

Where Act 250 Stands And What To Expect Next

white + burke
VERMONT
DEVELOPMENT
CONFERENCE









Central Political Points About Act 181 (H. 687)

- It's Not a Housing Act, It's a Land Conservation Act Pretending to be a Housing Act
 - This was a deliberate attempt to stymie more ambitious housing and land-use reform.
- It does a ton to restrict development in Tiers 2 and 3 and does comparatively little to constrain local NIMBYs in Tiers 1A and 1B.
- The principle behind it is sound; the details are the problem.

Purpose

- Review H. 687 (Act 181)
- Summarize Interim Exemptions in Act 181
- Outline Action Items

H. 687 (Act 181)

- Divides Vermont Into 4 Tiers (1A, 1B, 2, and 3)
- Establishes a new Land Use Review Board to replace the Natural Resources Board
- Sets up Interim Exemptions
- Establishes processes for municipalities to apply for Tier 1A and Tier 1B status.



Tier 3- Don't Build Anything

- This land is being set aside for conservation.
- A lot of the details are to be determined later.
- It will likely, in effect, make it all but illegal to put a shovel in the ground.



Tier 2

- Biggest change is the new road rule.
- Any single road more than 800 feet or combination of roads more than 2000 feet triggers Act 250 jurisdiction.
- Designed to kill neighborhoods outside Tiers 1A and 1B.



Tier 1B Requirements

- The municipality has requested to have the area mapped for Tier 1B
- The municipality has a confirmed municipal planning process
- The municipality has adopted permanent zoning and subdivision bylaws
- The area excludes identified flood hazard and fluvial erosion areas (with some exceptions)
- The municipality has water supply, wastewater infrastructure, or soils that can accommodate a community system for compact housing development
- The municipality has adequate capacity to support development review and zoning administration

Tier 1B- Interim Exemptions

- Slightly less stringent requirements than Tier 1A
- 50 units or less on less than 10 acres
- Requested by the Regional Planning Commissions

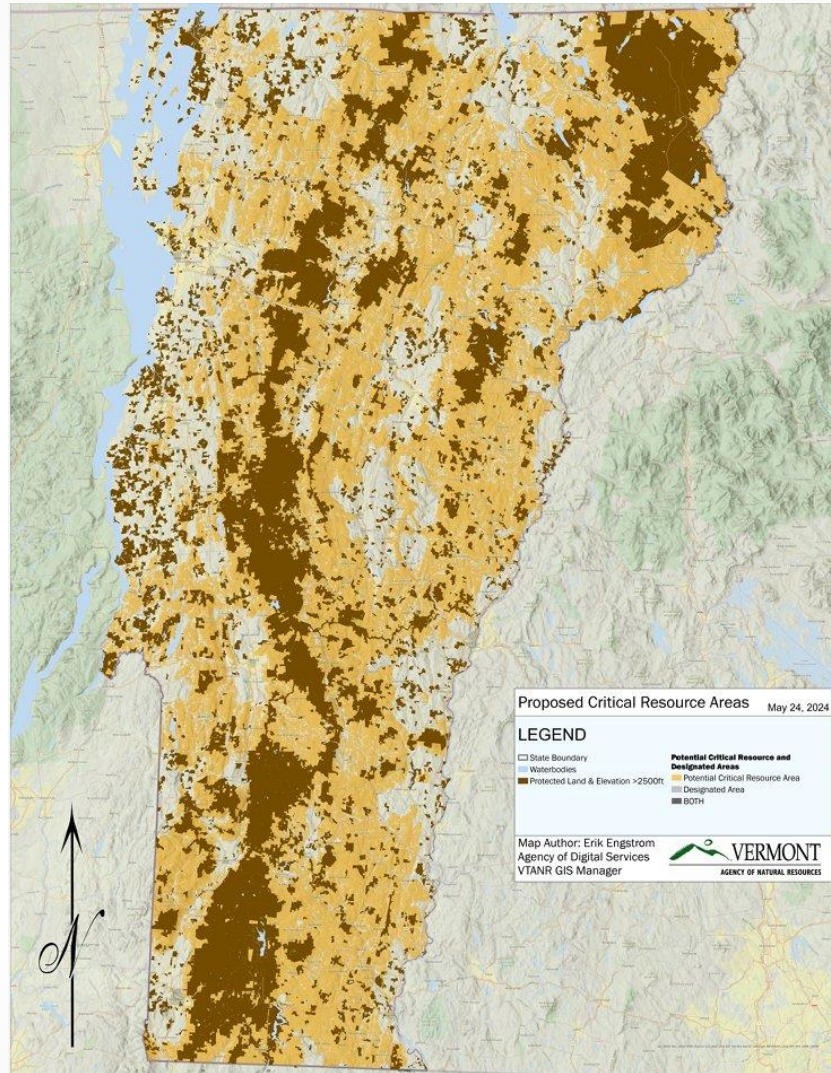


Tier 1A Requirements

- A municipal plan approved in accordance with 24 V.S.A. § 4350
- Boundaries consistent with downtown or village centers and planned growth areas in an approved regional plan
- Adoption of flood hazard and river corridor bylaws
- Permanent zoning and subdivision bylaws
- Land development regulations that further smart growth principles
- Public water and wastewater systems or planned improvements
- Adequate municipal staff to support development review and zoning administration

Tier 1A- Interim Exemptions

- Most stringent requirements, most exemptions
- Municipalities apply for this one
 - But they can easily get shot down (Montpelier's was denied)
- Exempts fully from Act 250
- Does very little to override local NIMBYs



Statewide Pre-Emptions

- Duplexes everywhere
- Quadplexes where there's sewer and water
- Some affordable housing bonuses
- Hasn't (in my view) done enough to constrain NIMBYs ability to short-circuit that

Landmark Legislation

Major Modernization of Existing Framework

Immediate

**Interim Act 250 Exemptions for Housing
Municipal Bylaw Pre-Emptions for Housing**

Next Up

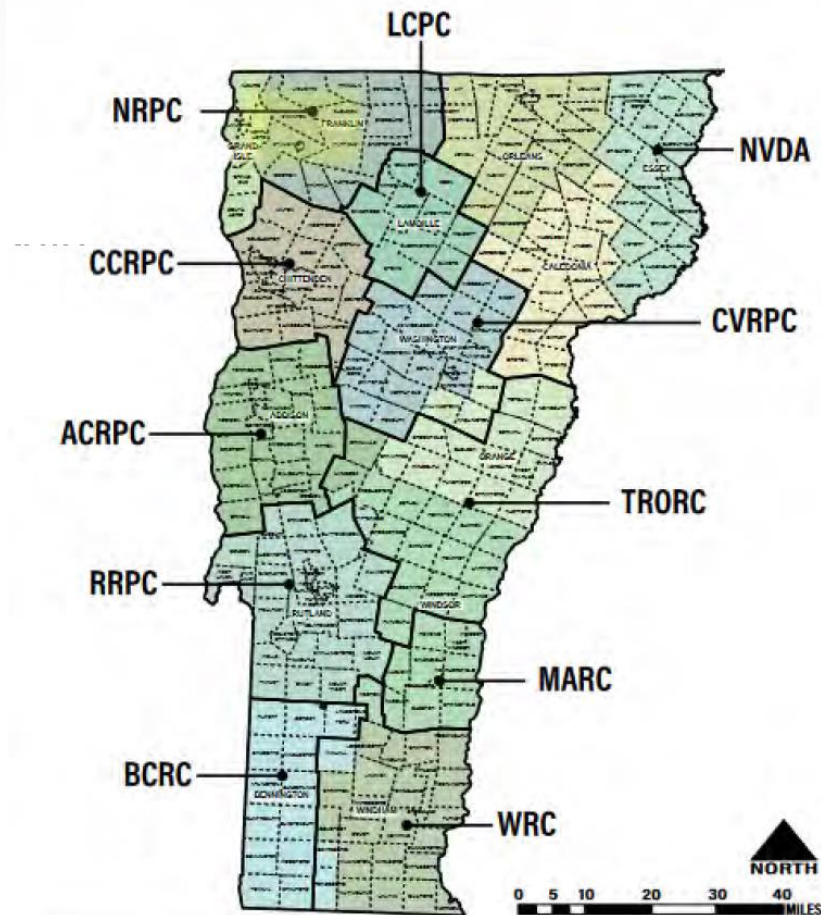
**Consistent Regional Planning
State Land Use Review Board Approval of Plans**

Then

**New Designations & Community Investment Board
Municipal Plan Amendments
New Act 250 Location-Based Jurisdiction
 New Exemptions for Centers (Tier 1)
 Maintained Jurisdiction + Road Rule (Tier 2)
 New Critical Resource Jurisdiction (Tier 3)**

Further Out

**Improved Designation Technical Assistance/Investment
Improved Planning Data Center
Regional Governance Studies**



STATE OF VERMONT
REGIONAL PLANNING COMMISSIONS

Approval Body

New State Land Use Review Board

- 5 full-time positions, including a chair
- No members residing in the same county
- Membership shall reflect diversity of the state
- Expertise in environmental science; land use law; policy, planning and development, and commitment to environmental justice
- Produce guidelines and rules
- Review and approve regional plans
- Review and approve municipal applications for exempt areas
- Oversee administration of the program
- Appeals of Act 250 permit and jurisdictional opinion decisions continue to be heard by the Environmental Division of the Superior Court, but subject to a future study

Timelines

- Replaces the Natural Resources Board on **January 1, 2025**
- Regional plans must be adopted by **December 2026**

Action Items

- Municipalities in Tier 1 A
- RCPs in Tier 1 B
- Fight the road rule in Tier 2
- Resist Tier 3 expansion unless there's good-faith compromise on the above issues.
- Try to get as much land as possible in Tiers 1 A and 1 B, and relax requirements in Tier 2.
- Elections Results May Create a Political Opening

QUESTIONS?

SPEAKER

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