

## H.687 Summary | As passed by the Vermont Legislature

Last Updated June 5, 2024 by Vermont Natural Resources Council

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**CONTEXT** - The General Assembly has worked to modernize Act 250 for the last seven years starting with the comprehensive Report of the Commission on Act 250: The Next 50 Years. Since that report, the House passed several comprehensive Act 250 bills, but they were vetoed (H.926 in 2020 and S.234 in 2022). Building on these bills, and countless legislative studies on Act 250 topics, several working groups convened in 2023 to discuss improvements to Act 250 and statewide land use planning, including how to:

- o Reform the Natural Resources Board (NRB) and shift to location-based Act 250 jurisdiction;
- o Modernize the State Designation Program, the role of the Agency of Commerce and Community Development (ACCD) incentive programs for municipalities, and the Regional Planning Commission “Future Land Use” mapping; and
- o Whether/how to allow municipalities to self-administer the Act 250 process.

The recommendations from these stakeholder processes, including the NRB’s consensus [Necessary Updates to the Act 250 Program Report](#), were incorporated in [H.687](#), *An act relating to community resilience and biodiversity protection through land use*. The final act, as passed by the Legislature, includes the following policies, updates, and funding opportunities.

### **ACT 250 POLICIES**

**LOCATION-BASED JURISDICTION** | H.687 changes Act 250 jurisdiction to be based on locational “tiers”, and where appropriate, aligned with regional land use maps. The tiered approach will streamline environmental review and promote housing in well-planned smart growth areas, while reducing harm to critical natural resource areas and working lands. Local and regional planning that determines where and how Vermont should grow will now more effectively inform Act 250 jurisdiction.

#### Tier 1A

- Municipalities will identify areas based on regional land use maps and apply for 1A status through the new professionalized **Land Use Review Board (LURB)**. Applications may be submitted starting January 1, 2026.
- **Act 250 Exemption:** No Act 250 permits will be required for residential, commercial or industrial development in these areas.
- **Requirements:** Tier 1A areas must have municipal planning; public water/sewer infrastructure, or planned improvements for compact development; flood hazard and river corridor bylaws (or exclusion of those areas, with exception); planning & land use bylaws that support growth in/around compact centers; staff to support planning, development review & zoning; planning for the protection of significant natural communities, rare, threatened, and endangered species; and compatibility with the historic, cultural and natural resources of the area.

#### Tier 1B

- Regional Planning Commissions and municipalities will identify 1B areas; Tier 1B areas will be designated as such upon review and adoption of the RPC future land use maps.
- **Act 250 Exemption:** No Act 250 permits required for the construction of projects with 50 or fewer housing units located on 10 acres or less in these areas.
- **Requirements:** Tier 1B areas must have municipal planning; public water/sewer infrastructure, or adequate soils for compact development; land use bylaws; flood hazard and river corridor bylaws (or exclusion of those areas, with exception); and staff, including contracted capacity, to support development review & zoning.

## Tier 2

- The lands outside of Tier 1 areas would consist of most of our state and are characterized by natural resource areas, working farms and forests, and low-density development areas.
- Act 250 jurisdiction would remain the same, with the exception of a new **road rule** to replace an older version. The new road rule incentivizes clustered site design, and would serve as a backstop to review long roads that have a high potential to fragment intact natural resource areas. The rule triggers Act 250 review for the construction of a single private road longer than 800 feet, or a network of combined roads and driveways greater than 2,000 feet - approximately 4/10 of a mile long. A rulemaking process would provide clarity on how the road rule should be applied and how roads and driveways will be defined.

## Tier 3

- Tier 3 would include the state's most **critical natural resource areas** where Act 250 jurisdiction, or some level of protection, is warranted based on the sensitivity of these resources. H.687 identifies certain areas that should be considered for designation - including river corridors, headwater streams, habitat connectors of statewide significance, riparian areas, pristine waters, and certain natural communities - but leaves the selection of such areas to a multi-year rulemaking and stakeholder engagement process led by the LURB and Agency of Natural Resources.
- Tier 3 designation in any selected areas would not preclude development, it would merely require Act 250 review. The rulemaking process, however, will determine if other programs or permitting processes are more appropriate to protect the resource area.

## WORKING LANDS | Provides support for working lands businesses including:

- Accessory on Farm Businesses: Under the bill, a farm would be able to sell and/or process farm products from other farms, and construct structures or improvements to the property for such purposes, without having to obtain an Act 250 permit.
- Wood Products Manufacturing Facilities: The mitigation fee for impacting primary agricultural soils would be reduced to the same ratio as for industrial parks. In addition, a stakeholder group would study ways to find efficiencies in the permitting process.

## PERMANENT AND INTERIM HOUSING EXEMPTIONS | Provides Act 250 exemptions for:

- The conversion of hotels or motels to permanently affordable housing.

### Until January 1, 2027:

- Any Priority Housing Project (PHP) within an ½ mile around a designated downtown, neighborhood development area (NDA) or growth center<sup>1</sup>;
- Any housing project with 75 or fewer units of housing on <10 acre lots in designated NDAs, new town centers, or growth centers<sup>1</sup>; and
- Any housing project in designated downtowns<sup>1</sup>.

### Until July 1, 2027:

- Any housing project with >=50 units of housing per project on lots under 10 acres in designated village centers (plus ¼ mile boundary) and in Urbanized Areas with over 50,000 residents and within ¼ mile of a transit route<sup>1</sup>.

### Until July 1, 2028:

- The conversion of commercial development to 29 or fewer units of housing; and

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<sup>1</sup> Must have zoning and subdivision bylaws, served by public water, wastewater or adequate soils, and be located outside river corridors & floodplains (with exception for suitable infill)

- The construction of accessory dwelling units (ADUs) related to single-family use.

**GOVERNANCE** | Reinstates a professional **Land Use Review Board (LURB)** to administer Act 250. This approach is intended to streamline processes, reduce costs, and provide clearer guidance to District Commissions and applicants, ensuring consistency in Act 250 decisions across districts. Professionalizing the NRB will:

- Ensure that LURB members are experts in land use and related fields, and will have the time and qualifications to properly supervise and train Act 250 district staff;
- Improve the administration of the Act 250 program; and
- Create clarity and consistency among the District Commissions.

The Governor will appoint the Board. A nominating committee makes member recommendations, and the Senate confirms. The bill includes a provision to study whether to shift Act 250 appeals to the LURB.

**CRITERIA** | **Modernizes Act 250 to have functional criteria to reduce forest fragmentation and promote proactive site design in forests and habitat connectivity areas.** The criteria would require undue adverse impacts on forest blocks and habitat connectivity areas to be avoided, minimized, or mitigated based on guidance to be developed through a rulemaking and stakeholder engagement process. The Legislature has passed similar legislation on at least two occasions in the past. The language is the result of input from the Agency of Natural Resources, utility companies, ski areas, environmental groups and others, and was a consensus recommendation in the NRB's Necessary Updates to the Act 250 Program Report.

#### **MUNICIPAL & REGIONAL PLANNING AND STATE DESIGNATION PROGRAM**

**FUTURE LAND USE MAPS** | Adds consistency to regional future land use mapping, seeks to equitably build resilience to the effects of climate change, and creates alignment with state regulatory and incentive programs. The new LURB will approve updated regional plans developed by Regional Planning Commissions in accordance with specific statutory guidance and significant public outreach.

**MUNICIPAL ZONING** | Strengthens municipal zoning requirements to encourage the provision of dense housing development, and increases the number of non-neighbor residents needed to appeal a municipal decision from 10 to 20.

**DESIGNATED AREAS UPDATE** | Updates the State Designation Programs to improve municipal access to benefits and technical assistance and increase smart growth investments.

**MUNICIPAL AND REGIONAL PLANNING AND RESILIENCE GRANT PROGRAM** | Allocates funds for planning-related project development and implementation, and hazard mitigation to reduce damages from flooding and other climate-change related hazards, prioritizes funding for municipalities without zoning and subdivision bylaws, and provides temporary flexibility for municipalities seeking to apply for funding.

#### **FUNDING**

**PROPERTY TRANSFER TAX** | Sets the property transfer tax rate of 0.5% on the first \$200,000 (was \$100,000) and 1.25% above \$200,000 with subsidized financing exceptions; sets the rate of 3.4% on second homes; and provides exemptions for transfers of mobile homes and of abandoned homes if to be used as a primary residence.

**PROPERTY TAX EXEMPTIONS** | Provides three-year tax exemptions for increases in value due to new construction, improvements, or rehabilitation of housing in flood-impacted communities.

## **OTHER POLICIES**

Amends and makes appropriations for existing housing programs including affordable housing, first-generation homebuyers, rental housing stabilization services and assistance, and mobile home park infrastructure; makes changes to rental data collection and protection; makes appropriations for rental housing improvements; requires Division of Fire Safety to provide guidance on health & safety rules to short-term rentals; requires flood risk disclosure for rentals and mobile home sales and lot leases; adjusts obligations for an environmental justice community engagement plan; requires multiple reports, including a study on land banking, rent payment reporting, landlord-tenant law, long-term affordable housing, and numerous issues related to Tier 2 implementation including how to address commercial development, mitigation of impacts to primary agricultural soils, improving the effectiveness of Criterion 9(L) in addressing rural sprawl, and continuing to study Act 250 and commercial activities on farms; requires written, science-based procedures for updating and maintaining natural resource maps; provides municipalities with the authority to regulate parking and sets minimum parking space size standards; and requires the development of metrics to assess progress on reaching statewide and regional housing targets.

## **TIMELINE**

**DEADLINES AND EFFECTIVE DATES IN 2024** | Within the next 6 months the following will be due or go into effect:

- August 1, 2024: Property Transfer Tax Rates go into effect.
- December 15, 2024: Affordable Housing Policy Report and the Wood Products Manufacturers Report will be due.
- December 31, 2024: The Vermont Association of Planning and Development Agencies must develop methodology for mapping Tier 1B areas; and the Regional Planning Commission Study Report will be due.

**DEADLINES AND EFFECTIVE DATES IN 2025** | Within the next 18 months the following will be due or go into effect:

- January 1, 2025: The Governor must appoint members of the Land Use Review Board (LURB), and the Tier 3 Working Group must be convened.
- July 1, 2025: The Forest and Habitat Fragmentation Working Group must be convened.
- December 15, 2025: The Transportation Support Study Report will be due.
- December 31, 2025: The Municipal Technical Assistance Report will be due.

**DEADLINES AND EFFECTIVE DATES IN 2026** | Within the next 2.5 years the following will be due or go into effect:

- January 1, 2026: Tier 1A Applications and Approval will begin.
  - LURB shall publish guidelines for applications;
  - LURB must convene a public hearing in the municipality after receiving an application;
  - LURB must issue determination within 45 days of receiving the application;
  - LURB shall check-in on designation status after four years, review after eight years, and every eight years thereafter;
- January 15, 2026: The Act 250 Appeals Study Report will be due.
- February 1, 2026: The Tier 3 Proposed Rules must be filed.
- February 15, 2026: The Tier 2 Area Report will be due.
- June 15, 2026: The Forest and Habitat Fragmentation Proposed Rule must be filed.
- July 1, 2026: The Road Rule will go into effect.

- December 31, 2026: The Forest Blocks and Habitat Connectors Criterion will go into effect; the Regional Planning Commissions must adopt regional plans; and the Existing Designation Benefits expire if regional plans are not approved.

DEADLINES AND EFFECTIVE DATES IN 2027 | Within the next 3.5 years the following will be due or go into effect:

- January 1, 2027: Interim Act 250 exemptions will expire for:
  - Priority Housing Projects (PHP) within an ½ mile around a designated downtown, neighborhood development area or growth center, with no limit on the number of units;
  - Housing cooperatives, condominiums, dwellings, or mobile home parks with 75 units or fewer located entirely within the areas of a designated new town center, a designated growth center, or a designated neighborhood development area with adequate water and sewer infrastructure;
  - Any housing project in designated downtowns outside floodplains.
- July 1, 2027: The interim Act 250 exemption will expire for any housing project with 50 or fewer units of housing per project on lots under 10 acres in village centers with zoning and subdivision bylaws (plus ¼ mile boundary), and in urbanized areas with over 50,000 residents and within ¼ mile of a transit route; and priority for municipalities without zoning and subdivision bylaws to receive funding will expire.
- December 31, 2027: No new applications for three-year exemptions from property tax can be submitted.

DEADLINES AND EFFECTIVE DATES IN 2028 | Within the next 4 years the following will be due or go into effect:

- July 1, 2028: Interim Act 250 exemptions will expire for:
  - Accessory Dwelling Units (ADUs) related to single-family use; and
  - The conversion of commercial development to 29 or fewer units of housing.

DEADLINES AND EFFECTIVE DATES IN 2029 | Within the next 5.5 years the following will be due or go into effect:

- February 1, 2029: The Location-Based Jurisdiction Review Report will be due.

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