

ACT 181 REVIEW

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TIER 3

§6001

(xiii) The construction of improvements for commercial, industrial, or residential purposes in a Tier 3 area as determined by rules adopted by the Board.

(45) “Tier 2” means an area that is not a Tier 1 area or a Tier 3 area.

(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.

TIER 3 RULES

Sec. 22. TIER 3 RULEMAKING

- (a) The Board, in consultation with ANR , 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) and (19) (subdivision).

It is the intent of the General Assembly that these rules identify critical natural resources for protection. The Board shall review the definition of Tier 3 area; determine the critical natural resources that shall be included in Tier 3, giving 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. Rules adopted by the Board shall include:

- (1) any necessary clarifications to how the Tier 3 definition is used in 10 V.S.A. chapter 151, including whether and how subdivisions would be covered under the jurisdiction of Tier 3;
- (2) any necessary changes to how the jurisdictional trigger should be administered and when jurisdiction should be triggered to protect the functions and values of resources of critical natural resources;
- (3) the process for how Tier 3 areas will be mapped or identified by the ANR and the Board;

TIER 3 RULES

Sec. 22. TIER 3 RULEMAKING

- (4) other policies or programs that shall be developed to review development impacts to Tier 3 areas if they are not included in 10 V.S.A. § 6001(46); and
 - (5) if a critical natural resource area is not recommended for protection under Tier 3, it shall be identified in the rule, and a rationale shall be provided as to why the critical resource was not selected for Tier 3 protection.
- (b) On or before January 1, 2025, the Board shall convene a working group of stakeholders to provide input to the rule prior to pre-filing with ICAR.

The working group shall include representation from regional planning commissions; environmental groups; science and ecological research organizations; woodland or forestry organizations; the Vermont Housing and Conservation Board; the Vermont Chamber of Commerce; the League of Cities of Towns; the Land Access and Opportunity Board; the State Natural Resources Conservation Council; and other stakeholders, such as the Vermont Ski Areas Association, the Department of Taxes, Division of Property Valuation and Review, the Department of Forests, Parks and Recreation, the Department of Environmental Conservation, the Department of Fish and Wildlife, the Vermont Woodlands Association, and the Professional Logging Contractors of the Northeast.

TIER 3 RULES

Sec. 22. TIER 3 RULEMAKING

(c) The Board shall file a final proposed rule with the Secretary of State and LCAR on or before **February 1, 2026**. After the Board files the rule with LCAR, it shall submit a report describing the rules and the issues reviewed under this section to the House Committee on Environment and Energy and the Senate Committee on Natural Resources and Energy.

(d) During the rule development, the stakeholder group established under subsection (b) shall solicit participation from representatives of municipalities and landowners that host Tier 3 critical resource areas on their properties to determine the responsibilities and education needed to understand, manage, and interact with the resources.

ROAD JURISDICTION

§ 6001 (3)(A)(XII)

(xii) The construction of a road or roads and any associated driveways to provide access to or within a tract of land owned or controlled by a person. For the purposes of determining jurisdiction under this subdivision, any new development or subdivision on a parcel of land that will be provided access by the road and associated driveways is land involved in the construction of the road.

(I) Jurisdiction under this subdivision shall not apply unless the length of any single road is greater than 800 feet, or the length of all roads and any associated driveways in combination is greater than 2,000 feet.

(II) As used in this subdivision (xii), “roads” include any new road or improvement to a class 4 town highway by a person other than a municipality, including roads that will be transferred to or maintained by a municipality after their construction or improvement. Routine maintenance and minor repairs of a Class 4 highway shall not constitute an “improvement.” Routine maintenance shall include replacing a culvert or ditch, applying new stone, grading, or making repairs after adverse weather. Routine maintenance shall not include changing the size of the road, changing the location or layout of the road, or adding pavement.

ROAD JURISDICTION

§ 6001 (3)(A)(XII)

(III) For the purpose of determining the length of any road and associated driveways, the length of all other roads and driveways within the tract of land constructed after July 1, 2026 shall be included.

(IV) This subdivision (xii) shall not apply to:

a State or municipal road, a utility corridor of an electric transmission or distribution company, or a road used primarily for farming or forestry purposes; development within a Tier 1A or a Tier 1B area, and improvements underway when this section takes effect to a Class 4 highway that will be transferred to the municipality.

(V) The conversion of a road used for farming or forestry purposes that also meets the requirements of this subdivision (xii) shall constitute development.

(VI) The intent of this subdivision (xii) is to encourage the design of clustered subdivisions and development that does not fragment Tier 2 areas or Tier 3 areas.

ROAD JURISDICTION

§ 6001 (3)(A)(XII)

Sec. 20. RULEMAKING; ROAD CONSTRUCTION

The Board may adopt rules after consulting with stakeholders, providing additional specificity to the necessary elements of 10 V.S.A. § 6001(3)(A)(xii).

It is the intent of the General Assembly that any rules encourage the design of clustered subdivisions and development that does not fragment Tier 2 areas or Tier 3 areas.

Other Reports In Act 181

Sec. 34. TIER 2 AREA REPORT

(a) On or before February 15, 2026, the Board shall report recommendations to address Act 250 jurisdiction in Tier 2 areas. The recommendations shall:

(1) recommend statutory changes to address fragmentation of rural and working lands while allowing for development;

(2) address how to apply location-based jurisdiction to Tier 2 areas while meeting the statewide planning goals, including how to address commercial development and which shall also include:

(A) review of the effectiveness of mitigation of impacts on primary agricultural soils and making recommendations for how to improve protections for this natural resource;

(B) review of the effectiveness of jurisdictional triggers for development of retail and service businesses outside village centers, and criterion 9(L), in addressing sprawl and strip development, and how to improve the effectiveness of criterion 9(L); and

(C) review of whether and how Act 250 jurisdiction over commercial activities on farms should be revised, including accessory on-farm businesses.

(b) The report shall be submitted to the House Committees on Agriculture, Food Resiliency, and Forestry and on Environment and Energy and the Senate Committees on Agriculture and on Natural Resources and Energy.

Other Reports In Act 181

Sec. 35 required the Wood Products Manufacturers Report (submitted 6/30/25)

Sec. 36. LOCATION-BASED JURISDICTION REVIEW

On or before February 1, 2029, the Land Use Review Board shall review and report on the new Tier jurisdiction framework used to establish location-based jurisdiction for 10 V.S.A. chapter 151. The Board shall report on the outcomes and outline successes and any changes that are needed. The Board shall undertake an in-depth review of the Act 250 updates, including the duties and responsibilities of all the staff and the Board itself, specifically whether the updates have reduced appeals and whether the updates have created more equity and cohesion amongst the District Commissions and district coordinators.

Other Reports In Act 181

Sec. 37. Affordable Housing Development Regulatory Incentives Study

(a) The Department of Housing and Community Development, the Vermont Housing and Conservation Board, the Land Access and Opportunity Board, and the Vermont Housing Finance Agency shall:

(1) engage with diverse stakeholders, including housing developers, local government officials, housing advocacy organizations, financial institutions, and community members to identify regulatory policies that incentivize mixed-income, mixed-use development and support affordable housing production as a percentage of new housing units in communities throughout the State, including examining the impact of inclusionary zoning; and

(2) develop recommendations for legislative, regulatory, and administrative actions to improve and expand affordable housing development incentives within State designated areas.

(b) On or before December 15, 2024, the Department of Housing and Community Development shall submit a report to the Senate Committees on Economic Development, Housing and General Affairs and on Natural Resources and Energy and the House Committees on General and Housing and on Environment and Energy with its findings and recommendations. (submitted 1/15/25)

Other Reports In Act 181

Sec. 37a. TRANSPORTATION SUPPORT STUDY

(a) On or before December 15, 2025, the Agency of Transportation, after consultation with the Department of Housing and Community Development, the Vermont League of Cities and Towns, the Vermont Association of Planning and Development Agencies, and the Natural Resources Board, shall review the revenue received by the State, both current and projected, for transit support through Act 250 and the revenue and benefits to developers, to the State, and to the community received through transportation impact fees, and shall suggest processes to preserve these revenues, requirements, and benefits.

(b) The Agency shall consider including transportation demand management and subsidy requirements in development review authority for municipalities, the authority or ability of the Agency of Transportation to enforce transportation impact fees as part of the municipal process, and any other proposals.

(c) The Agency shall hear from a diverse group of stakeholders including developers, local government officials, alternative transportation organizations, transit providers, and financial institutions.

(d) On or before December 15, 2025, the Agency of Transportation shall submit a report to the Senate Committees on Economic Development, Housing and General Affairs, on Natural Resources and Energy, and on Transportation and the House Committees on Transportation and on Environment and Energy with its findings and recommendations.