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Vermont League of Cities and Towns

Support S.325 for Act 181, Act 250 Reform

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Today's Testimony:

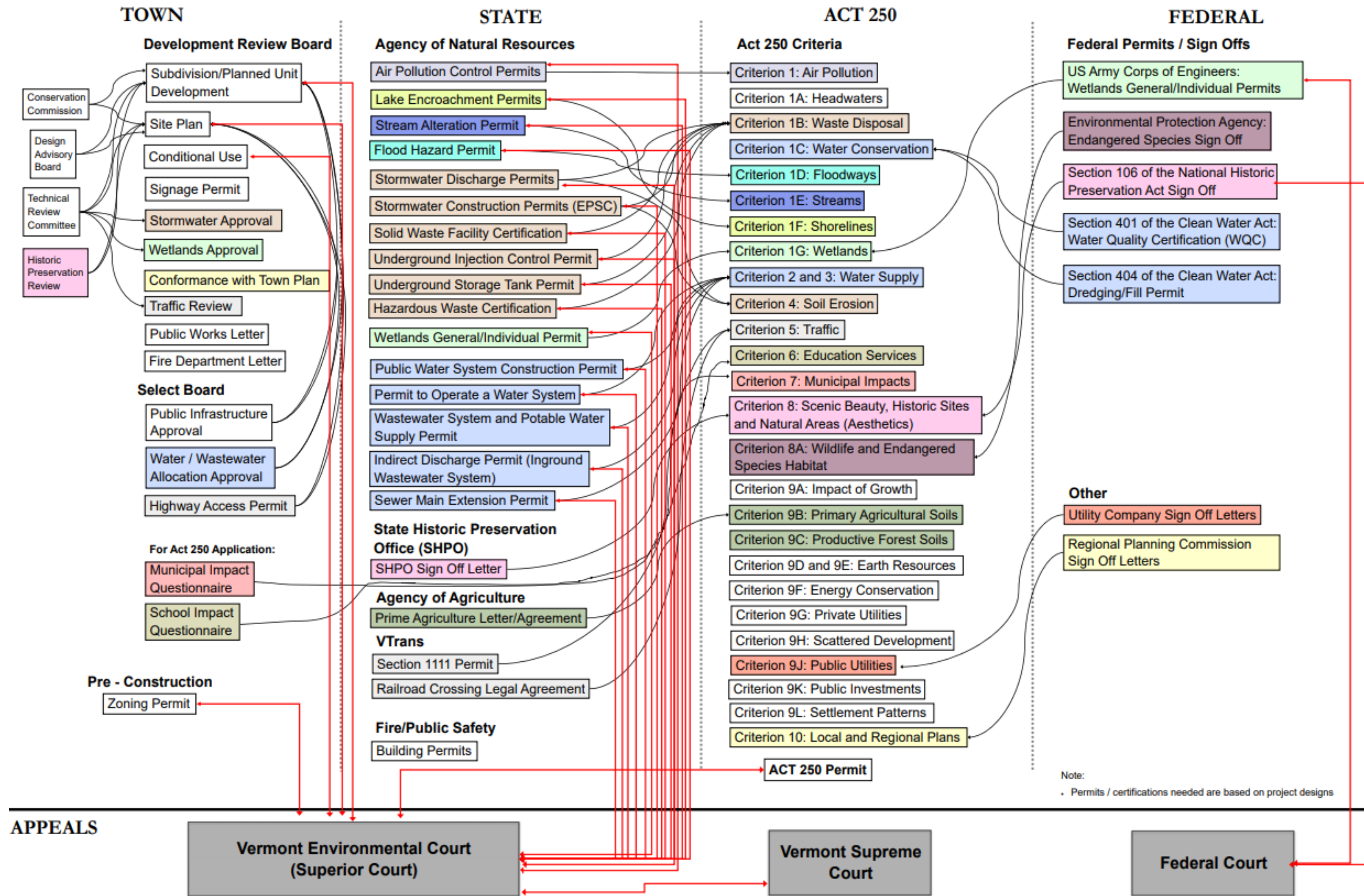
- VLCT priorities - end duplicative permitting and appeals, build more housing
- Act 181 implementation process so far
- Road Rule and Tier 3 Draft Rule
- Where is Tier 2?
- Where do we go from here



Of the 251 municipalities represented by VLCT:

- 73% have a population under 2,500, and most of these municipalities are governed by volunteers.
- 200 Municipalities with an adopted Municipal Plan
- 142 “10 Acre Towns” with adopted Zoning and Bylaw
- 43 Municipalities operate water and sewer

Project Permitting Flowchart



What is in a Tier?

Act 181 creates location-based jurisdiction of Act 250. Rather than applying jurisdiction only based on the scale of a planned project, Act 250 can be triggered (or exempted) based on the location of a project.

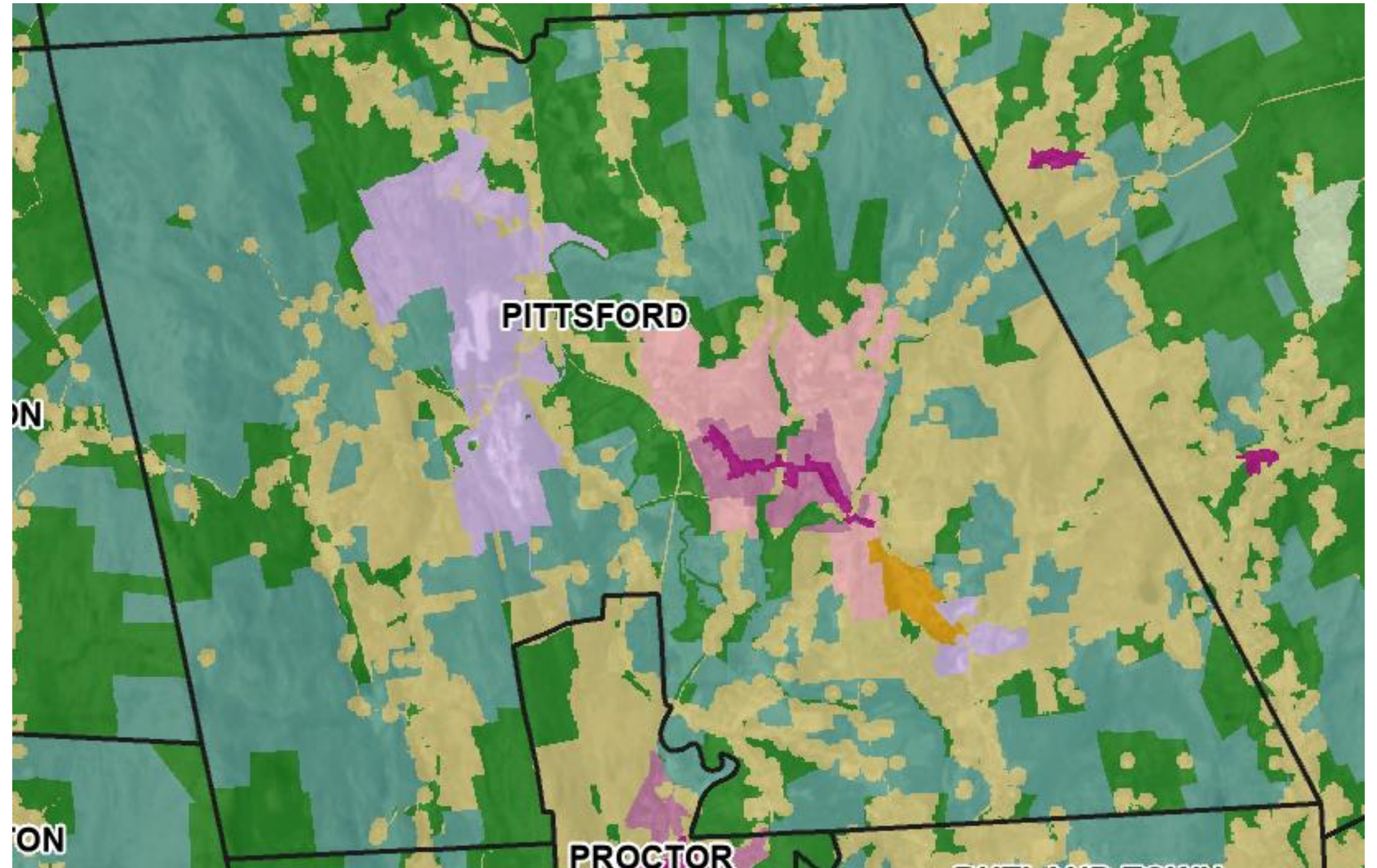
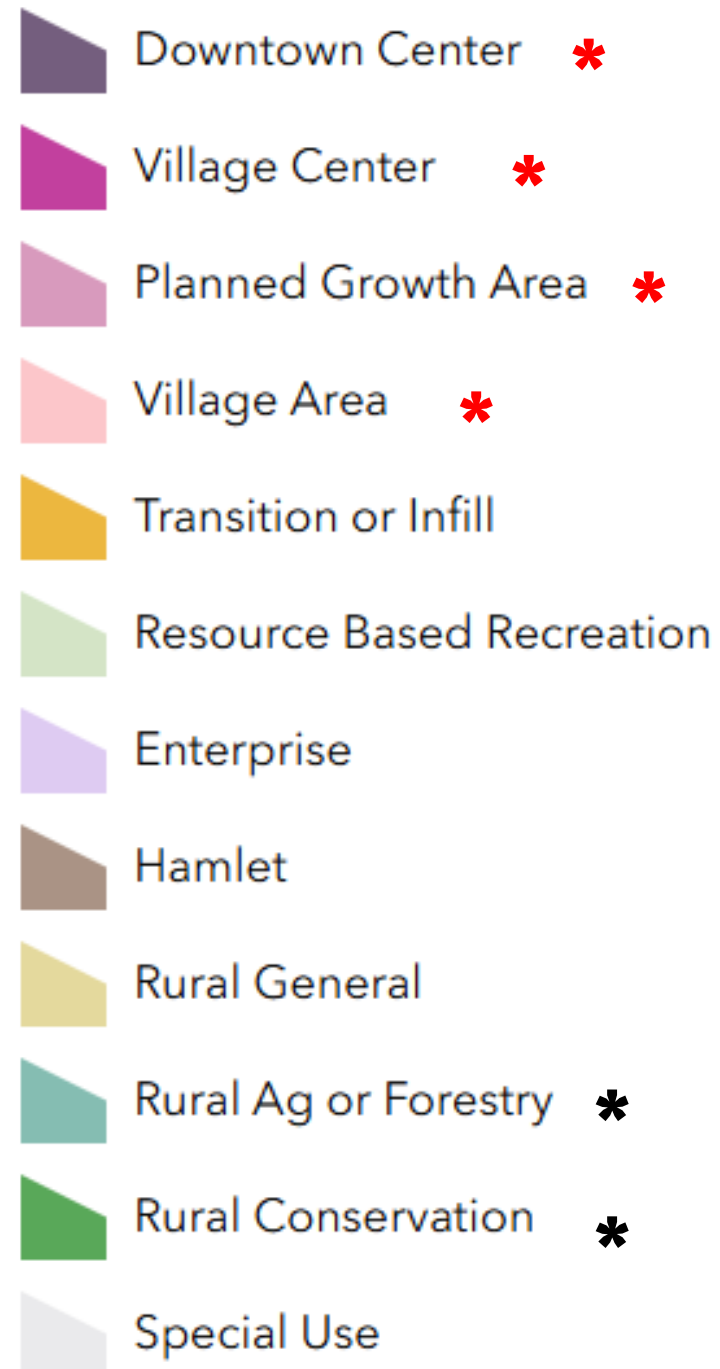
- Tier 1a: Total Act 250 exemption
- Tier 1b: Partial Act 250 exemption, housing developments of 50 or fewer units exempt
- Tier 2: Act 250 applies as prior to Act 181
- Tier 3: New, enhanced protection for natural resources, any "development" may require Act 250 permit review subject to final rules determined by LURB
- Road Rule: Act 250 permit review required for all development 800ft or more from an existing road, or 2,000 ft of combined road and driveway (regardless of Tier)

Tier 1 is mapped by RPCs and approved by the LURB, and Tier 3 is mapped per the LURB rule. Per Act 181, the process for determining location based jurisdiction is not deferential to citizen led, municipal planning processes.

Draft Regional Future Land Use Mapping Example: Pittsford

- Eligible for Act 250 exemption in Tier 1B or 1B if other statutory criteria are satisfied

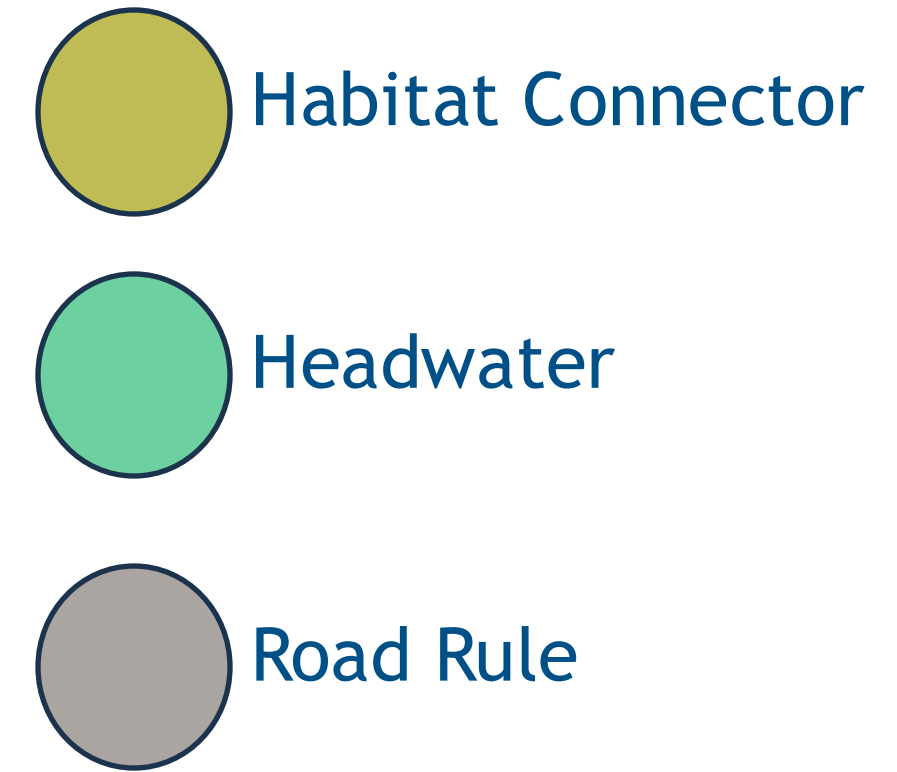
Future Land Use Areas



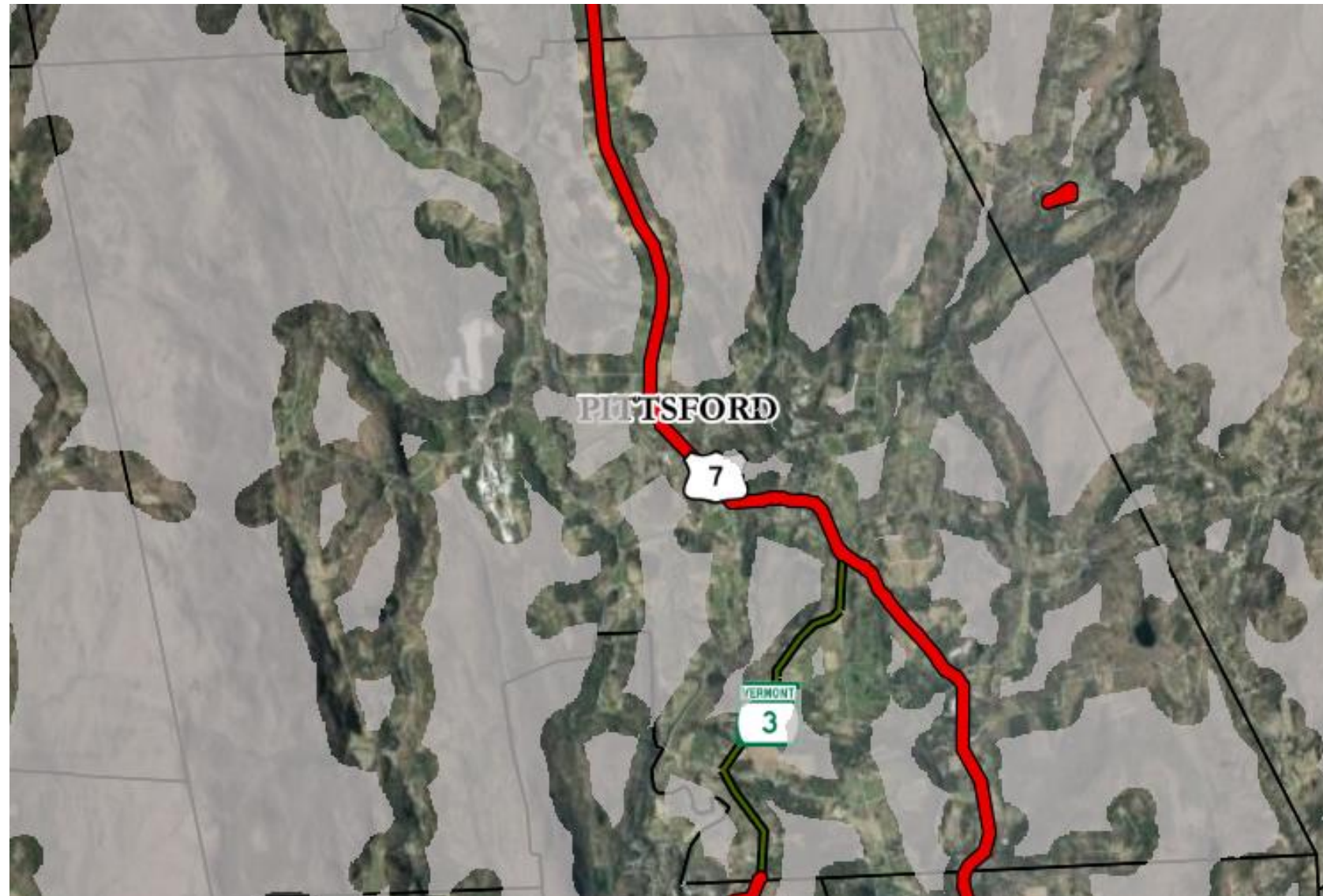
Road Rule + Tier 3 example: Sugar Hollow Road, Pittsford

The road rule: applies Act 250 to existing forest blocks and encourages new development to happen within 800 feet of an existing road.

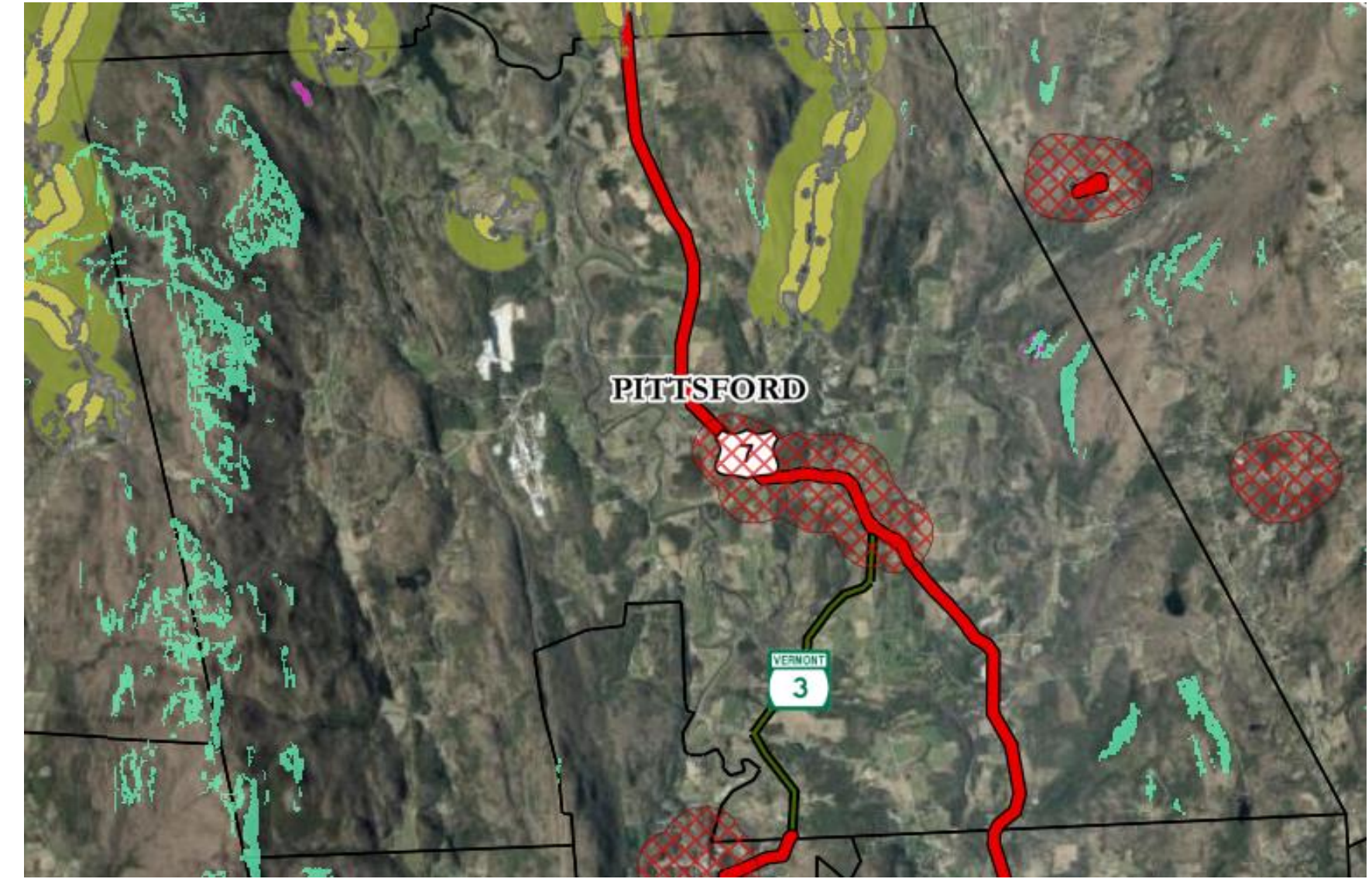
Tier 3: includes “habitat connectors”, new areas around roads where the majority of land on both sides has tree canopy and is considered a high priority forest connectivity block (per Vermont Conservation Design). This include significant stretches of state highway and Class 2 roads.






Model Road Rule & Draft Tier 3 Mapped Area Example: Pittsford



"Road Rule" modeled for 800ft from existing roads



-  Significant Natural Community
-  Headwater
-  Habitat Connector

Under these conditions, Tier 2 cannot reasonably meet our needs for rural infill that includes all housing types. Act 181 as passed would not support historic settlement patterns.

Tier 2 is not Act 250 as usual.

Balancing Location Based Jurisdiction - Total Areas Statewide

Tier 1: 2.1%

- Ranges .5% - 11% per county
- Not every municipality
- About 80% uptake rate for 1B

Tier 3 Draft: 4.5 - 8.8%

- Tier 3: 263,000 - 521,000 acres
- Habitat connectors: 380,000 acres - 20,000 parcels
- Mostly on state highway, class 1 & 2 town roads



Total Act 250 Jurisdictional Area for Elevation, Tier 3, Road Rule would be 60.20% of Vermont land area, or 3,545,151 acres, per analysis performed by Vermont Center for Geographic Information on 3/16/2026'

Where do we go
from here?

Better planning for location-based jurisdiction

1. How should citizen led, municipal planning processes and broader community input be utilized?
2. Where does Act 250 review provide a public good? Where is it duplicative or burdensome? (Places: Downtowns, Villages; Things: utilities, wastewater; Goals: Density, infill, proximity)
3. Where can Act 250 relief promote smart growth and support local plans for growth?
4. What is a suitable scale of development to receive Act 250 review? Should there be a statutory gaurdrail for deminimus construction?
5. How can Act 250 be improved to reduce subjective review, and to improve predictability?

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Questions???



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References and Resources



Links and Resources, Municipal Planning & Zoning

- [Municipal Charters](#)
- [Title 24 Chapter 117: Municipal Planning and Development](#)
- [Municipal Plans and Bylaws Database](#)
- [TROC Town Plan Adoption and Manual](#)
- [Essentials of Local Land Use Planning and Regulation Handbook](#)
- [10 Acre Towns List](#)
- [10 Acre Town Check List](#) (required zoning bylaws)



Links and Resources, Act 181

- [Future land use map viewer](#)
- [Regional Planning Commission Application Guidelines, LURB](#)
- [Tier 1a guidelines](#)
- [Tier 3 draft rule 2.1](#)
- [Tier 3 map viewer](#)
- [VLCT webinar, Road Rule & Tier 3 \(recorded\)](#)
- [Key Takeaways from Act 181, VLCT 10/2024](#)
- [Act 181 Implementation, LURB - 01/2026](#)
- [Act 181 FLU area descriptions, CCRPC](#)
- [FLU Methodology and Process, RPCs](#)
- [Summary of Act 181 & HOME Act Housing Targets, 3 pager, CCRPC](#)



LURB responses, Regional Map Process and Tier 1 Status Approval

- Rutland: [Draft RRPC Response Letter November 19, 2025 | Act 250](#)
- Chittenden: [Draft Chittenden County Regional Planning Commission Preapplication Response Letter | Act 250](#)
- North West: [Draft Northwest Regional Planning Commission Preapplication Response Letter RPC08-0001 as of 12/10/25 | Act 250](#)



What type of development will be subject to Act 250 review?

Act 181 grants the authority for, and directs, the LURB to determine what type of development will be subject to review in the new Tier 3 jurisdictional areas. The final rule could extend jurisdiction to include:

- Improvements to existing homes & structures: The current draft exempts only construction with a total footprint under 200 sq ft or within 50 ft of an existing structure.
- Construction of new wastewater treatment and drinking water systems.
- New homes & structures: regardless of size or density (not 5-5-10 rule)
- Roads, driveways, and utilities: The current draft exempts only construction or improvements for transportation and utility purposes that are entirely within 50 ft in any direction of roads.
- Trails: The current draft exempts only new trails less than 100 feet in length, or maintenance of an existing trail within 10 feet.

Statutory Standards for Tier1A area:

1. A municipal plan (200 adopted)
2. Boundaries are consistent with FLUs (RPC/LURB approval & adoption)
3. Have adopted permanent zoning & bylaw (142 adopted)
4. Adopted flood hazard and river corridor bylaws consistent with or stronger than statute
5. Have permanent land development regulations that further smart growth principles
6. Area must be compatible with the character of adjacent National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resources
7. Identified and planned for the maintenance of significant natural communities, rare, threatened, and endangered species
8. Public water and wastewater systems have the capacity to support development (43 municipalities operate water & sewer)
9. Demonstrate staff adequate to support capital planning, development review, and zoning administration.

[10 V.S.A. § 6034](#)

Statutory Standards for Tier 1B area per 10 V.S.A. § 6033(c) :

10 V.S.A. 6033(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.

*V.S.A. § 4348a(a)(12)(C): Elements of a regional plan; Village areas

How does a municipality create an Act 250 exempt area?

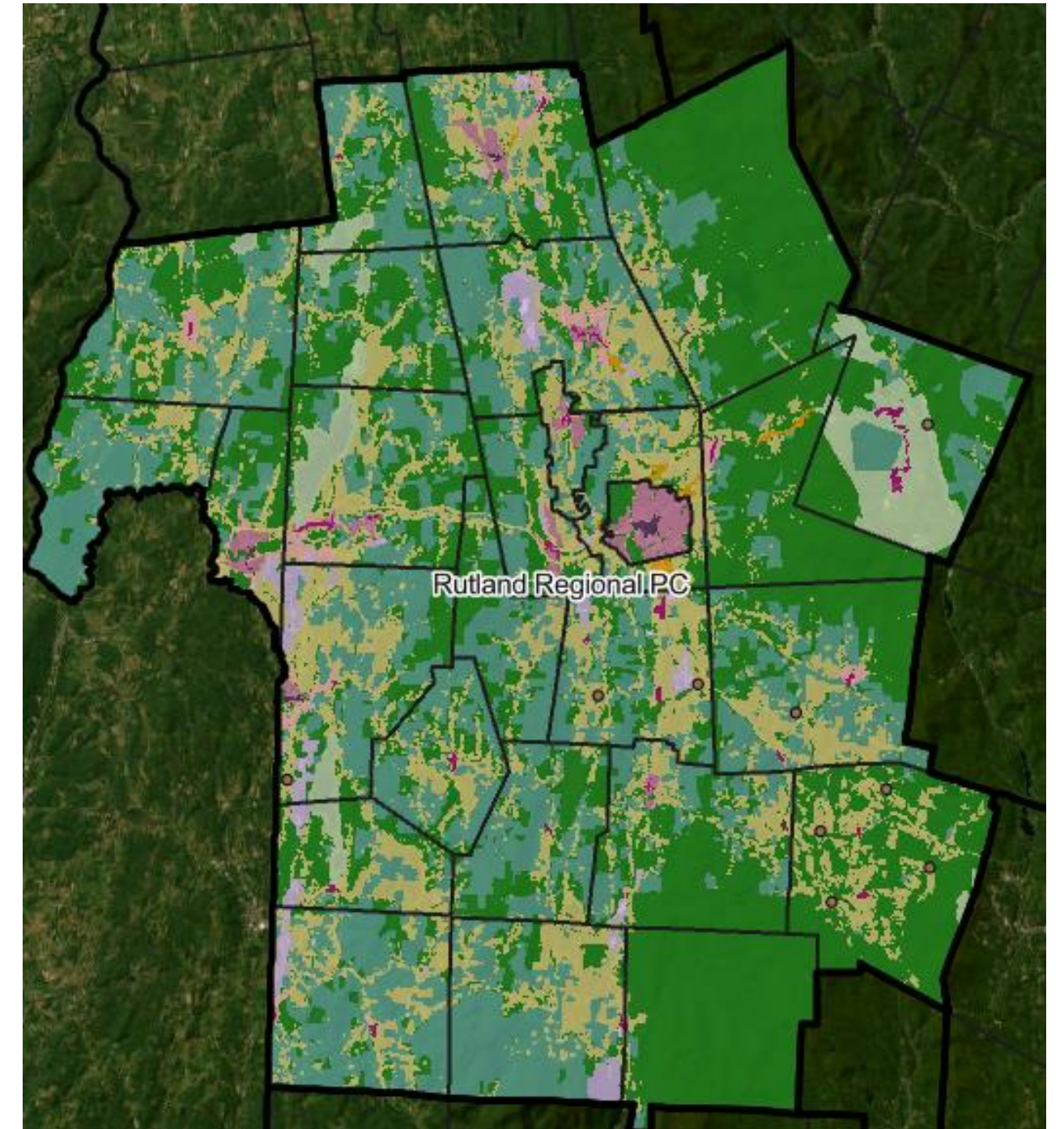
The creation of a Tier 1a is not a municipal authority. A municipality must navigate months or years of local, regional, and state processes that accommodate broad public input and numerous actions of the municipal legislative body.

1. Tier 1a & Tier 1b eligible areas (FLUs) are determined by adopted and approved regional plans
 - RPC's draft maps according statutory requirements and shared methodology
 - RPC's conduct local engagement and receive municipal input
 - RPC's submit regional plans to LURB
2. Land Use Review Board (LURB) reviews and approves Regional Maps
 - 60-day pre-application period with statutory notice requirements (includes AAFM)
 - Pre-application may include request for Tier1b status, RPC must submit a resolution from each municipality's legislative body
 - Public hearing
 - LURB decision within 15 days of hearing
3. RPC holds public hearing and adopts the regional plan
4. Final action by the LURB to affirm or deny the regional plan, Tier 1bs are created

How does a municipality create an Act 250 exempt area?

(continued)

5. Municipal process to authorize Tier 1a application
6. Following the affirmative decision by the LURB and adoption of the regional plan, a municipality may apply to the LURB for Tier1a
7. Pre-application period
 - Statutory and additional notice requirements (includes AAFM)
 - Public comment period
 - Review by a member of the board for compliance with statutory requirements
8. LURB holds public hearing
9. LURB deliberates and affirms or denies the Tier 1a area
10. If affirmed, LURB performs a check-in every 4 years and a review of status every 8 years. Additional Tier 1a areas require re-application



Who creates and administers municipal regulatory systems?

1. Advisory Body: Often, the municipal plan and new bylaw processes begin with a citizen advisory committee such as the Planning Commission. Some communities have additional advisory bodies such as Electric or Energy Commissions or Housing Committees.
2. Legislative Body: The City Council, Selectboard, Board of Alderman, or Board of Trustees. The legislative function involves not only drafting and approval of the municipal plan, bylaws, and ordinance but also conducting public hearings. Actions of the legislative body are governed by numerous laws that ensure public access and transparency including Ethics Law, Public Records Law, and Open Meeting Law.
3. Appropriate Municipal Panel: A citizen layboard that serves a quasi-judicial role to interpret local law and serve as the local appellate body, such as the Design and Review Board or Zoning Board.
1. Administrator: Typically, a municipal staff person responsible for permitting, enforcement, inspection, and educating and assisting applicants. Most often this would be a Zoning Administrator, but could be a permit specialist, technician, or compliance officer.



Writing the Rules

Zoning Bylaws may be created to enforce the municipal plan within the authorities prescribed by state law.

- The Municipal Plan: is developed through a citizen led process, adopted by the legislative body, shared with statutory parties, and then must be approved by the RPC and DHCD. Each action of a local body and subsequent amendments require a public hearing. The Plan must contain 12 elements required by state law.
- Zoning and Bylaw: Many state preemptions exist to limit bylaw authority. Some charters require additional process. For substantial zoning changes additional outreach, long drafting and periods of deliberation, research, feasibility study, assessing infrastructure capacity, joint hearings, etc. are typical
- At a minimum, to adopt or amend a bylaw the appropriate municipal panel must:
 - Publish a public report, consistent with municipal plan
 - Hold a public hearing
 - 15-day notice period and statutory notices

