

VNRC/VAPDA Recommended Changes to H.687
Senate Committee on Natural Resources & Energy
April 16, 2024

The following recommendations refer to the pages/sections of H.687 as passed by the House

Sec. 2 and Sec. 3: To make this consistent with H. 687, we recommend modifying these sections to create a new “Interim Tier 1A” and “Interim Tier 1B” and including reference to this in H. 687 Sec. 32. This will provide immediate exemptions as contemplated by S. 311, using the framework of exemptions in H. 687 Sec. 32.

- a. Interim Tier 1A would exempt housing up to 75 units from Act 250 in the following areas: Designated Downtowns (including an additional ½ mile boundary), New Town Centers, Neighborhood Development Areas, Growth Centers. **To expire when tier 1A status is approved for a municipality or July 1, 2027.**
- b. Interim Tier 1B would exempt housing up to 50 units on 10 or less acres from Act 250 in the following areas: Village Centers with permanent zoning or subdivision regulations, including an additional ¼ mile boundary. **To expire upon adoption of Regional Plan, no later than December 31, 2026.**
- c. *These changes should apply to not only new permits but also amendments to existing permits (original and amended jurisdiction).*

We recommend adding language to make clear that priority housing projects may continue until the end of 2026 and also be allowed in downtowns and village centers permanently.

- i. (IV) Notwithstanding any other provision of law to the contrary, until December 31, 2026, the construction of a priority housing project located entirely within a designated downtown development district, designated neighborhood development area, or a designated growth center.
- ii. (V) Notwithstanding any other provision of law to the contrary, the construction of a priority housing project in a municipality with permanent zoning and subdivision regulations and located entirely within a State Designated Downtown or Village Center approved as part of the Environmental Review Board review of regional plan future land use maps under 10 V.S.A. § 6033(b).

Page 53-54, Sec. 29, lines 1+ – Tier 1A requirements should be simplified. We are concerned that there are too many requirements proposed here for even our largest communities to achieve Tier 1A status. The below proposed edits align with the current NDA requirements which will save the ERB time when they develop guidance.

1. To obtain a Tier 1A area status under this section, a municipality shall demonstrate to the Board that ~~it has each of the following:~~

(A) A municipal plan that is approved in accordance with 24 V.S.A. § 4350. The boundaries are consistent with Downtown or Village Centers (24 V.S.A. § 4348a(a)(12)(A)) and Planned Growth Areas (24 V.S.A. § 4348a(a)(12)(B)) in an approved Regional Plan future land use map with any minor amendments.

~~(B) Municipal flood hazard planning, applicable to the entire municipality, in accordance with 24 V.S.A. § 4382(12) and the guidelines issued by the Department pursuant to 24 V.S.A. chapter 139.~~

~~(C) The municipality has adopted~~ flood hazard and river corridor bylaws, applicable to the entire municipality, that are consistent with or stronger than the standards established pursuant to subsection 755(b) of this title (flood hazard) and subsection 1428(b) of this title (river corridor) or the proposed Tier 1A area excludes the flood hazard areas and river corridor.

~~(D) A capital budget and program pursuant to 24 V.S.A. § 4430 that make substantial investments in the ongoing development of the Tier 1A area, are consistent with the plan's implementation program, and are consistent with the smart growth principles defined in 24 V.S.A. chapter 139.~~

~~(E) Permanent zoning and subdivision bylaws that do not include broad exemptions that exclude significant private or public land development from requiring a municipal land use permit.~~

~~(C) (F) Urban form bylaws~~ The municipality has permanent land development regulations for the Tier 1A area that further the smart growth principles of 24 V.S.A. chapter 139, adequately regulate the physical form and scale of development, with reasonable provision for a portion of the areas with sewer and water to allow at least four stories, and conform to the guidelines established by the Board. *[consistent with existing NDA requirements.]*

~~(D) (G) Historic preservation bylaws for established design review districts, historic districts, or historic landmarks pursuant to 24 V.S.A. § 4414(1)(E) and (F) for the portion of the Tier 1A area that meet State historic preservation guidelines issued by the Department of Housing and Community Development pursuant to 24 V.S.A. chapter 139. The Tier 1A area is compatible with the character of adjacent National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resources identified by local or State government. *[consistent with existing NDA requirements.]*~~

~~(E) (H) Wildlife habitat planning bylaws for the Tier 1A area that protect significant natural communities; rare, threatened, and endangered species; and river corridors or exclude these areas from the proposed Tier 1A area. The municipality has identified and planned for the maintenance of significant natural communities, rare, threatened and endangered species, located in the 1A area, to the degree that they are not covered under state permits.~~

~~(F) (I) Permitted water and wastewater systems or planned improvements have with the capacity to support additional development within the Tier 1A area. The municipality shall have adopted consistent policies, by municipal plan and ordinance, on the allocation, connection, and extension of water and wastewater lines that include a defined and mapped service area to support the Tier 1A area. *[reduce requirements and allow for planned improvements of systems.]*~~

~~(J) Municipal staff adequate to support coordinated comprehensive and capital planning, development review, and zoning administration in the Tier 1A area. [not needed.]~~

~~(K) The applicable regional plan has been approved by the Board. [covered in revised #1.]~~

Page 89-90, Sec. 40, lines 11+ - Revise the future land use description and criteria for Village areas as follows so that the criteria for mapping and Tier 1B status are consolidated in this section of statute:

(C) Village areas. These areas include the traditional settlement area or a proposed new settlement area, typically comprised of a cohesive mix of residential, civic, religious, commercial, and mixed-use buildings, arranged along a main street and intersecting streets that are within walking distance for residents who live within and surrounding the core. ~~Village areas shall have one of the following: municipal water, wastewater, or land development regulations. If no municipal wastewater is available, the area must have soils that are adequate for wastewater disposal.~~ They provide some opportunity for infill development or new development areas where the village can grow and be flood resilient. These areas include existing village center designations and similar areas statewide, but this area is larger than the village center designation. Village areas must meet the following criteria:

(i) The municipality has a duly adopted and approved plan and a planning process that is confirmed in accordance with section 4350 of this title.

(ii) The municipality has adopted bylaws and **land development** regulations in accordance with sections 4414, 4418, and 4442 of this title.

(iii) The Village area **has public municipal** water, or **public** wastewater, or the area must have soils that are adequate for wastewater disposal.

~~(iv) (iii)~~ Unless the municipality has adopted flood hazard and river corridor bylaws, applicable to the entire municipality, that are consistent with the standards established pursuant to 10 V.S.A. § 755b (flood hazard) and 10 V.S.A. § 1428(b) (river corridor), the area excludes identified flood hazard and fluvial erosion areas, except those areas containing preexisting development in areas suitable for infill development as defined in § 29-201 of the Vermont Flood Hazard Area and River Corridor Rule.

The following recommendations refer to the pages/sections of H.687 Version 2.1

Pages 44-45 (new language in green)

(46) "Tier 3" means an area consisting of critical natural resources **defined by the rules of the Board. The Board's rules shall at a minimum determine whether and how to protect address river corridors, headwaters streams, habitat connectors of statewide significance, riparian areas, class A waters, natural communities, and or other critical natural resources through Act 250.**

Sec. 26. TIER 3 RULEMAKING

(a) **The Land Use** Review Board, in consultation with the Secretary of Natural Resources, shall adopt rules to implement the requirements for the administration of 10 V.S.A. § 6001(3)(A)(xiii) and 10 V.S.A. § 6001(46). It is the intent of the General Assembly that these rules ~~address the protection of~~ **must identify** critical natural resources **to address for protection**. The Board shall review the definition of Tier 3 area, ~~and its use in 10 V.S.A. chapter 151 and address~~ **determine the critical natural resources that shall be included in Tier 3, giving due consideration to** **river corridors, headwaters streams, habitat connectors of statewide significance, riparian areas, class A waters, natural communities**, recommend any additional significant natural resources that should be added to the definition, **and how to define the boundaries**. Rules adopted by the Board shall include:

(2) any necessary changes to how 10 V.S.A. § 6001(3)(A)(xiii) should be administered, and when jurisdiction should be triggered to protect the functions and values of **critical natural** resources ~~of statewide significance~~;

On page 46, add the Fish and Wildlife Department and Department of Environmental Conservation to the list of stakeholders to consider on lines 3-4.

Sec. 32 Tier 1A Area Status

- p.51 (b)(F) ~~Permitted~~ **Public** water and wastewater systems..."

Sec. 46 Elements of a Regional Plan

- P.85 (12)(A) "Village centers are not required to have ~~municipal~~ **public** water, wastewater, zoning, or subdivision bylaws."
- P.85 (12)(B)(ii) "This area is served by ~~municipal~~ **public** water or wastewater infrastructure."
- P.87 (C)(iv) "The municipality has one of the following: ~~municipal~~ **public** water, wastewater, or land use bylaws." And, "The municipality has one of the following: ~~municipal~~ **public** water, **or** wastewater, ~~or land use bylaws.~~"
- P.88 (D) "Transition or infill area...~~municipal~~ **public** water or wastewater, or both."