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**MAY 2025 DRAFT TIER 1A FRAMEWORK**

Act 181 of the 2024 Vermont Legislative Session created a framework for location-based jurisdiction for Act 250: Vermont's statewide land use permitting. Over the course of 2025 and 2026, regional planning commissions (RPCs) will develop future land use maps that will be submitted as part of their regional plans to be affirmed by the Vermont Land Use Review Board (LURB). Areas designated on approved Future Land Use Maps as Downtown Centers, Village Centers, Planned Growth Areas, and Village Areas will be conferred benefits from the Community Investment Board and will be eligible for Tier 1B designation that provides Act 250 exemptions for housing projects of 50 or fewer units on ten acres or less.

Municipalities may choose to opt-in for Tier 1B as part of the regional plan approval process or separately at a later time. Municipalities with affirmed Future Land Use Maps with areas designated as Downtown Centers, Village Centers, and/or Planned Growth Areas may apply for Tier 1A designation from the Land Use Review Board for greater Act 250 exemptions. Municipalities may apply for Tier 1A and skip Tier 1B altogether or upgrade a Tier 1B designation.

Tier 1A designated areas are exempt from Act 250 permitting. This includes private as well as public development. Any Existing Act 250 permit conditions will stay intact and be enforced by municipalities in Tier 1A areas. Title 10 of Vermont Statutes Annotated, Section 6034, provides the criteria for LURB to consider Tier 1A applications. The Board is developing specific guidance on the process as well as applications and necessary forms in advance of the January 1, 2026 start for Tier 1A applications. The following is a synopsis of how the Board envisions the Tier 1A designation application and review process. This is not a final proposal and is still being developed by the Board. A final version of the guidance will be put forward in July for the Board's approval.

**Tier 1A Process:** Municipalities may apply for Tier 1A status after their regional plan is affirmed by LURB by submitting an application to the LURB. The application will be developed using the criteria detailed in this memo. Tier 1A areas may be areas designated as Downtown Centers, Village Centers, and/or Planned Growth Areas on the regional Future Land Use Map. A municipality applying for noncontiguous areas for Tier 1A shall make separate applications for each.

1. **Pre-application:** Applicants shall have a pre-application meeting with the LURB, municipal staff, and staff of the relevant RPC. It is recommended that applicants solicit preliminary input in advance of the pre-application meeting from their RPC, their regional development corporation, their municipal services (fire, police, and school system), adjacent municipalities and RPCs, VT Community Investment Board, VT Agency of Agriculture, VT Agency of Natural Resources, VTrans, VT Division for Historic Preservation, VT Department of Housing and Community Development, the general public of the municipality, and any business, conservation, low-income advocacy, and community or interest groups within their community.



2. **Application:** Following a pre-application meeting, the municipality may submit an application for Tier 1A status to the LURB. The application should contain sufficient information to show that the criteria in 10 V.S.A. § 6034(b) is met. Once the application is deemed complete, a hearing date will be set.
3. **Notice:** The applicant shall formally notify and solicit comments from the entities listed in paragraph #1. Additionally, 35 days before the hearing, the RPC must post notice on its website and the applicant must provide notice to required parties, post notice, and publish notice of the hearing 30 days and 15 days prior to the hearing. The applicant and RPC shall provide the LURB proof of notice prior to the hearing.
4. **Hearing:** The LURB will hold a hearing in the applicant's community. The LURB may recess the hearing and request supplemental information as necessary.
5. **Decision:** LURB will issue a written decision within 45 days of when the application was deemed complete. If an application is denied, it may be appealed. Affirmed applications may not be appealed and will be in effect the date issued.
6. **Expiration:** Affirmed Tier 1As shall be for a period of eight years with a check-in required with the LURB after four years. Annual compliance reports and/or more frequent check-ins may be required. Corrective action or termination of Tier 1A status may be prescribed by the LURB.

**Tier 1A Application:** The LURB will apply the criteria 10 VSA §6034(b)(1) in the following manner in considering Tier 1A applications:

*(A): A municipal plan that is approved in accordance with 24 V.S.A. §4350.* The applicant shall submit a letter of confirmation from the relevant RPC.

*(B) The boundaries are consistent with downtown or village centers and planned growth areas as defined in 24 V.S.A. §4348(a)(12) in an approved regional future land use map with any minor amendments.* The applicant shall submit a scaled map with north arrow showing the proposed bounds of the Tier 1A area(s) overlaid on the RPC's LURB approved Future Land Use Map areas noting adjacent municipalities and/or regions with orthographic photos underlaying the data and visible through the Land Use layer.

*(C) The municipality has adopted flood hazard and river corridor bylaws, applicable to the entire municipality, that are consistent with or stronger than the standards established pursuant to 10 V.S.A. §§ 755(b)(flood hazard) and 1428(b) (river corridor protection), or the proposed Tier 1A area excludes the flood hazard areas and river corridor.* If the proposed Tier 1A is inclusive of FEMA A zones and/or river corridors, as defined in 10 V.S.A. §1422(12), as delineated by ANR, the applicant shall provide evidence that it has adopted flood hazard bylaws and river corridor bylaws. The



applicant shall also provide a scaled map showing the proposed Tier 1A area in relation to any flood hazard FEMA A zones, river corridors as delineated by VTANR in accordance with 10VSA Section 1422(12). It is recognized the ANR is updating its list of communities with these bylaws. Until this list is completed, any of the following may be submitted by the applicant: 1) the positive listing of the municipality in the Vermont Emergency Relief and Assistance Fund for NFIP and River Corridor Protection; 2) a Vermont Flood Ready Community Report listing the municipality as having adopted flood hazard bylaws and river corridor bylaws; or 3) positive finding that the municipality has flood hazard bylaws and river corridor bylaws by the ANR.

***(D) The municipality has adopted permanent zoning and subdivision bylaws that do not include broad exemptions that exclude significant private or public land development from requiring a municipal land use permit.*** The applicant shall submit copies of its current adopted zoning and subdivision regulations. Any exemptions from municipal land use permits shall be detailed in a separate cover letter. It should be noted that municipal bylaw exemptions required under 24 V.S.A. § 4413 need not be detailed. Bylaws shall not exempt municipal, county, or state projects exceeding 10 acres of land to be physically altered. *Act 250 Rules § 2(C)(5)*.

***(E) The municipality has permanent land development regulations for the Tier 1A area that further the smart growth principles of 24 V.S.A. chapter 76A, adequately regulate the physical form and scale of development, provide reasonable provision for a portion of the areas with sewer and water to allow at least four stories, and conform to the guidelines established by the Board.*** The applicant shall submit a narrative addressing how the municipality's regulations address all of the following within the proposed Tier 1A area:

- (i) Creates a compact settlement oriented toward pedestrian activity including an identifiable neighborhood center, with consistently higher densities than those found in surrounding zoning districts.
- (ii) Provides for a variety of housing types, jobs, shopping, services, and public facilities with residences, shops, workplaces, and public buildings interwoven within the district, all within close proximity.
- (iii) Creates a pattern of interconnecting streets and/or blocks, consistent with historic settlement patterns, that encourages multiple routes from origins to destinations.
- (iv) Provides for a coordinated transportation system with a hierarchy of appropriately designed facilities for pedestrians, bicycles, public transit, and automotive vehicles.
- (v) Provides for natural features and undisturbed areas that are incorporated into the open space of the neighborhood as well as historically compatible squares, greens, landscaped streets, and parks woven into the pattern of the neighborhood.
- (vi) Provides for public buildings, open spaces, and other visual features that act as landmarks, symbols, and focal points for community identity.



(vii) Ensures compatibility of buildings and other improvements as determined by their arrangement, building bulk, form, design, character, and landscaping to establish a livable, harmonious, and diverse environment.

(viii) Provides for public and private buildings that form a consistent, distinct edge, are oriented toward streets, and define the border between the public street space and the private block interior.

(ix) A portion of the Tier 1A shall allow for a minimum of four story buildings with a story being a level of a building with the majority of the floor area occupiable. A story may be a below ground story or a story within the roofline.

***(F) The Tier 1A area is compatible with the character of adjacent National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resources identified by local or State government.*** If the Tier 1A area is shown as adjacent to or including a National Register Historic District, National or State Register Historic Place or significant resource as identified by the municipality or State Historic Preservation Office, the applicant should provide: 1) a scaled map showing the proposed Tier 1A area in relation to National Register Historic Districts or Places and State Register Historic Places; and 2) a narrative noting historic, cultural resources in or adjacent to the proposed Tier 1A area and submit proof of one of the following:

- (i). The municipality designated as a Certified Local Government community;
- (ii). The municipality has adopted a local historic district in accordance with 24 V.S.A. §4414(1)(F);
- (iii). The municipality has adopted a design review district in accordance with 24 V.S.A. §4414(1)(E) or comparable design regulations (including form-based-code) that protects and enhances the historic character of the Tier 1A area; or
- (iv). The applicant has executed a Memorandum of Understanding with the Division of Historic Preservation to provide binding recommendations for development applications seeking to alter significant historic resources.

***(G) The municipality has identified and planned for the maintenance of significant natural communities, rare, threatened, and endangered species located in the Tier 1A area or excluded those areas from the Tier 1A area*** If a proposed Tier 1A area contains a significant natural resource as defined by the Vermont Natural Heritage Rare, Threatened and Endangered Species list and classified as a conservation rank of G1, G2, S1, or S2, or contains a significant natural communities shown on the *Vermont Natural Resources Atlas*, the applicant should submit proof of one of the following:

- (i). A determination from a qualified professional or from the Vermont Department of Fish & Wildlife that the *Vermont Natural Resources Atlas* that Tier 1A area does not include the identified significant natural resource; or
- (ii). A *Natural Resources Atlas Map* depicting mapped RTE species and significant natural community occurrences within and adjacent to the proposed Tier 1A and Municipal bylaws and/or regulations for the Tier 1A and adjacent areas that:



- (a). Ensure no undue adverse impact to rare species or significant natural communities and compliance with State and Federal Threatened and Endangered species law;
- (b.) Require project-specific natural resource inventories and assessments conducted by a qualified professional when occurrences of RTE species and/or significant natural communities are predicted or otherwise known to occur in a project vicinity; and
- (c). For development projects that qualify for 'b', above, provide the Vermont Department of Fish and Wildlife a copy of the application and the opportunity to provide the municipality technical input and expert testimony if the Department believes a proposed development project would have an undue adverse impact on RTE species or significant natural communities.

***(H) Public water and wastewater systems or planned improvements have the capacity to support additional development within the Tier 1A area.*** The applicant shall demonstrate capacity by providing available water and wastewater allocations in the proposed Tier 1A area or planned capacity noting any existing or proposed water /sewer infrastructure in the Tier 1A area, status of any planned improvements noting status of engineering and financing, ownership of infrastructure or planned improvements, and possible timeline to implement. Decentralized infrastructure shall be acceptable improvements. A scaled map shall be provided showing the water and wastewater service area noting any planned improvements in relation to the proposed Tier 1A area and/or onsite sewage disposal soils ratings noting class per the [Onsite Sewage Disposal Ratings \(ONSITE\)](#) dataset available on the Vermont Center for Geographic Information (VCGI) data portal.

***(I) Municipal staff adequate to support coordinated comprehensive and capital planning, development review, and zoning administration in the Tier 1A area.*** The applicant should provide: 1) a municipal resolution approved by the municipal legislative body attesting to having adequate staffing for the Tier 1A area for the duration of the designation; and 2) a narrative noting how the community will staff the Tier 1A noting the availability and qualifications of staff. Annual reports will likely be required of Tier 1A communities noting administration of existing Act 250 permits and development applications.

This framework will be revised as the Land Use Review Board looks to finalize application requirements over the summer of 2025. Comments, questions, or other feedback on Tier 1A are appreciated prior to June 20<sup>th</sup> and may be submitted to Land Use Review Board Member, Sarah Hadd, via email at [sarah.hadd@vermont.gov](mailto:sarah.hadd@vermont.gov) or via letter to 10 Baldwin St., Montpelier, VT 054633-3201.