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The Land Use Review Board's Recommended Tier System Reform Under Act 250

In our report, we summarize the relevant legislation pertaining to *Act 250* and the restructuring of the Natural Resources Board under its new title as the Land Use Review Board. In doing so, we explain the current tier system, proposed adjustments, and how they are applied to specific classifications and mapping of natural resources. In line with the representative's request, we cover the current proposed changes from the Land Use Review Board meetings, to provide coverage up to November of 2025 of the state of transition.

Existing Vermont Law

Act 250 was established to

protect and conserve the environment of the State and to support the achievement of the goals of the Capability and Development Plan, of 24 V.S.A. § 4302(c), and of the conservation vision and goals for the State established in section 2802 of this title, while supporting equitable access to infrastructure, including housing. (Added 2023, No. 181 (Adj. Sess.), § 1, eff. June 17, 2024.)¹

The goals of the Capability and Development Plan are to,

promote the health, safety, order, convenience, prosperity, and welfare of the inhabitants, as well as efficiency and economy in the process of development, including such distribution of population and of the uses of the land for urbanization, trade, industry, habitation, recreation, agriculture, forestry...

in accordance with present and future needs and resources.²

Act 250 defines the common terms used by the Land Use Review Board to classify natural resources and development.³ *Act 250* contains a special fund known as the Act 250 Permit Fund which is available for the implementation of the prescribed actions under *Act 250*.⁴ This act also details necessary permits and their exemptions for various developmental projects that fall under the jurisdiction of *Act 250*.⁵

¹ Vermont General Assembly, *Vermont Statutes Online Act 250 (10 V.S.A. Chapter 151)*, 2024. <https://legislature.vermont.gov/statutes/fullchapter/10/151>

² Vermont General Assembly, *Vermont Statutes Online Act 250 (10 V.S.A. Chapter 151)*.

³ Vermont General Assembly, *Vermont Statutes Online Act 250 (10 V.S.A. Chapter 151)*.

⁴ Vermont General Assembly, *Vermont Statutes Online Act 250 (10 V.S.A. Chapter 151)*.

⁵ Vermont General Assembly, *Vermont Statutes Online Act 250 (10 V.S.A. Chapter 151)*.

The Land Use Review Board

“A New Land Use Review Framework” (*Act 181*) was enacted in 2024. This act created the Land Use Review Board (LURB), replacing the Natural Resources Board. LURB consists of five members, each representing different counties in Vermont.⁶ It has created a tier system for classifying land in Vermont by jurisdictional changes from *Act 250*.

- Tier 1A/1B are areas with the capacity for growth, “where ‘limited’ to ‘no jurisdiction’ will apply.”⁷
- Tier 3 consists of critical natural resources areas and the jurisdiction for this tier is set to increase December 31, 2026.⁸
- Tier 2 includes all areas that do not fall into Tiers 1 and 3.

The *Act 250* jurisdiction will not change for Tier 2. As of November 2025, the changes to these tiers have yet to go into effect as the specific implementation is still being deliberated by the Land use Review Board.⁹ *Act 181* allows temporary exemptions to jurisdiction to accelerate housing development while the tier system is being implemented.¹⁰ LURB is tasked with the long-term approach of approving all future land use maps and designating which areas fall under which tiers. The board is responsible for transitioning *Act 250* to the tiered system and for designating new exemption areas that cannot be developed.

Current Classifications: The resources for Tier 3 consideration as required by *Act 181* consist of river corridors, headwater streams, habitat connectors of statewide significance, riparian areas, Class A waters, and natural communities.¹¹ Currently, the restrictions for near-river corridors do not allow new developments within the corridor itself. There must be a 50-foot buffer of native vegetation between the river corridor and new developments.¹² For headwater streams, permits are required for any movements, excavations, or fillings involving 10 or more cubic yards annually.¹³ *Act 171* amended Vermont Planning Statutes, requiring towns to identify habitat connectors.¹⁴ Limited specific protections regarding development limitations exist as *Act 171*

⁶ State of Vermont, *Land Use Review Board Members*, accessed September 26, 2025. <https://act250.vermont.gov/land-use-review-board-members>

⁷ State of Vermont, *New Land Use Review Framework*, accessed September 26, 2025. <https://act250.vermont.gov/new-land-use-review-framework-act-181>

⁸ State of Vermont, *New Land Use Review Framework*.

⁹ State of Vermont, *Act 250*, accessed 09/26/2025. <https://act250.vermont.gov/interim-act-250-housing-exemptions>

¹⁰ State of Vermont, *Act 250 Housing Exemptions*, accessed September 26, 2025. <https://act250.vermont.gov/interim-act-250-housing-exemptions>

¹¹ State of Vermont, *Tier 3 Areas Overview*, March 17, 2025. <https://act250.vermont.gov/sites/acttwohifty/files/documents/2025-03-17%20Tier%203%20LURB%20Overview.pdf>

¹² Department of Environmental Conservation, “River Corridor Protection,” *Vermont Agency of Natural Resources*, accessed September 26, 2025. <https://dec.vermont.gov/watershed/rivers/river-corridor-and-floodplain-protection/river-corridor-planning-and-protection-0>

¹³ Department of Environmental Conservation, “Vermont Stream Alteration Rule” *Vermont Agency of Natural Resources*, accessed September 26, 2025. <https://dec.vermont.gov/content/vermont-stream-alteration-rule>

¹⁴ Vermont Fish & Wildlife Department, “Act 171: Selecting Forest Blocks & Habitat Connectors for Your Town Plan,” *Agency of Natural Resources*, accessed September 26, 2025. <https://www.vtfishandwildlife.com/event/act-171-selecting-forest-blocks-habitat-connectors-for-your-town-plan>

works to balance supporting local forestry industries.¹⁵ The discretion around developments near riparian areas has been left to individual towns, through zoning.¹⁶ Developments affecting Class A waters are currently governed by *Act 250*. The review process for such developments evaluates the projects impact on water resources. Lastly, the development of natural communities is currently governed by the public permit process of *Act 250*, insuring the protection of these habitats.¹⁷

Land Use Review Board Recommendations

On September 2, 2025, Land Use Review Board (LURB) Member Alex Weinhagen introduced his recommendations for Tier 3 rulemaking for discussion at the September 4 and September 8 LURB meetings.¹⁸ This section is a synopsis on the draft report of this meeting. The transcript of the September 2, 2025, meeting does not list the names of the board members speaking, so below comments are listed as from a member or members.

Weinhagen recommended that river corridors be excluded from Tier 3 and to instead strengthen the river corridor permit program developed by the Agency of Natural Resources (ANR) and the Department of Environmental Conservation.¹⁹ This program issues permits covering construction in rivers and streams.²⁰ In the September 8 LURB meeting, members decided to exclude river corridors.²¹

In previous LURB meetings that occurred in July, board members debated whether to include some/all flood hazard areas in Tier 3. Weinhagen recommended excluding these areas from Tier 3 and instead to reinforce existing State flood hazard development review to utilize ANR permitting. In the September 8 LURB meeting, concerns were raised regarding whether the ANR could regulate flood hazard areas such as in municipalities without existing regulations.²² *Act 181* requires riparian areas to be considered by the LURB.²³

In previous meetings, some members encouraged inclusion of riparian areas in Tier 3. Weinhagen recommended excluding those areas from Tier 3 and instead expanding the ANR/ Department of Environmental Conservation river corridor permit program or introducing a new

¹⁵ Agency of Natural Resources, “*Act 171 and Planning for Forest Blocks and Habitat Connectors*,” accessed September 26, 2025. https://anr.vermont.gov/act171_forestplanning

¹⁶ Allyson Bennett, Joshua Hurd, Louisa Pollard, “*Riparian Zone Protection in Vermont*,” *Nelson A. Rockefeller Center for Public Policy at Dartmouth*, January 23, 2008. <https://rockefeller.dartmouth.edu/report/riparian-zone-protection-vermont>

¹⁷ State of Vermont, *Act 250*.

¹⁸ Land Use Review Board, *Tier 3 Rulemaking – Draft 1 Revision Recommendations*, September 2, 2025, Land Use Review Board, 1-8.

¹⁹ Land Use Review Board, *Tier 3 Rulemaking – Draft 1 Revision Recommendations*.

²⁰ Vermont Department of Environmental Conservation, Accessed September 26, 2025, *Rivers Permit Information*.

²¹ Land Use Review Board, *Meeting Minutes*, September 8, 2025. <https://act250.vermont.gov/document/land-use-review-board-approved-minutes-september-8-2025>

²² Land Use Review Board, *Meeting Minutes*, September 8, 2025.

²³ Vermont General Assembly, *Vermont Statutes Online Act 181 (10 V.S.A. § 6000)*,

2024. <https://legislature.vermont.gov/Documents/2024/Docs/ACTS/ACT181/ACT181%20As%20Enacted.pdf>

riparian buffer permit program. Weinhausen stated *Act 250*'s review process is "far more comprehensive than necessary for assessing/permitting riparian area development."²⁴

Act 181 also requires that Class A watersheds are considered by the LURB.²⁵ In previous meetings, a comment was made that encouraged including Class A watersheds in Tier 3. Weinhausen recommended excluding Class A watersheds from Tier 3 and instead recommended that the ANR complete the final anti-degradation rulemaking process.²⁶

New Mapping/Jurisdictional Exemptions

The LURB discussed new mapping for Tier 3 designated areas in their September 4, 8, and 15 meetings. They discussed the 800-foot or 2000-foot buffer distances for habitat connectors. Weinhausen suggested the 2000-foot distance.²⁷ The LURB did not reach a consensus on whether to use the 800-foot or 2000-foot buffer distances for habitat connectors.²⁸

The LURB also discussed Tier 3 limits near downtowns and villages to avoid impacting potential Tier 1 areas. They discussed two options for jurisdictional triggers around existing structures in Tier 3 areas. The first option pertains to any construction of improvement more than 50 feet from the footprint of an existing structure, while the second option would include any improvements not related to the expansion of an existing structure.²⁹

When discussing jurisdiction exemptions, Weinhausen suggested an exemption for small new structures in Tier 3 areas, around 200 feet or less.³⁰ Other LURB members expressed concerns about such an exemption. No consensus has been reached.³¹ Weinhausen also suggested an exemption for water and wastewater systems related to existing structures in Tier 3 areas and non-jurisdictional structures.³² Other LURB members did not express support for this idea, but did support exempting changes to existing septic systems, such as repair and replacement.³³

The LURB considered exemptions for roads, driveways, and other transportation infrastructure in proximity to existing transportation features inside Tier 3 areas.³⁴ Weinhausen suggested a 50-foot buffer for transportation-related improvements around existing roads/driveways to be exempt from Tier 3 jurisdiction.³⁵ Board members did not reach an agreement on this.

²⁴ Land Use Review Board, *Tier 3 Rulemaking – Draft 1 Revision Recommendations*.

²⁵ Vermont General Assembly, *Vermont Statutes Online Act 181 (10 V.S.A. § 6000)*.

²⁶ Land Use Review Board, *Tier 3 Rulemaking – Draft 1 Revision Recommendations*.

²⁷ Land Use Review Board, *Meeting Minutes*, September 15, 2025.

²⁸ <https://act250.vermont.gov/sites/act250/files/documents/2025-09-15%20Land%20Use%20Review%20Board%20Approved%20Minutes.pdf>

²⁹ Land Use Review Board, *Meeting Minutes*, September 15, 2025.

³⁰ Land Use Review Board, *Meeting Minutes*, September 15, 2025.

³¹ Land Use Review Board, *Tier 3 Rulemaking – Draft 1 Revision Recommendations*.

³² Land Use Review Board, *Meeting Minutes*, September 15, 2025.

³³ Land Use Review Board, *Tier 3 Rulemaking – Draft 1 Revision Recommendations*.

³⁴ Land Use Review Board, *Meeting Minutes*, September 15, 2025.

³⁵ Land Use Review Board, *Meeting Minutes*, September 8, 2025.

³⁶ Land Use Review Board, *Tier 3 Rulemaking – Draft 1 Revision Recommendations*.

When discussing jurisdiction exemptions for agricultural and forestry practices, the LURB talked through applying existing *Act 250* exemptions for agricultural and forestry logging practices to designated Tier 3 areas. They agreed to carry those exemptions in Tier 3.³⁶

The LURB discussed whether Tier 3 jurisdiction should pertain only to development inside the Tier 3 areas or within all involved areas. Board members disagreed on including all involved lands and no agreement was reached. The LURB discussed site specific resource delineation, the process for making specific corrections to Tier 3 boundaries as well as who would be tasked with making these determinations. Weinhausen suggested tasking the District Coordinators with these corrections, but the LURB agreed to seek legal advice before proceeding.³⁷

Scope of Change

Executive Order 6-05

On September 17, 2025, Vermont Governor Phillip B. Scott issued Executive Order 06-25 concerning housing construction. He writes that Vermont needs accelerated executive action to overcome the housing crisis.³⁸ To address this concern, Governor Scott is allowing the Secretary of Natural Resources to override the required buffer widths for Class II wetlands. Buffer zones are reduced to 25 feet.³⁹ Tier 1A and 1B designations also apply for temporary exemptions from *Act 250* permit requirement. Class II wetlands include headwater wetlands, wetlands adjacent to other bodies of water and are over 2,500 square feet in size, amphibian breeding habitat wetlands, wetlands with certain species classified by the Vermont Natural Heritage Inventory or are greater than 0.5 acres in size.⁴⁰

Updates from the Land Use Review Board

Under current classifications, Tier 3 represents an area with river corridors, headwater streams, habitat connectors of statewide significance, riparian areas, Class A waters, and natural communities.⁴¹ A consensus has been reached by the Land Use Review Board on proposed changes that would exclude river corridors from Tier 3 and move them under the river corridor permit program.⁴² Recommendations have been made to exclude flood hazard areas in Tier 3, but

³⁶ Land Use Review Board, *Meeting Minutes*, September 8, 2025.

³⁷ Land Use Review Board, *Meeting Minutes*, September 15, 2025.

³⁸ State of Vermont, “Executive Order No. 06-25 [Promoting Housing Construction and Rehabilitation],” September 17, 2025. <https://governor.vermont.gov/sites/scott/files/documents/EO%2006-25%20Promoting%20Housing%20Construction%20and%20Rehabilitation.pdf>

³⁹ State of Vermont, “Executive Order No. 06-25 [Promoting Housing Construction and Rehabilitation],” September 17, 2025. <https://governor.vermont.gov/sites/scott/files/documents/EO%2006-25%20Promoting%20Housing%20Construction%20and%20Rehabilitation.pdf>

⁴⁰ Department of Environmental Conservation, “Wetland Types,” *Agency of Natural Resources*, accessed September 26, 2025. <https://dec.vermont.gov/watershed/wetlands/what/types>

⁴¹ Land Use Review Board, *Tier 3 Areas Overview*, March 17, 2025. <https://act250.vermont.gov/sites/acttwo/fifty/files/documents/2025-03-17%20Tier%203%20LURB%20Overview.pdf>

⁴² Land Use Review Board, *Memorandum Tier 3 Rulemaking – Draft 1 Revision Recommendations*, September 2, 2025. <https://act250.vermont.gov/sites/acttwo/fifty/files/documents/tier3%20board%20memo%20090225.pdf>

concerns have been raised over the capability of the Agency of Natural Resources to regulate flood hazard areas.⁴³

This report was completed on December 15, 2025, by Emily Garcia, Amanda Smith, and Giovanna Allen under the supervision of VLRS Director, Dr. Anthony “Jack” Gierzynski and VLRS Deputy Director, Dr. Jonathan “Doc” Bradley in response to a request from Representative Hango.

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Disclaimer: The material contained in the report does not reflect the official policy of the University of Vermont.

⁴³ Land Use Review Board, *Meeting Minutes*, September 8, 2025.