

# ACT 250 BRIEF INTRO

## 10 VSA CHAPTER 151

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# ACT 250 BRIEF INTRO

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 and within any continuous period of five years.
- 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**

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

**“Subdivision”** is defined as:

- A tract or tracts of land, owned or controlled by a person, that the person has partitioned or divided for the purpose of resale into 10 or more lots within a radius of five miles of any point on any lot, or within the jurisdictional area of the same District Commission, within any continuous period of five years. In determining the number of lots, a lot shall be counted if any portion is within five miles or within the jurisdictional area of the same District Commission.
- A tract or tracts of land, owned or controlled by a person, that the person has partitioned or divided for the purpose of resale into six or more lots, within a continuous period of five years, in a municipality that does not have duly adopted permanent zoning and subdivision bylaws.
- The sale, by public auction, of any interest in a tract or tracts of land, owned or controlled by a person, that have been partitioned or divided for the purpose of resale into five or more lots within a radius of five miles and within any period of 10 years.

# IS AN ACT 250 PERMIT REQUIRED?

(THIS IS A BRIEF & INCOMPLETE ANALYSIS FOR ILLUSTRATIVE PURPOSES)

- What is the purpose of the development: is it for a commercial purpose or a governmental purpose (including a municipal, county, State, or public purpose)?
- If it is for a commercial purpose, does the town in which it is located have permanent zoning and subdivision bylaws (is it a 1-acre town or a 10-acre town)?
- If the commercial project is in a 1-acre town, is more than 1 acre of land involved? If in a 10-acre town, are 10 or more acres of land involved?
- For a commercial project “involved land” includes the whole tract of land, so is the tract or tracts of land 10 acres or larger in a 10-acre town? Or larger than 1 acre in a 1-acre town?
- If an Act 250 permit is required, the applicant must demonstrate that the project will comply with the 10 criteria of Act 250.

# ACT 250 CRITERIA

- Criterion 1- undue water or air pollution
  - (A) Headwaters
  - (B) Waste disposal- wastewater and stormwater
  - (C) Water Conservation
  - (D) Flood Hazard Areas; River Corridors
  - (E) Streams
  - (F) Shorelines
  - (G) Wetlands
- Criterion 2- sufficient water
- Criterion 3- undue burden on existing water supply
- Criterion 4- unreasonable soil erosion (capacity of land to hold water)
- Criterion 5- unreasonable congestion/unsafe condition traffic/highways
- Criterion 6- unreasonable burden on educational facilities
- Criterion 7- unreasonable burden on governmental services
- Criterion 8- undue adverse effect on aesthetics:
  - (A) scenic natural beauty, historic sites, natural sites, rare and irreplaceable natural areas
  - (B) necessary wildlife habitat or endangered species
  - **(C) forest blocks and habitat connectors**
- Criterion 9- in conformance with Capability and Development Plan and land use plan
  - (A) impact of growth
  - (B) Primary ag soils
  - (C) Productive forest soils
  - (D) Earth resources
  - (E) Extraction of earth resources
  - (F) Energy Conservation
  - (G) Private utility services
  - (H) Costs of scattered development
  - (J) Public utility services
  - (K) public investments
  - (L) Settlement patterns
- Criterion 10- in conformance with local or regional plan

## ACT 250 PERMIT PROCESS

- Jurisdictional opinions- any person can request
- Submit application to one of 9 District Offices
- District Commissions- 3 members + alternates; District Coordinator
- Most applications don't have a hearing (=minor application or administrative amendment)
- If there is a hearing, only a person with a particularized interest may join the case as a party
- District Commission may approve, deny, or approve with conditions
- Only parties may appeal; Environmental Division of the Superior Court; Supreme Court