Bylaw Modernization Grant Program amendments

### Assertive engagement

- Vermont Rental Housing Improvement Program
- Missing Middle-Income Homeownership Development Pilot Program
- Middle-Income Rental Housing Revolving Loan Program
- Municipal Bylaw Modernization Grant Program
- Municipal Planning Grants
- Vermont Association of Planning and Development Agencies
- Agency of Natural Resources

## Bill Summary

Sought to amend several Vermont housing programs for the purpose of helping small towns and rural areas to obtain additional funding for development and renovation of middle- and low-income housing.

## Why was it UnSuccessful?

- Did not command widespread support within the legislature as a whole
- Many legislators viewed H. 111 as preliminary and thought the proposed legislation needed more work
- Never submitted for a formal vote of the legislature; instead, the draft bill was tabled as the legislature considered other housing legislature
- S. 100 includes several provisions that are similar to ones contained in H. 111
- S. 100 was enacted into law and became effective in May 2023

# H.171 Adult Protective Services and Emergency Housing Transition



## Relating to Adult Protective Services and Emergency Housing Transition

*Protect vulnerable adults whose health and welfare may be adversely affected through abuse, neglect, or exploitation*

### Context

- Bill addresses changes needed after the pandemic-era General Assistance Emergency Housing Program by introducing new emergency housing transition policies
- bill outlines the conditions for receiving the benefit, directs fund allocation, and specifies appropriations for affordable housing

### Measures of Success

#### Choice

- Agency in searching for one's housing ; no more than 30% of income covering rent

#### Person-centered

- Protections for vulnerable people, namely elderly and disabled

#### Relationship-based

- Intentional transition from hotel/motel prioritizing dignity, oversight, and collaboration

#### Trauma-informed

- Expanding definitions of "abuse," "neglect," "exploitation," and "vulnerable adult"

#### Coordination of services

- Stakeholder conversations, streamlining case management processes, legislative oversight

#### Scalable and sufficient

- All households transitioning out of emergency housing will find or be offered housing

#### Flexible

- Ensuring emergency care and alternative housing for vulnerable Vermonters, in the form of shelter beds, residential treatment beds, nursing home beds, recovery homes, and potentially hotel or motels

#### Assertive engagement

- Re-centering Vermonters exiting homelessness, with a focus on supportive services
- Monthly reports to be delivered to committees detailing the transition process

### Bill Summary

- Money for affordable housing support
- Municipal Zoning law changes
- Funding allocation to housing transitions
- Emergency housing transition
- Modernizing Adult protective services

### Why was it Effective?

- \$40 million appropriated to production and preservation of affordable housing units; \$10 million to be used for support and to enhance capacity, availability, and utilization of manufactured homes; \$4 million to be granted to the Vermont State Housing Authority for the Manufactured Home Improvement and Repair Program; \$5 million to be granted to the Dept. of Housing and Community Development to support the Vermont Housing Improvement Program
- Decided on Sep. 21, the VHCB will fund projects in Bennington that will result in 17 new affordable homes, three of which will be targeted to households exiting homelessness.
- The Board also supported two shelter projects in St. Johnsbury and Hartford that will result in 40 new shelter beds, opening the only shelter in the Northeast Kingdom, hopefully this winter.
- VHCB partners are exceeding the goal set in Act 81, issuing 40 percent of new leases to households exiting homelessness, resulting in housing for 89 households in the first two months of reporting.

## 5. Summary and Recommendations

In examining whether the laws and policies of other states can be usefully employed in Vermont, we sought to identify states that are similar, both geographically and demographically. We also sought to identify laws that have achieved a degree of success in their respective states. We were especially interested in identifying laws that could work in Vermont and that would fill a legislative void.

Several themes have emerged from our analysis. First, it is critical that restrictions on the construction of multi-unit housing continue to be relaxed in many parts of the state so that the state builds more housing near city and community centers with access to public transportation and essential services. Second, the ability of certain stakeholders to use the Act 250 review process to delay and add unexpected costs to the construction of the large housing projects should be significantly curtailed. Third, it is not enough to remove legal impediments to the construction of multi-unit housing; it is also important that Vermont provide subsidies to make such housing affordable for those residents most in need. Fourth, Vermont should follow the lead of New Hampshire in recognizing that the lack of adequate housing contributes to a mental health crisis, and should take steps to improve long-term living arrangements for those suffering from mental illness.

Moving forward, we believe it would be helpful to develop a mechanism, such as larger stakeholder meetings, to coordinate the advancement of common goals to combat the state's shortage of adequate, affordable housing. We recognize that among the problems faced by organizations like VtPHA, VHCB, and VNRC is a NIMBYism mindset among large swaths of the Vermont population. Part of the solution to the state's housing crisis, therefore, is a change in the public opinion about affordable housing. Our research has shown that there is nothing pre-ordained about single-family suburban communities; those communities are creatures of state law. There is no reason that single-family homes cannot co-exist with multi-family developments to ensure that all Vermonters have access to affordable housing.

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