Tier 1 Overview

What are Tier 1B & Tier 1A?

Tier 1B

- Area of Act 250 exemption for up to 50 units of housing (including mixed-use) on tract(s) of land involving 10 acres or less
- RPC applies with Regional Plan or later as a separate application
- Continues until modified or Board revokes

Tier 1A

- Area of Act 250 exemption for any subdivision, development, or change to an existing project
- Municipality administers and enforces transferred Act 250 permits within Tier 1A area
- Municipality applies after Board issues affirmative determination on Regional Plan
- Continues until modified or Board revokes

Tier 1B & Tier 1A Requirements

Tier 1B

- Must be qualifying future land use map category.
- Municipality must have a confirmed plan, zoning, and subdivision bylaws.
- If the area has floodplain and river corridors, the municipality must have flood hazard and river corridor bylaws.
- Municipality must have water or wastewater infrastructure or soils to accommodate compact housing.
- Municipality must "opt-in" with resolution affirming capacity to support development review and zoning administration in Tier 1B area.

Tier 1A

- All the requirements of Tier 1B.
- Required review of determinations at least every four years.
- Preapplication and application meetings.
- Fee ($295).
- Application guidance in development with requirements for map data layers and narrative.
- Municipal resolution must include an explanation of its capacity to administer and enforce previously permitted Act 250 permits.

Tier 1A Application Requirements

- Municipal Plan Requirements
- Tier 1A Boundaries
- Flood Hazard and River Corridor Requirements
- Municipal Zoning and Subdivision Bylaws
- Smart Growth Principles and Physical Form and Scale of Development
- Historic and Cultural Resources
- Significant Natural Communities, Rare, Threatened, and Endangered Species Requirements
- Public Water and Wastewater Systems
- Adequate Municipal Staffing



Smart Growth Principles & Physical Form and Scale of Development

Detail how the proposed Tier 1A area will create a compact settlement oriented toward pedestrian activity including an identifiable center with higher density than the surrounding area. For those proposed Tier 1A areas that extend to a municipal boundary, surrounding area density may instead be addressed by describing how the Tier 1A area relates to the development trends and plans for the adjacent municipality.

Explain regulatory provisions for public buildings, open spaces, and other visual features that act as landmarks, symbols, and focal points for community identity within the Tier 1A area.

Describe how the Tier 1A area will enable a variety of housing types, businesses, services, and facilities all within close proximity and interwoven within the area.

Describe how the regulations for the Tier 1A area govern the arrangement, building bulk, form, design, character, and landscaping of sites to ensure compatibility of buildings and other improvements.

Provide an overview of the transportation system serving the Tier 1A area and how it provides or will provide a hierarchy of appropriately designed facilities for pedestrians, bicycles, automotive vehicles, and public transit, if present.

Provide an overview of the historic settlement pattern and street pattern within the Tier 1A area noting existing edges. Explain how the regulations provide for public and private buildings that are oriented toward streets and further maintaining or creating a defined edge around the Tier 1A area.

Describe how the regulations provide for open spaces within the Tier 1A area that incorporate natural features and undisturbed areas as well as historically compatible squares, greens, landscaped streets, greenways, and parks woven into the pattern of the center.

If the Tier 1A area is served by sewer and water, detail how regulations provide for a minimum of four-story buildings within a portion of the Tier 1A area. A story may be a below ground story or a story within the roofline so long as the majority of the floor area is occupiable.

Historic & Cultural Resources

If the Tier 1A area is adjacent to or inclusive of 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 must provide a narrative noting historic, cultural resources in or adjacent to the proposed Tier 1A area and submit proof of one of the following:

- Designation of the municipality as a Certified Local Government community.
- Municipality adoption of a local historic district for the Tier 1A area in accordance with 24 V.S.A. § 4414(1)(F).
- Municipal adoption of a design review district for the Tier 1A area in accordance with 24 V.S.A. § 4414(1)(E) or comparable design regulations (including form-based code) that sustains the historic character of the Tier 1A area.
- A Memorandum of Understanding between the municipality and the Vermont Division of Historic Preservation to provide binding recommendations for development applications seeking to alter significant historic resources within the Tier 1A area.

Natural Communities & Rare, Threatened, & Endangered Species

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 S1, S2, S3, or contains a significant natural community shown on the *Vermont Natural Resources Atlas*, the municipality should consult with the Vermont Department of Fish & Wildlife and submit proof of one of the following:

A determination from a qualified professional or from the Vermont Department of Fish & Wildlife that the Tier 1A area does not include the identified significant natural resource.

A *Natural Resources Atlas Map* depicting mapped RTE species and significant natural community occurrences within and adjacent to the proposed Tier1A and municipal regulations for the Tier 1A and adjacent areas that:

Ensure no jeopardy to rare species or adverse modification to significant natural communities and compliance with State and Federal Threatened and Endangered species regulations.

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. The Vermont Department of Fish and Wildlife must be provided a copy of the application and the opportunity to provide the municipality with technical input if an undue adverse impact on RTE species or significant natural communities is proposed.

Public Water & Wastewater Systems

The municipality 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 and the 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.



Tier 1A Administration

24 V.S.A Section 4460(g) provide municipalities may amend Act 250 permits through municipal permit process. The DRB's decision must include conditions contained within the Act 250 permit unless the panel determines the condition relates to:

- the construction phase of an already constructed project;
- compliance with another State permit that has independent jurisdiction;
- federal or State law that is no longer in effect or applicable;
- an issue that is addressed by municipal regulation and the project will meet the standard; or
- a physical or use condition that is no longer in effect or applicable to the new project.
- The DRB must issue a decision in accordance with 24 V.S.A. § 4464(b) and include specific findings.