Incremental Code Reform:

Enabling Better Places

Virtual training with Mallory Baches and Susan Henderson

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Course Outline

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Chapter 1:
Zoning for Great Neighborhoods

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Chapter 2:
Introduction to this Training Course

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Chapter 3:
What are the Biggest Coding Issues to Housing Affordability?

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Walkable urbanism
are places
people love

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Walkable urbanism has an active public realm

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Walkable urbanism connects place with people

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Photo by Richard Amore, State of Vermont Department of Housing and Community Development
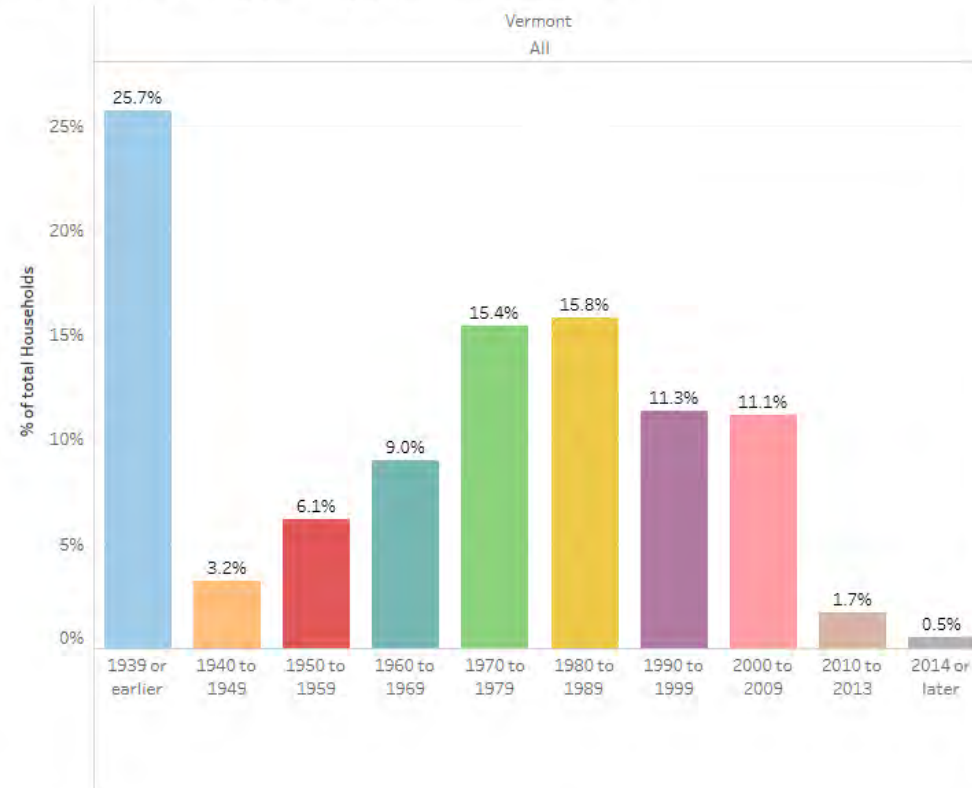
Common Challenges

Common Challenges

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Vermont Context

Estimated housing units by year structure built

Vermont
All

Year	%
1939 or earlier	25.7%
1940 to 1949	3.2%
1950 to 1959	6.1%
1960 to 1969	9.0%
1970 to 1979	15.4%
1980 to 1989	15.8%
1990 to 1999	11.3%
2000 to 2009	11.1%
2010 to 2013	1.7%
2014 or later	0.5%

Source:
U.S. Census Bureau: American Community Survey 5-year estimates (Table B25034, B25036), 2013-2017
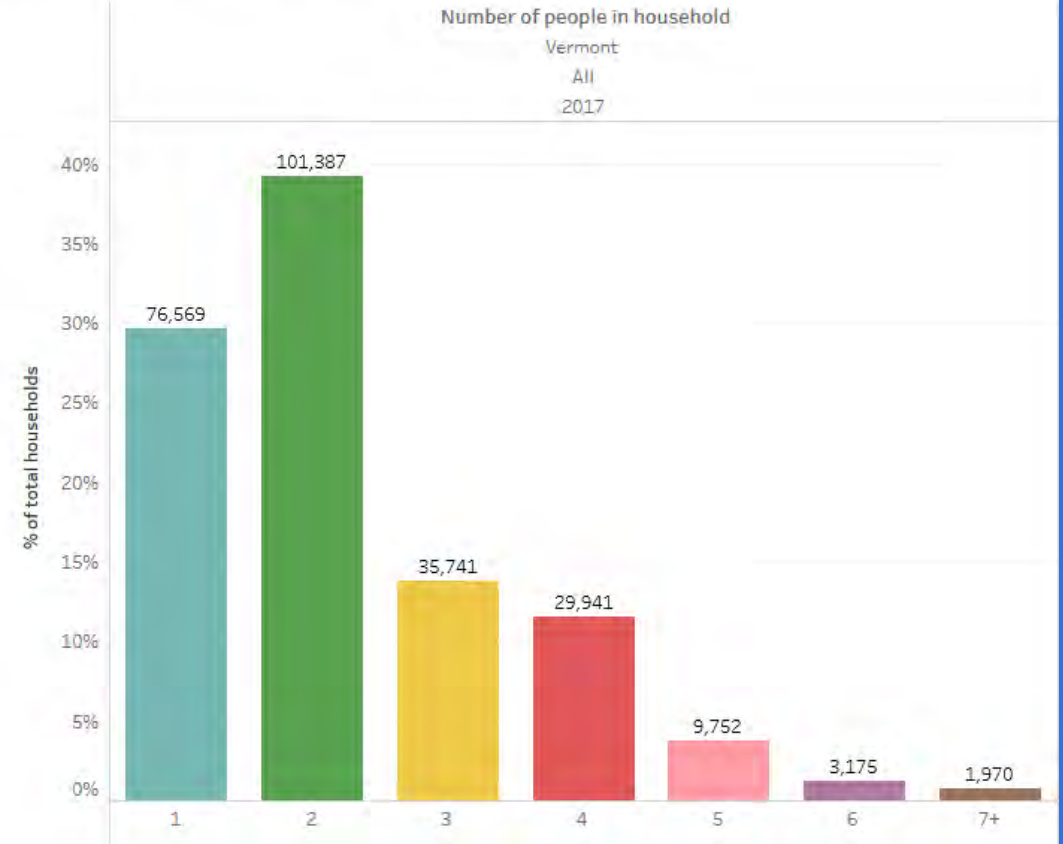

Montpelier, VT: Photo by Susan Henderson

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Vermont Context

Waterbury, VT: Photo by Susan Henderson

Estimated households by number of people

Number of people in household
Vermont
All
2017

% of total households

Number of people	Households
1	76,569
2	101,387
3	35,741
4	29,941
5	9,752
6	3,175
7+	1,970

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Vermont Context

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Chapter 4:
The Incremental Code Reform Methodology

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Partnerships

Funded by:

Supported by:

Developed by:

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State of Vermont . Project for Code Reform . Regulation Assessment Framework

Due Date: August 23, 2019		Example: Maximum size of ADU is based on size of principle structure, effectively eliminating possibility of an ADU on lots with very small houses.	Regulating Authority Key: ☐ Federal Requirement ☐ State Legislation ☐ Local Ordinance ☐ Other	Exampl (Cite reg
Item #	**Regulatory Condition that may be impacting Housing Development and/or Walkable Urbanism**	**Obstacle(s) Created (if applicable)**	**Regulating Authority**	
A) Parking				
A1	Are there parking minimums?			
A1.1	Have parking maxiumums been enabled instead?			
A2	Can on-street or off-site parking count toward parking requirements, or is only on-site allowed?			
A3	Is shared parking permitted?			
A4	Are there on-site parking location requirements, e.g. is parking required to be located behind buildings?			
A5	Other?			
A5.1				
A5.2				
B) Stormwater Regulations (post-construction)				
B1	Are there municipal stormwater regulations?			
B1.1	Have any municipal stormwater regulations proven to inhibit development and/or prevent housing units from being created?			
B2	Other?			
B2.1				

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Recommendation and Documentation

TOPICS OF REFORM

Parking

Parking spaces are expensive to build and maintain. Bylaws often require more parking spaces than are really needed, especially in walkable neighborhoods and downtowns where many people prefer to walk or bike and tend to drive less. Excessive parking requirements drive up the cost of new housing and can even block it entirely. Simple changes to parking requirements can provide immediate benefits to communities.

Stage 1: Short-term fixes

1. Reduce the number of on-site parking spaces required for specific uses.

Minimum parking requirements in bylaws are rarely determined by a study of actual need. For newly constructed buildings, the required number of parking spaces is usually considerably greater than the actual demand. Smaller multi-family dwellings can be nearly impossible to construct affordably when excessive parking is required. Minimum parking requirements for housing should rarely be higher than one on-site space per dwelling. If on-street or other sources of shared parking are available, even less parking can be required. Individual owners can choose to provide additional parking on their lots.

2. Allow on-street parking spaces to count towards parking requirements.

Particularly in town and village centers, on-street parking spaces may be available. One way to provide flexibility for infill development and changes of use is to allow property owners to count the adjacent on-street parking spaces towards their on-site parking requirement.

3. Require that new parking spaces be placed behind buildings.

Walkable neighborhoods are characterized by highly visible entrances and other active areas of homes. New homes sometimes have large garages that dominate the facade of the house, removing activity from the sidewalk and eyes on the street. To address this concern, bylaws can require that parking areas be located completely behind buildings, or be set back at least 20 feet beyond the front facade.

Stage 2: Mid-term fixes

1. Eliminate parking minimums.

In recent years, many towns and cities have begun to accept that parking minimums have not been an effective tool, either in accurately predicting parking need or in successfully producing great places. In most cases, lenders and tenants will demand a minimum number of parking spaces. Municipalities should focus on where that parking is located, not how much parking there should be. To address this, minimum parking requirements can be eliminated entirely, or at least eliminated for smaller parcels.

2. Allow on-street parking in certain areas.

On-street parking spaces are shared among many users and have the additional benefit of separating pedestrians from moving vehicles. Some municipalities have no tradition of allowing on-street parking, but may have adequate space within their rights-of-way to do so. These municipalities can identify those blocks where on-street parking would be a community asset.

Parking for Church Street in Burlington is accommodated in adjacent structures and lots, which also serve other downtown businesses and services. Image credit: CNU

TOPICS OF REFORM

Allowable Uses

Bylaws determine exactly which types of housing and other uses of land can be provided in each zoning district. Downtowns and adjoining walkable neighborhoods have historically contained a greater variety of uses and more types of housing than other parts of the community, and can be ideal locations for expanding housing opportunities. Over time, bylaws have often restricted housing choices, such as not allowing additional housing in larger existing buildings, or forbidding small new multi-family buildings that are compatible with the neighborhood and which could provide more variety in size and price. Zoning can make it easy, difficult, or even impossible to continue historic housing patterns and to build mixed use and multi-family homes where they are needed. Suggestions are provided here for several simple ways to reduce unnecessary barriers to more housing.

Stage 1: Short-term fixes

1. Eliminate unnecessary use restrictions on desirable housing types.

Expanded housing choices are often inadvertently discouraged or even forbidden by zoning regulations that allow only a single-family home on a lot, or that put multiple restrictions on any other housing types, such as allowing them only as discretionary "conditional uses" or by shunting them into complex review processes that were designed for larger development projects. Unnecessary use restrictions are a major impediment to housing affordability and can run afoul of legal restrictions against regulating by type of ownership (rentals vs. condominiums vs. fee-simple ownership) or discriminating by source of income. All zoning regulations should be examined to determine which use restrictions are legal and important to a community and which should be refined or eliminated.

2. Avoid artificial determinations of acceptable family composition.

Zoning regulations sometimes establish artificial limits on how families are defined, such as allowing no more than four unrelated people to share one dwelling, and thus can run afoul of legal restrictions against discriminating by family status. Safe uses of housing should not be forbidden by zoning declarations about who can belong to a household; such declarations should be eliminated from zoning regulations.

Stage 2: Mid-term fixes

1. Do not require unnecessary subdivision of land.
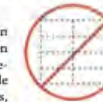
Home development can take place with various ownership structures, including detached homes within a condominium association. Municipalities do not need to require that the original tract be subdivided into a separate lot for each home or require PUD approval for development with commonly owned land. Town regulations should ensure that standards that regulate the subdivision of land are not inadvertently applied where they are not relevant or needed.

Duplex that fits into the neighborhood context in Waterbury, image credit: Richard Amore

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Ground Truthing and Review

Brunswick, GA: Photo by Congress for the New Urbanism

Louisville, KY: Photo by Susan Henderson

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Training and Education

Photo by Hazel Borys

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Incremental Code Reform:
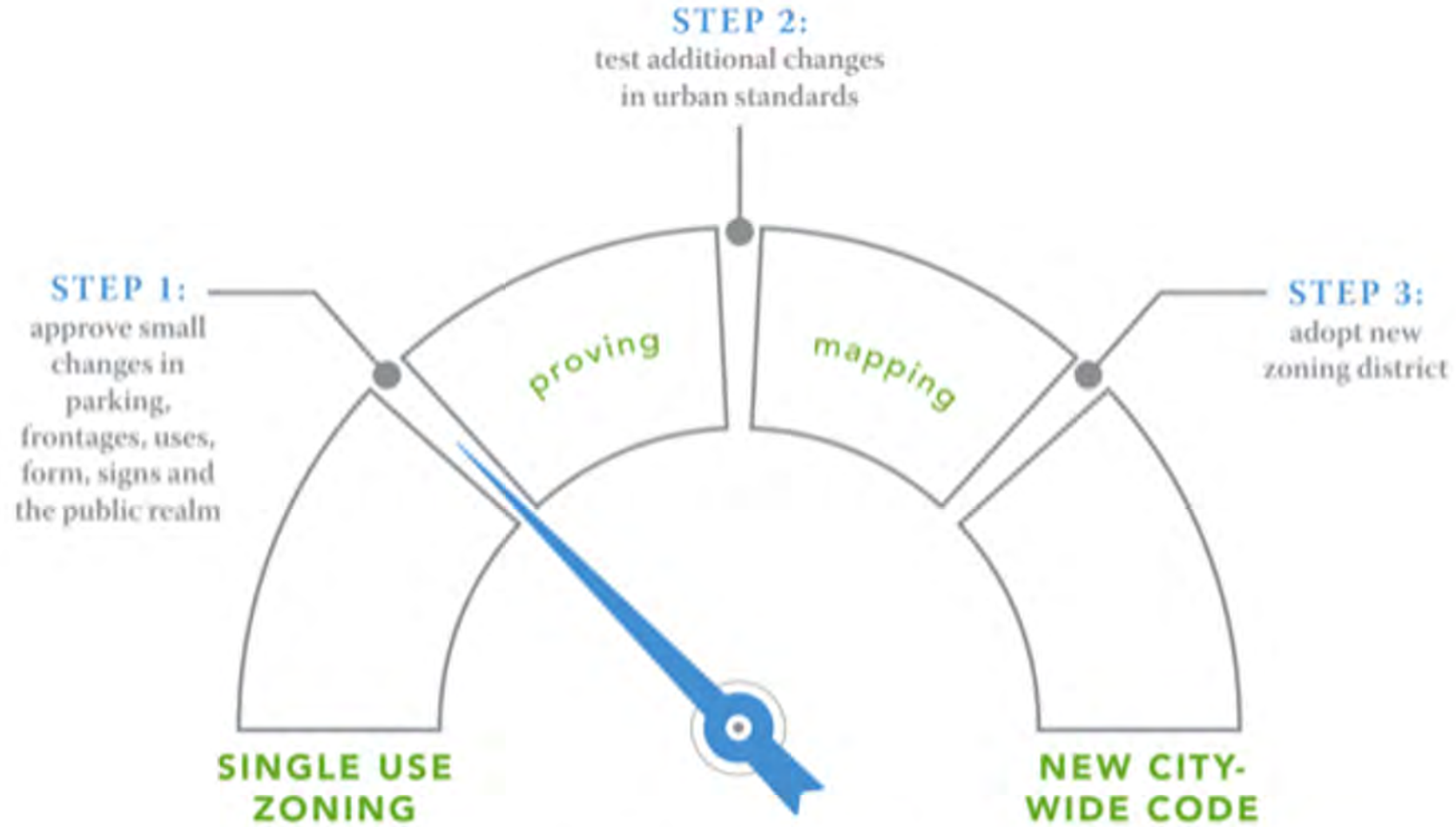
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Chapter 5:
The Audience for Incremental Code Reform

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If you do nothing else, do this...

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Woodstock, VT. Photo by Richard Nolan

STEP 2:
test additional changes
in urban standards

STEP 1:
approve small
changes in
parking,
frontages, uses,
form, signs and
the public realm

proving   mapping

STEP 3:
adopt new
zoning district

SINGLE USE
ZONING

NEW CITY-
WIDE CODE

ARC OF ENGAGEMENT

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Audience

- **Council Members**

- **Planning Directors**

- **Community Members**

- **State Agencies**

- **NGOs**

- **Trade Associations**

Photo by CNU

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Do the biggest little thing...

...to reflect the scale and form of the community

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Case Study Communities

Brattleboro

Fairfax

Middlesex

Castleton

Ludlow

Vergennes

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"We are not talking about radically changing any community...but what are the few things you could change that would make a little more room and you could get comfortable?"

Chris Cochran
Director of Community Planning & Revitalization
Vermont Department of Housing and Community Development

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Chapter 6:
Introduction to Place

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Introduction to Place

Peacham, VT: stock.adobe.com

Context Counts | Rural, Suburban, Urban

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Peacham, VT:
stock.adobe.com

Types of Places

Montpelier, VT: Susan Henderson

Stowe, VT: stock.adobe.com

Downtowns

Village Centers

CNU

Types of Places

Morrisville, VT: stock.adobe.com

Neighborhoods

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Neighborhoods

40

Waterbury, VT: Susan Henderson

Neighborhoods

Montpelier, VT: Apple Maps

5 minute walk

Huntsville, AL: Apple Maps

This

Not This

CNU
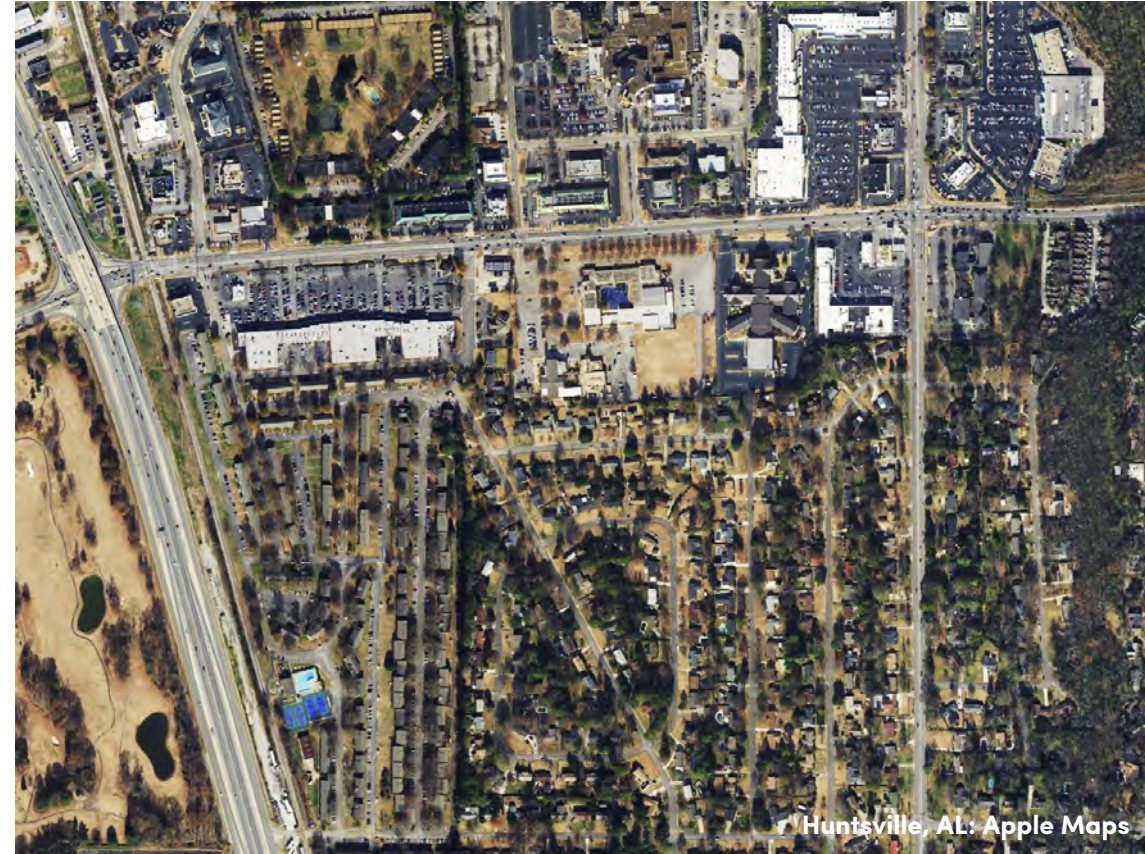
Neighborhood Affordability Issues

- Non-conforming lots
- Non-conforming uses
- Non-conforming densities
- Parking requirements

Montpelier, VT: Susan Henderson

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Village Centers

CNU

Waterbury, VT: Susan Henders

Village Center Affordability Issues

- Non-conforming uses
- Non-conforming densities
- Parking requirements
- Parking location

Fairfax, VT: Richard Amore

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Downtowns

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Waterbury, VT: stock.adobe.com

Downtown Affordability Issues

- Parking requirements
- Residential uses not permitted
- Height restrictions
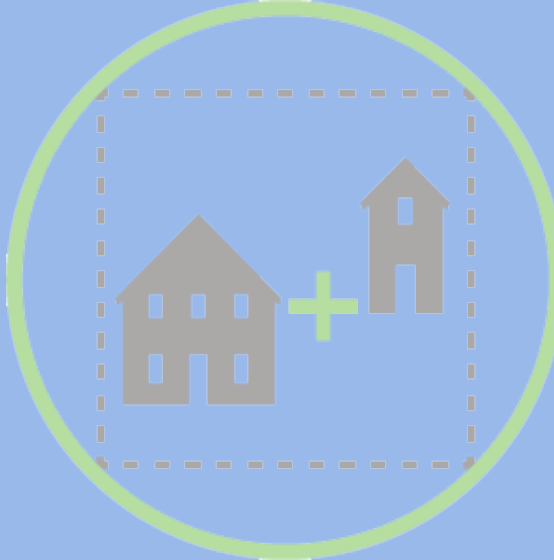- Nonconforming lots
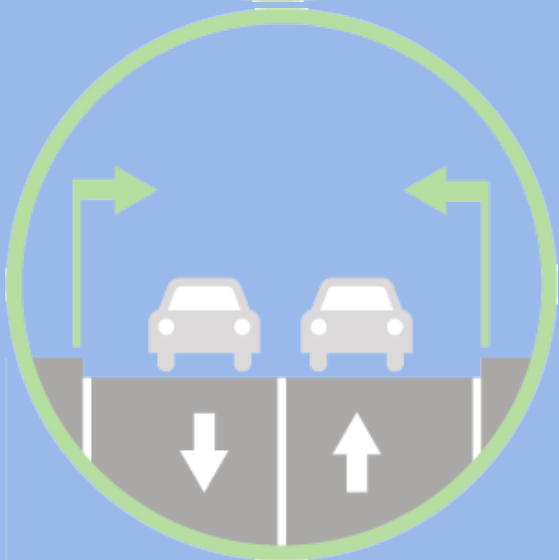- Nonconforming setbacks

Burlington, VT: Susan Henderson

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Chapter 7:
Topics of Reform

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Topics of Reform
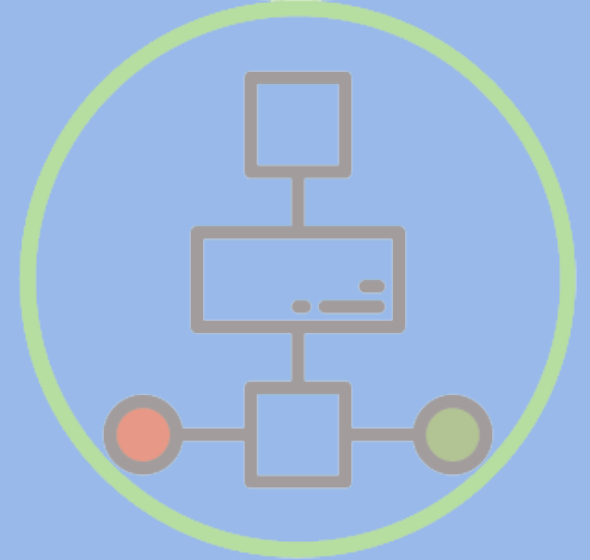
Dimensional Requirements

Building heights, setbacks, and lot coverage regulations are often similar between towns, in spite of differences in character. These dimensional requirements should be carefully crafted to reflect the existing built patterns and local goals, and should avoid needlessly restricting desirable housing options.

Parking Standards

The effects of excessive parking requirements on housing availability are often underestimated. Especially in areas that have transit and are walkable to school, jobs, and other daily needs, the cost of each unneeded parking space inflates the cost of housing. (The average cost of a parking space is estimated at about $4,000.) High parking requirements can block new housing options that fit seamlessly into existing neighborhoods, such as ADUs, small infill buildings, and conversions of large houses into more than one residence.

Allowable Uses

Restrictions on the use of property is a central purpose of zoning, but many Vermont towns and villages severely restrict housing other than a single-family home by requiring complex review processes and/or applying onerous restrictions. Small buildings containing two, three, or four dwellings have historically provided housing variety with minimal neighborhood impacts. These buildings can be enabled again through minor changes to local regulations.

Street Standards

Streets should be designed according to the intensity of activity through which the street passes. The capital and maintenance costs of overly wide streets can increase the cost of delivering housing as well creating a long-term drain on municipal budgets. Disconnected street networks hinder walking, biking, and transit, increasing individual household transportation costs.

Accessory Dwelling Unit (ADU)

Vermont has progressive ADU provisions that are applied through regulations of individual towns. Local regulations could be improved to encourage creation of more ADUs through minor changes to parking standards and to size and ownership restrictions.

Development Review Process

Layers of regulatory review can aid environmental stewardship and protect local character, but they also add time and cost to the production of housing. Strategic streamlining can retain the important functions of the development review process while eliminating unnecessary barriers to locally desired housing.

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Short-Term – **Mid-Term** – Long-Term
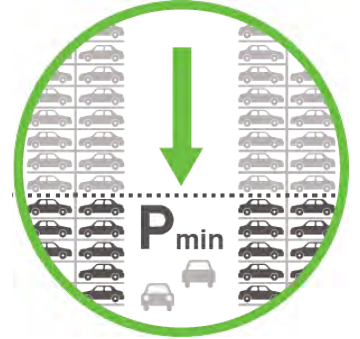
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Dimensional Requirements

- Nonconforming lot sizes
- Lot coverage requirements
- Mismatched density requirements
- Match dimensional requirements to existing conditions
- Permit secondary principal buildings
- Remove unnecessary architectural requirements

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Dimensional Requirements

- Nonconforming lot sizes
- Lot coverage requirements
- Mismatched density requirements
- Match dimensional requirements to existing conditions
- Permit secondary principal buildings
- Remove unnecessary architectural requirements

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Make Existing Conditions Legal

Parking Standards

- Reduce minimum on site requirements

- Allow on-street parking to count toward minimums

- Require on-site parking to be located behind the building

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Parking Standards

- Reduce minimum on site requirements

- Allow on-street parking to count toward minimums

- Require on-site parking to be located behind the building

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Hidden Barrier to Equity & Inclusion

Allowable Uses

- Expand housing choice

- Avoid artificial determination of family composition

- Permit residential uses in village centers and downtowns

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Allowable Uses

- Expand housing choice

- Avoid artificial determination of family composition

- Permit residential uses in village centers and downtowns

Historic Method to Achieve Exclusion

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Street Standards

- Allow on-street parking to count toward parking requirements

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Street Standards

- Allow on-street parking to count toward parking requirements

If you do nothing else, do this

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Accessory Dwelling Units [ADUs]

- Allow the owner to occupy the ADU

- Increase permissible area of ADU

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Accessory Dwelling Units [ADUs]

- Allow the owner to occupy the ADU

- Increase permissible area of ADU

Critical Solution to Aging in Place

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Development Review Process

- Reduce conditional use and discretionary site plan approval requirements

- Simplify small scale development application requirements

- Define and permit limited deviations for specific reasons

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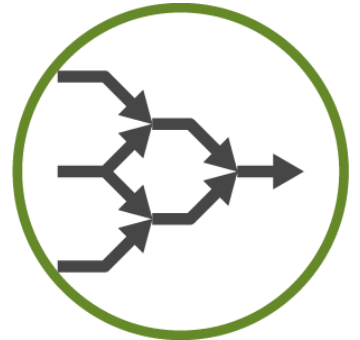
Chapter 8:
Missing Middle Housing

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Missing Middle Housing

Montpelier, VT: Susan Henderson

Scale

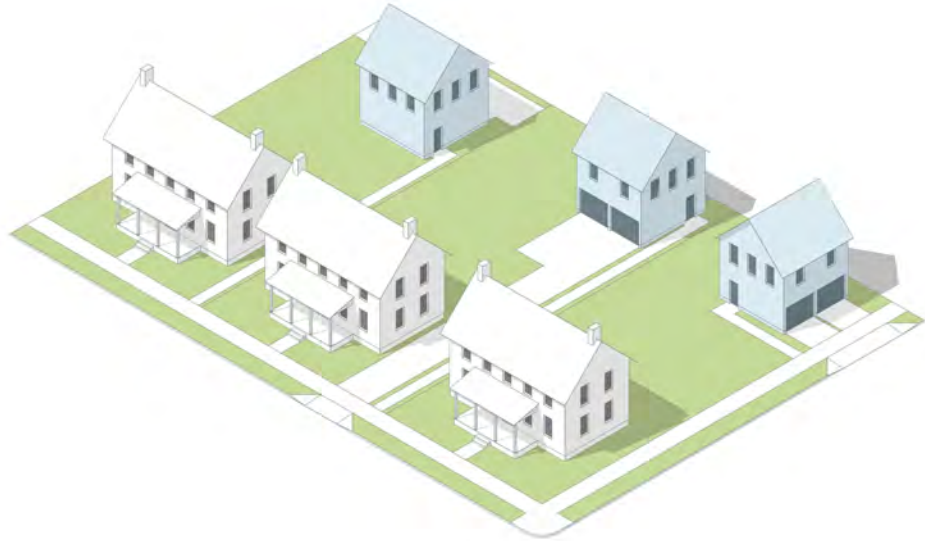Small   Large

Stowe, VT: stock.adobe.com

Williston, VT: apartments.com

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Missing Middle Historic Residential Typology

- Accessory Dwellings

Montpelier, VT: Susan Henderson

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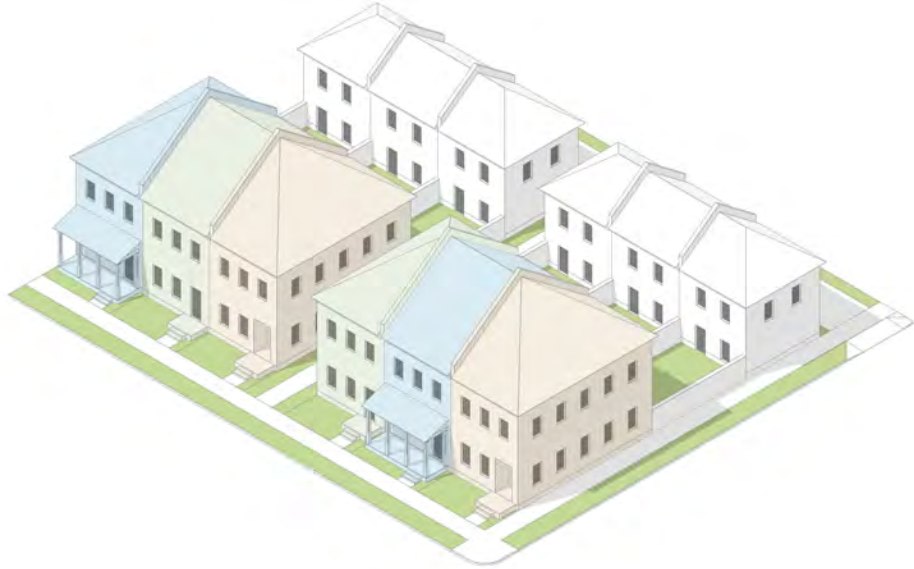# Missing Middle Historic Residential Typology

- Duplex

Montpelier, VT: Susan Henderson

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Missing Middle Historic Residential Typology

- Triplex

Waterbury, VT: Susan Henderson

CNU

Missing Middle Historic Residential Typology

- Townhouse

Bennington, VT: c1909, Lewis Hine

CNU

Missing Middle Historic Residential Typology

- Cottage Court

Bristol, VT: Richard Amore

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Missing Middle Historic Residential Typology
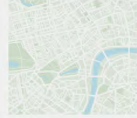
- Multiunit

Montpelier, VT: Susan Henderson

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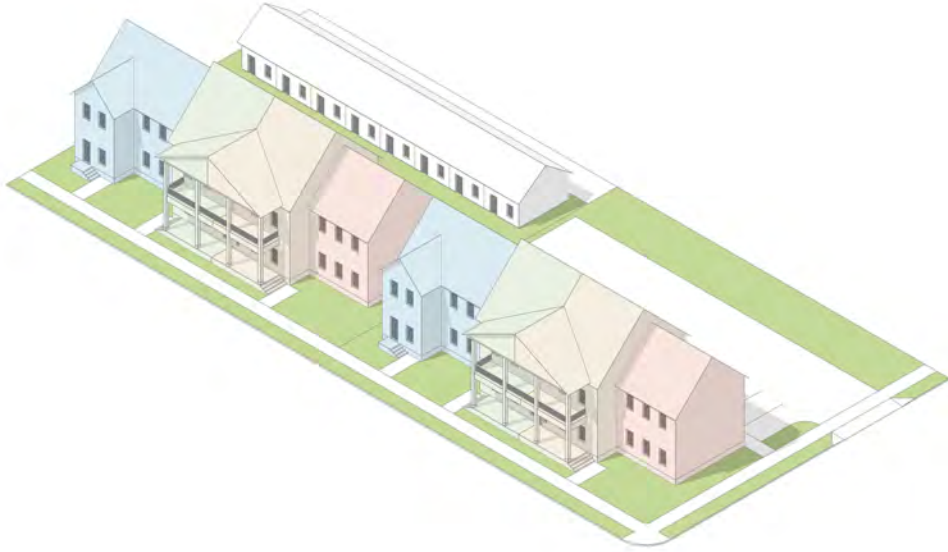
Chapter 9:
Where to Start

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Where to Start

1. Understand Your Needs

Consider the housing market dynamics of your community. Examine whether your town plan recognizes the need to reform bylaws. An updated Municipal Plan and/or Housing Needs Assessment may be necessary.
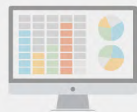
2. Determine the Place Type

Determine the Place Type where changes should be targeted. See "Place Types" on page 14 for explanation. This Guide provides tools for downtowns, village centers, and neighborhoods.

3. Gauge Support and Capacity

Determine the municipality's appetite for bylaw reform, level of political support, and staff capacity. "Building Support" on page 10 describes building capacity amongst all stakeholders.

4. Calibrate for Local Conditions

Use the incremental fixes detailed in the Primary Recommendations Section to make small improvements to your existing code. Add new fixes over time and as you build more capacity and support, graduate from Stage 1 to Stage 2 Fixes.

Select the model bylaw language from the Resources Section of this Guide and edit them for local use. Explanations are provided in the blue side bar next to the relevant model bylaw language.

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Determine the municipality's appetite for bylaw reform, level of political support, and staff capacity. "Building Support" on page 10 describes building capacity amongst all stakeholders.

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Staff Capacity

Who is at the desk?

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4. Calibrate for Local Conditions

Use the incremental fixes detailed in the Primary Recommendations Section to make small improvements to your existing code. Add new fixes over time and as you build more capacity and support, graduate from Stage 1 to Stage 2 Fixes.

Select the model bylaw language from the Resources Section of this Guide and edit them for local use. Explanations are provided in the blue side bar next to the relevant model bylaw language.

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If you do nothing else, do this:

- **Reduce parking requirements.**
- **Increase ADU area maximums.**
- **Permit residential in downtowns and centers by right.**

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