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**From:** Vermont Planners Association <VPA@list.uvm.edu> on behalf of Alex Weinhagen <aweinhagen@HINESBURG.ORG>
**Sent:** Monday, February 26, 2024 2:22 PM
**To:** VPA@LIST.UVM.EDU
**Subject:** [VPA] VPA Legislative Summary - 2/26/24
**Attachments:** s311_calendar_022024.pdf; s213_calendar_022324.pdf

VPA Members,
The VT Legislature continues to churn on several bills with a planning nexus. VPA's Legislative Committee remains focused on housing and permit reform bills, while also tracking bills on flood hazard area permitting, accessory on-farm businesses, etc. A lot will happen in the next two weeks – the run up to "Crossover", which is the date when bills need to be voted out of their committee of origin in order to stay alive. This year, crossover is March 15 for most bills, and March 22 for money bills.

**Act 250 Reform (with a dash of municipal zoning)**
Three big bills (S.308, H.687, S.311) are slated to become one in the Senate Natural Resources & Energy Committee – sometime after crossover. Senate Economic Development, Housing and General Affairs finished work on their Be Home Bill, which was known as committee draft bill DR 24-0067, and has since become S.311. They wrapped up work, and passed it out of committee on February 16. See attached for the latest version. It was sent to Senate Natural Resources & Energy, which has been working on a different Act 250 reform bill (S.308). Rather than merge these two very different Senate bills now, the Committee plans to wait for delivery of a companion bill from the House (H.687). The House Environment & Energy Committee will continue work on H.687 this week, in the hopes of passing it out of committee prior to crossover, and having it voted on by the full House thereafter. Although eyes will be on H.687 in the House for the next week or two, it appears the real "sausage making" will be later on the Senate side, when Senate Natural Resources & Energy will try to merge and blend the three bills into one.

All three of these bills envision Act 250 jurisdictional changes based on location – e.g., exemptions and higher thresholds in planned growth areas (Tier 1A, Tier 1B areas); increased jurisdiction throughout most of the state (Tier 2 areas); automatic jurisdiction in highly sensitive resource areas (Tier 3 areas). These changes would be phased in over a couple years, with collaboration between regional planning commissions and municipalities on the mapping of the different Tier areas. All three envision a return of a "road rule" Act 250 trigger, in which projects with more than a certain linear distance of roads and driveways would require an Act 250 permit – regardless of how many lots or dwelling units are proposed.

S.311 includes much more robust Act 250 exemptions for residential development – both in the immediate term, and as part of the future Tier-based jurisdictional system. The full scope of these exemptions is complicated, difficult to summarize, and will likely be revised dramatically by the Senate Natural Resources & Energy Committee. S.311 also includes a dash of municipal zoning reform/pre-emption. These are easier to detail, and include:

- Duplexes – Builds on last year's HOME Act (Act 47, S.100), to require that duplexes be a permitted use and be treated the same as single unit dwellings with regard to land area (i.e., density).

- Multi-unit Dwellings – Expands on last year's HOME Act provision regarding areas served by municipal sewer and water, to require that 3 and 4 unit dwellings be permitted on lots of at least 1/3 acre and with an allowed density of at least 12 units per acre. Also clarifies that both density and minimum lot size standards for multi-unit dwellings cannot be more restrictive than those required for single unit dwellings. *Unclear if this means the minimum lot size requirement for a 4-plex must be the same as a single-unit dwelling lot, or if it can be required to be bigger on a per unit basis.*

- Density & Lot Size – Expands on last year's HOME Act minimum five dwelling units per acre density within municipal sewer and water areas. The new provision would require that any lot smaller than one acre by no more than 10% be treated as one acre for residential density purposes, if granted a variance. *Yep, that's a weird one given how difficult it is to grant variances.*

- Unrelated Occupants – Prohibits zoning and subdivision bylaws from having the effect of prohibiting unrelated occupants from residing in the same dwelling.

- Hotel & Motel Conversion – Puts conversion of hotels and motels to permanently affordable housing in the protected class of uses – i.e., those that can only be subject to limited review akin to site plan review. Similar to State facilities, churches, schools, etc.

- Parking Bylaws – Expressly allows for certain types of parking and sets a standard parking space size:
  - Tandem Parking Allowed – Tandem (i.e., stacked) parking spaces shall count toward residential parking requirements; however, a municipality may require that tandem spaces are not shared between different dwelling units.
  - Parking Space Size – Defines dimensions of a standard parking space as 9'x18', but allows municipalities to allow smaller spaces for compact cars, and larger spaces for ADA compliance as required.
  - Existing Non-conforming Parking – Requires that municipalities allow existing nonconforming parking spaces to count toward parking requirements when new dwelling units are added to an existing building.

- Lot Coverage – Requires that municipalities allow for a maximum lot coverage bonus of 10% on lots that allow access to new or subdivided lots without road frontage. *Still wondering what stakeholder or specific problem project prompted this provision.*

- Decision Clock – Requires that appropriate municipal panels (e.g., DRB, PC, ZBA) issue decisions on a development application within 180 days of receipt of a complete application, unless the applicant and the panel agree to waive the deadline. *Needs refinement, as this change could result in slower decisions compared to the current requirement of issuing a decision within 45 days of closing a hearing.*

- Appeals Interested Person/Group Number – The ability of immediate abutters, the applicant, and others outlined in statute would remain. However, the bill does change the existing provision that allows any 10 residents or property owners to appeal a municipal development review decision. Instead, this would be increased to three percent of the municipality's population or any 25 persons. *Wording seems unclear as to whether it is really three percent of the population (potentially a very large number in some communities) or just 25 persons.*

- Appeal Exclusions – Prohibits appeals of municipal decisions regarding residential and mixed-use development with up to 25 dwelling units in areas served by municipal sewer and water. Prohibits appeals regarding any permitted residential and mixed-use development that doesn't require conditional use review. Prohibits appeals regarding any housing or mixed-use development within a designated center in a zoning district that allows residential development.

Want to see the actual bill language?
- S.311 – see attached
- S.308 – see online, Senate Natural Resources & Energy bills webpage
- H.687 – see online, House Environment & Energy bills webpage

For those interested and/or engaged:
- Pay attention to the Senate Natural Resources & Energy Committee weekly agenda in the coming weeks.
- Be ready to draft and submit feedback to the full committee and its assistant (just six people). Contact information on the committee webpage.

- If interested in testifying (most impactful way to provide feedback), contact the Committee Chairperson (Senator Chris Bray, cbray@leg.state.vt.us) and copy the committee assistant (Jude Newman, jnewman@leg.state.vt.us) to request an opportunity to testify when the committee begins work on merging these three bills.

**S.213 – State regulation of flood hazard areas, wetlands, river corridors and dam safety**
See my 2/6/24 legislative summary for a description of this bill – can be found on the VPA website. It passed out of the Senate Natural Resources & Energy Committee on February 23 with substantial revisions. See attached for the latest version. Perhaps the most significant revision is that the bill no longer contemplates the State taking over permitting and administration of flood hazard area development from municipalities. Instead, it requires the State to have a flood hazard permitting system for development exempt from municipal flood hazard permitting. More importantly, it directs the State to develop minimum flood hazard area development standards by 2026 for enrollment in the National Flood Insurance Program, and to require that all municipal flood hazard regulations meet or exceed these minimum standards by 2028.

Well, actually… the bill does still include a separate State permit system for development in a river corridor area. So, presumably any development in both a river corridor and a flood hazard area will require both State and municipal permits. The bill also still includes stronger "net-gain" wetland regulation changes and dam safety provisions.

The bill does contain some funding provisions, so it will visit the Appropriations Committee before it heads to the full Senate for a vote. At this point, recommendations for substantive changes will need to be made on the House side (i.e., House Environment & Energy Committee), if and when the Senate approves the bill. As reported in a February 23 VT Digger article, the Governor is opposed to the bill, and has threatened to veto it – in part because the State Agency of Natural Resources doesn't have the resources to administer the new programs and because the bill doesn't include enough new funding/resources for ANR to do so.

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