

Act 250 Tier System

ELLEN CZAJKOWSKI
OFFICE OF LEGISLATIVE COUNSEL
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ACT 250 STATE LAND USE AND DEVELOPMENT LAW

No person shall sell a subdivision, commence development, or commence construction of development or subdivisions without an Act 250 permit.

“**Development**” is defined as:

- The construction of improvements for a commercial, industrial, or residential use at or above the elevation of 2,500 feet.
- The construction of improvements for any **commercial or industrial purpose** on more than 10 acres of land, or on more than one acre of land if the municipality does not have both permanent zoning and subdivision bylaws.
- The construction of 10 or more housing units, or the construction or maintenance of mobile homes or mobile home parks with 10 or more units, within a radius of five miles.
- The construction of improvements for a **governmental (municipal, county, State, public) purpose** if the project involves more than 10 acres.
- The construction of a support structure that is primarily for communication or broadcast purposes and that extends 50 feet, or more, in height above ground level or 20 feet, or more, above the highest point of an attached existing structure.
- The exploration for fissionable source materials beyond the reconnaissance phase or the extraction or processing of fissionable source material.
- The drilling of an oil or gas well.
- Any withdrawal of more than 340,000 gallons of groundwater per day from any well or spring on a single tract of land or at a place of business, independent of the acreage of the tract of land
- The construction of a private road longer than 800ft or combination of roads longer than 2000ft- not until 2026
- **But don't forget about all of the exemptions in 6001 and 6081 and the definition of subdivision**

10 V.S.A. chapter 151- State Land Use and Development Law

- ▶ But Act 181 of 2024 changed the definition of development to include Tiers which are based on their location and the attributes of the location rather than the size of the parcel
- ▶ Areas with sensitive, critical natural resources need more Act 250 oversight; developed areas identified as the core areas of Vermont's communities need less oversight; areas in between those two types will stay about the same
- ▶ The whole State will fall into one of the following: Tier 1A, Tier 1B, Tier 2, and Tier 3

The Tiers- Tier 3

- ▶ 10 V.S.A § 6001 (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 river corridors, headwater streams, habitat connectors of statewide significance, riparian areas, class A waters, natural communities, and other critical natural resources.
- ▶ Sec. 22 of Act 181- Tier 3 Rulemaking- The LURB in consultation with ANR (and list of required stakeholders) shall adopt rules defining Tier 3; to id critical natural resources for protection. Must give due consideration to river corridors, headwater streams, habitat connectors of statewide significance, riparian areas, class A waters, and natural communities; any additional critical natural resources that should be added to the definition; measures to ensure that no municipality or region is disproportionately impacted by Tier 3 designation that would limit reasonable opportunities for Tier 1 or Tier 2 designations; and how to define the boundaries; determine how to map these areas and how to address subdivisions within Tier 3. Rule due to LCAR Feb. 1, 2026.
- ▶ Any development in Tier 3 area triggers need for permit.

The Tiers- Tier 2

- ▶ 10 V.S.A § 6001
- ▶ (45) “Tier 2” means an area that is not a Tier 1 area or a Tier 3 area. (This will be most of the State.)
- ▶ Uses existing jurisdictional triggers of development and subdivision to determine if a permit is needed.

The Tiers- Tier 1

- ▶ Sec. 49 of Act 181
 - ▶ Created new land use categories to be used on all regional maps
 - ▶ RPCs need to work with towns to update maps to incorporate them by Dec. 31, 2026.
 - ▶ New categories will be used to identify Tier 1 areas

The Tiers- Tier 1A

10 V.S.A § 6034- if designated as Tier 1A, the whole area is exempt from Act 250 and under the authority of municipal zoning

(a) Application and approval.

- ▶ (1) Beginning on January 1, 2026, a municipality, by resolution of its legislative body, may apply to the Land Use Review Board for Tier 1A status for the area of the municipality that is suitable for dense development and meets the requirements of subsection (b) of this section. A municipality may apply for multiple noncontiguous areas to be receive Tier 1A area status. Applications may be submitted at different times.

The Tiers- Tier 1A

(b) Tier 1A area status requirements.

(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.
- ▶ (B) The boundaries are consistent with downtown or village centers and planned growth areas as defined 24 V.S.A. § 4348a(a)(12) in an approved regional plan future land use map with any minor amendments.
- ▶ (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) The municipality has adopted 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.
- ▶ (E) The municipality has permanent land development regulations for the Tier 1A area that further the smart growth principles of 24 V.S.A. chapter 76A, adequately regulate the physical form and scale of development, provide 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.
- ▶ (F) 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.
- ▶ (G) The municipality has identified and planned for the maintenance of significant natural communities, rare, threatened, and endangered species located in the Tier 1A area or excluded those areas from the Tier 1A area.
- ▶ (H) Public water and wastewater systems or planned improvements have the capacity to support additional development within the Tier 1A area.
- ▶ (I) Municipal staff adequate to support coordinated comprehensive and capital planning, development review, and zoning administration in the Tier 1A area.

The Tiers- Tier 1A

§ 4348a. Elements of a regional plan

(A) Downtown or village centers. These areas are the mixed-use centers bringing together community economic activity and civic assets. They include downtowns, villages, and new town centers previously designated under chapter 76A and downtowns and village centers seeking benefits under the Community Investment Program under section 5804 of this title. The downtown or village centers are the traditional and historic central business and civic centers within planned growth areas, village areas, or may stand alone. Village centers are not required to have public water, wastewater, zoning, or subdivision bylaws.

The Tiers- Tier 1A

§ 4348a. Elements of a regional plan

(B) Planned growth areas. These areas include the high-density existing settlement and future growth areas with high concentrations of population, housing, and employment in each region and town, as appropriate. They include a mix of historic and nonhistoric commercial, residential, and civic or cultural sites with active streetscapes, supported by land development regulations; public water or wastewater, or both; and multimodal transportation systems. These areas include new town centers, downtowns, village centers, growth centers, and neighborhood development areas previously designated under chapter 76A of this title. These areas should generally meet the smart growth principles definition in chapter 139 of this title and 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 and has adopted bylaws and regulations in accordance with sections 4414, 4418, and 4442 of this title.
- (ii) This area is served by public water or wastewater infrastructure.
- (iii) The area is generally within walking distance from the municipality's or an adjacent municipality's downtown, village center, new town center, or growth center.
- (iv) The area excludes identified flood hazard and river corridor areas, except those areas containing preexisting development in areas suitable for infill development as defined in section 29-201 of the Vermont Flood Hazard Area and River Corridor Rule.
- (v) The municipal plan indicates that this area is intended for higher-density residential and mixed-use development.
- (vi) The area provides for housing that meets the needs of a diversity of social and income groups in the community.
- (vii) The area is served by planned or existing transportation infrastructure that conforms with "complete streets" principles as described under 19 V.S.A. chapter 24 and establishes pedestrian access directly to the downtown, village center, or new town center. Planned transportation infrastructure includes those investments included in the municipality's capital improvement program pursuant to section 4430 of this title.

The Tiers- Tier 1B

§ 6033. Regional plan future land use map review

(a) The LURB shall review requests from RPCS to approve or disapprove portions of future land use maps for the purposes of changing jurisdictional thresholds under this chapter by identifying areas on future land use maps for Tier 1B area status; review concurrently with regional plan approval. The Board may produce guidelines for regional planning commissions seeking Tier 1B area status. A municipality may have multiple noncontiguous areas receive Tier 1B area status.

(c) To obtain a Tier 1B area status under this section the regional planning commission shall demonstrate to the Board that the municipalities with Tier 1B areas meet the following requirements as included in subdivision 24 V.S.A. § 4348a(a)(12)(C):

(1) The municipality has requested to have the area mapped for Tier 1B.

(2) The municipality has a duly adopted and approved plan and a planning process that is confirmed in accordance with 24 V.S.A. § 4350.

(3) The municipality has adopted permanent zoning and subdivision bylaws in accordance with 24 V.S.A. §§ 4414, 4418, and 4442.

(4) 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 Section 29-201 of the Vermont Flood Hazard Area and River Corridor Rule 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 subsection 755(b) of this title (flood hazard) and subsection 1428(b) of this title (river corridor).

(5) The municipality has water supply, wastewater infrastructure, or soils that can accommodate a community system for compact housing development in the area proposed for Tier 1B.

(6) The municipality has municipal staff, municipal officials, or contracted capacity adequate to support development review and zoning administration in the Tier 1B area.

= projects with up to 50 units of housing exempt from Act 250.

The Tiers- Tier 1B

24 VSA §4348a. Elements of a regional plan

(C) Village areas. These areas include the traditional settlement area or a proposed new settlement area, typically composed 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. These areas include existing village center designations and similar areas statewide, but this area is larger than the village center designation.

Village areas shall meet the following criteria: town plan and planning process, bylaws, flood hazard and river corridor bylaws, municipal water or wastewater or adequate soils, and the area has some opportunity for infill development or new development areas where the village can grow and be flood resilient.