

ACT 181 UPDATES

(FROM LAND USE REVIEW BOARD)

Act 250 Tier 3 Followers,

*** February/March 2026 Update ***

Feel free to forward this update widely! Additional updates to follow each month.

Stay Tuned... again.

Work on the next version of the draft Tier 3 rules and mapping continues to take longer than anticipated. I originally planned to get the next draft out to everyone by January/February. Apologies for the delay. Frankly, all the input from Vermonters has been extremely helpful, and it's important to me that the Board hear the feedback and do the best we can to factor it into our work.

I now expect the next draft to be ready by the end of April. That means more extensive public engagement will shift to May and June. A final draft and final public hearings will therefore shift into the summer. Reminder that Tier 3 jurisdiction begins at the end of 2026 (12/31/26), but see below for more on this.

- For Tier 3 questions and comments, you can reach out to me directly by phone (802-480-1885) or send email to act250.rulemaking@vermont.gov.
- Want to schedule a presentation or conversation with your organization or local board? I'm at your service, including evening meetings. I've had productive meetings with municipal officials and boards in Cabot, Grafton, Ripton, Reading, and I am planning meetings in Charlotte, Chester, and the larger Windham County region. Perhaps your Planning Commission, Conservation Commission, or Select Board would like more information? If so, let me know.

Board Recommends Pushing Start Dates to December 31, 2027

On February 20, the Board testified in front of the Senate Natural Resources and Energy Committee. We recommended pushing the start date of several new provisions included in the Act 181 reforms (passed in 2024):

- Tier 3 Jurisdiction – push one year; move start date from 12/31/26 to 12/31/27
- Criterion 8C, a new review criterion for Act 250 projects – push one year; move start date from 12/31/26 to 12/31/27
- Road Construction Jurisdiction – push 18 months; move start date from 7/1/26 to 12/31/27

We want more time for the necessary rulemaking process, in part to get it right and in part to ensure a robust public engagement process that provides multiple opportunities for feedback. Just as importantly, Vermonters need more time to learn about and prepare for these substantive statewide land use permitting changes. Many people I have spoken with have expressed concern that their neighbors and fellow community members are unaware of these Act 250 changes – particularly the expansion of jurisdiction for new road construction and in Tier 3 areas. The Land Use Review Board wants to raise awareness and welcome more Vermonters to the table to help us implement Act 250 reforms in a meaningful and practical way. We need more time to make this happen.

We also recommended that the Legislature grant the Board the authority to apply a limited number of Act 250 review criteria for development in Tier 3 areas. This would help keep the Act 250 review focused on just the criteria relevant to the critical natural resource area that triggered the need for a permit in the first place. This could reduce the scope and complexity of the application and review in Tier 3 areas. With the proper authority granted, the Board would engage in a public rulemaking process to determine which of the 10 review criteria (and 32 sub-criteria) to apply in Tier 3 areas.

The Senate Natural Resources and Energy Committee appeared to be receptive and is working on a full re-write of bill number S.325 to make a variety of necessary changes to Act 181. This bill's intent, as described in draft language, is to "provide technical clarification, transitional certainty, and implementation alignment" to Act 181 without altering its underlying policy goals. We can't know for certain that the Board's recommendations will make it into the bill. That will become clear if/when the Committee and then the full Senate finalize and vote on the bill. Hopefully in the next two weeks. After that, the bill would still require review and approval by the House Environment Committee, the full House, and the Governor.

Road Construction Jurisdiction Guidance Coming Soon

Separate from Tier 3 jurisdiction, the new road construction jurisdiction provision will require an Act 250 permit for the construction of certain new roads and related development. As noted above, the new road construction jurisdiction provision goes into effect on July 1, 2026. This date is in the middle of Vermont's road construction season, which is one more reason the Board is recommending pushing this

to a winter date – i.e., December 31, 2027. At recent Board meetings, we've been discussing various components of the road construction jurisdiction provision. We plan to have a guidance document available ahead of the upcoming road construction season – target date is the end of March 2026.

- For Road Construction Jurisdiction questions, reach out to two of my fellow Board members who are working on guidance - Sarah Hadd, Sarah.Hadd@vermont.gov, 802-480-1886; Brooke Dingleline, Brooke.Dingleline@vermont.gov, 802-480-1878.

Information Online

[Tier 3 Rulemaking and Report | Act 250](https://act250.vermont.gov/tier-3-rulemaking-and-report)

<https://act250.vermont.gov/tier-3-rulemaking-and-report>

[Road Construction Jurisdiction | Act 250](https://act250.vermont.gov/road-construction-jurisdiction)

<https://act250.vermont.gov/road-construction-jurisdiction>

Wondering what this is all about...

What is Act 250?

Enacted in 1970, Act 250 aims to balance environmental protection with sustainable development. It regulates large development and subdivision projects based on environmental, economic, and public welfare criteria. The law helps maintain Vermont's historic settlement pattern of compact villages and urban centers, separated by rural countryside, while allowing for responsible growth. Act 250 plays a crucial role in fostering distinctive communities and preserving Vermont's unique sense of place.

What are Tier 3 areas?

Historically, Act 250 jurisdiction has been based on the size of the development or subdivision, with a focus on larger projects. Act 181 of 2024 implements location-based jurisdiction reform by identifying three different areas. Tier 1 areas are planned for growth in and around village and downtown centers, where Act 250 jurisdiction would be reduced or eliminated entirely in favor of municipal-level permitting and other State permitting (e.g., ANR, Division of Fire Safety, etc.). Tier 3 areas are critical natural resources, where Act 250 jurisdiction would be increased to cover more types of development than today. Tier 2 areas are the rest of the state, where Act 250 jurisdiction would remain largely as we know it today, but with additional jurisdiction for projects building more than 800 feet of new roads.

Act 181 tasks the Land Use Review Board (LURB) with rulemaking to identify what critical natural resources will be included in the Tier 3 definition, and when Act 250 jurisdiction will be triggered for development in Tier 3 areas. The Legislature outlined certain types of resources that must be considered, but left the final decision to the LURB rulemaking process. That's where we need help from stakeholders, experts, and the public! It's a policy discussion and a mapping exercise all wrapped up in a rulemaking process.

Alex Weinhagen | Board Member

Land Use Review Board

10 Baldwin Street

Montpelier, VT 05633-3201

alex.weinhagen@vermont.gov

802-480-1885

<https://act250.vermont.gov>