

March 14, 2025

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





## Testimony to House Environment Committee

### Regarding Changes to the 3 Acre Rule

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March 2025

## VLCT Environmental Policy Committee

- Charlie Hancock, Chair **Montgomery** Selectboard
- Bill Fraser, **Montpelier** City Manager
- Ann Lawless **Wheelock** Selectboard Chair
- Karen Barber, **Huntington** Selectperson
- Chris Company, **Windham** Regional Commission ED



- Peter Carbee, **Washington** Assistant Town Clerk
- Duncan Hastings **Johnson** Selectperson
- Judy Frazier, **Proctor** Town Manager
- Matthew Lawless, **Shelburne** Town Manager
- Pat Sagui, **Westfield** DRB and Planning Commission Chair, JP, Town Moderator
- Harry Shepard, **Stowe** Public Works Director
- Nicholas Storellicastro, **Barre City** Manager

## Clean Water Funding and Regulation

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

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



## Changes to the 3 Acre Program

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

VLCT seeks changes to the 3 Acre Rule to:

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

## 3 Acre Parcel Acreage by Owner Type

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

**Owner**

**Acres**

**How Many Parcels**



Federal	69.75	2
Municipal	725.54	101 (includes schools)
Nonprofit	149.77	14
Private	5270.4	594
Public/Private	7.6	2
State	246.15	19
Trust	33.54	7
<b>Grand Total</b>	<b>6502.75</b>	<b>739</b>

## Municipal Liability Related to 3 Acre for Residential Subdivision

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

- The 3 Acre legislation as drafted would exacerbate, not resolve, municipalities' general liability concerns
- Liability for stormwater systems concerns include:
  - Accidents involving damage to property and personal injury
  - Failure, maintenance, and replacement of the system
  - Landowner disputes, appeals, permit defense, etc.



- There is no monetary liability cap for municipal government.

## **Municipalities Lack Underlying Liability Protection**

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

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

## **Regional Stormwater Utilities**

- There are 7 active stormwater utilities in Vermont: Burlington, South Burlington, Shelburne, St Albans City, St Albans Town, Williston Town.



- Another 4 are in the planning stage: Montpelier, Essex Junction, Proctor, and St. Johnsbury.
- In our fall membership survey, VLCT inquired about the potential regionalization of a wide variety of municipal services. Of the 88 municipalities surveyed, 14% said stormwater services would be positively impacted, **33% said stormwater services would be negatively impacted by regionalizing.**
- Of those surveyed that also had a 3 acre site, the highest reported obstacle to receiving a permit was a lack of funding for implementation, followed by competing priorities.

## Municipal Impact Fees and Special Assessment Districts

VLCT generally supports expanding municipal authorities for local revenue setting.

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

- Generally, these fee types are used for enhanced public services, not in service to statewide goals or for broad public benefit
- Would most likely only feasible when paired with substantial grant support (raising local matches)



- Still ultimately places the financial burden on municipal government and ultimately taxpayers and rate payers
- Only logical for residential subdivisions, not for municipal owned or privately owned single parcel 3 Acre sites
- In some cases, may require a town vote

## **July 10, 2024 Municipal Flood Damages**

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

Attachments

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

