



# Guidance on the Act 250 Housing Provisions under the HOME Act

## State of Vermont Natural Resources Board

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Latest Revision: October 20, 2023

Adopted: August 21, 2023

### Overview and Law

The Housing Opportunities Made for Everyone Act ([HOME Act](#)), effective July 1, 2023, limited when Act 250 applies for two types of housing projects as follows.

**From July 1, 2023, to July 1, 2026, an Act 250 Permit is **not** required for the construction of:**

- (1) Up to 24 units of housing in certain designated areas. Additionally, the construction of 4 units or less in an existing structure counts as 1 unit<sup>1</sup>; or
- (2) Priority housing projects in three types of state designated areas<sup>2</sup>.

To utilize these exemptions, you must request a Jurisdictional Opinion from your District Coordinator by June 30, 2026, to determine that your project qualifies. Additionally, the project construction must be substantially completed before July 1, 2029.

**Note:** the requirements to request a jurisdictional opinion and substantially complete construction by the deadline are **only** required for projects that exceed other existing thresholds in the law. Specifically, these requirements apply to housing projects that involve the construction of:

- Priority housing projects in a designated downtown development district, neighborhood development area, or growth center that exceed the units thresholds and limitations in 10 V.S.A. § 6001(3)(A)((iv)(I)); or
- 10 to 24 units of housing and/or utilize the 4 = 1 provision in the described designated areas.

### Specific Provisions Explained

This guidance document describes how each of the following provisions works in more detail:

- I. [24-unit threshold in designated areas and the 4=1 provision](#);
- II. [Priority Housing Project Provision](#); and
- III. [Jurisdictional Opinion required to qualify for these provisions](#)

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<sup>1</sup> 10 V.S.A. §6001(3)(A)(xi).

<sup>2</sup> 10 V.S.A. §6001(3)(D)(viii(III)).

## I. The 24-unit threshold in designated areas and the 4=1 provision

### What do the 24-Unit threshold and 4=1 provisions allow?

From July 1, 2023, to July 1, 2026, an Act 250 Permit is **not** required for the construction of up to 24 units of housing in certain designated areas. Additionally, the construction of 4 units or less in an existing structure count as 1 unit for purposes of this 24-unit threshold provision.

### What do you need to meet the 24-unit provision?

Your housing project must meet all the following:

- Located entirely within a [state-designated](#) downtown development district, neighborhood development area, village center **with** permanent zoning and subdivision bylaws, or growth center;
- Constructed between 10 and 24 units of housing or fewer:
  - within a radius of five miles of any point on any involved land
  - within any continuous period of five years; and/or
  - utilizing the 4 = 1 provision in counting units (as applicable).
- Request a jurisdictional opinion to determine whether the project qualifies before July 1, 2026.
- Substantially complete construction of the units before July 1, 2029.

### What does “substantially complete” mean?

Construction is deemed substantially complete if the unit(s) constructed are ready for rental or sale but for minor cosmetic or fixture installation (i.e., interior paint, trim, or delivery and installation of appliances). You may notify your district coordinator when the unit(s) are substantially complete but are not obligated to do so.

### What if my project does not meet the 24-units of housing provision?

If **any** of the provisions above are not met, then your project might **not** qualify for the 24-unit provision, and your project might require an Act 250 permit to proceed. Note, this provision applies to housing and not to other types of development. Check with your [District Coordinator](#) for a Jurisdictional Opinion to confirm whether your project qualifies.

### What is the 4=1 unit provision?

Simply put, 4 units or less of housing constructed in an existing structure counts as 1 unit for purposes of your total unit count. This reduced unit counting only applies to units constructed according to the limits of the 24-unit provision described above.

### How does the 4=1 unit provision apply?

This reduced unit counting applies as follows:

**(1) The construction of 4 or less units in an existing structure.**

**Example:** Person A proposes to construct 4 units in an existing structure. Their unit count is 1 unit.

**Example:** Similarly, person B proposes 2 units in an existing structure in 2023, and then an additional 2 units in the same structure in 2024. Their unit count is also 1 unit.

**Example:** Person C proposes 5 units in an existing structure. Their unit count is 5 units, not 2 units, because they have created more than 4 units and do not qualify for the reduced count.

**Example:** Person D proposes to construct 4 units, one or more of which expands the envelope of the existing building. Their unit count is 4 and they cannot take advantage of the 4 = 1 unit count because they have not constructed “in an existing structure”.

**(2) The construction of 4 or less units in an existing structure **once**, and only if the four-unit threshold is not exceeded prior to July 1, 2026. If subsequent units are added within the same structure at any time within that timeframe, then the initial four units constructed are counted individually as four units.**

**Example:** Person A constructs 4 units in an existing building in 2023. Their unit count is 1. If they construct 4 more units in the same structure in 2024, then their total unit count is 8. Once Person A exceeds 4 units in the same structure, they no longer qualify for reduced counting.

**(3) Each existing building with the construction of 4 or less units.**

**Example:** Person A may construct up to 4 units in up to 24 separate existing structures without triggering Act 250 jurisdiction within a designated area within 5 years within a 5-mile radius.

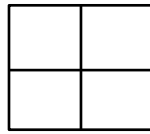
**(4) The construction of 4 or less additional units within an existing structure by a person with an existing unit count (because they built units within the past 5 years).**

**Example:** Person A owns an existing structure. Within the past 5 years, but prior to July 1, 2023, they created 4 units within that existing structure. Therefore, their current unit count is 4. The existing structure has room for additional units. Person A proposes to construct 4 additional units within the existing structure prior to July 1, 2026. Their total unit count is 5 (4 for the units they created previously in 2023, and 1 for the 4 additional units that they propose to create within the remaining space in the existing building prior to July 1, 2026).

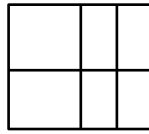
**(5) The construction of one or more units into four or less units in an existing building with an existing unit count.**

**Example:** Person A owns an existing structure. Within the past 5 years but prior to July 1, 2023, they created 4 units within that existing structure. Therefore, their current unit count is 4. Person A proposes to divide 2 of those 4 units into 2 units each for a total of six units prior to July 1, 2026. Their total unit count is 5 (4 for the units they created within the past 5 years but prior to July 1, 2023, and 1 for the 2 additional units that they propose to create prior to July 1, 2026).

Structure in 2022      Structure in 2025



Units: 4  
Unit Count: 4



Units: 6  
Unit Count: 5

**(6) Expansion of an existing structure does **not** qualify for the 4=1 unit count.**

**Example:** Person A owns an existing 1-story structure. Person A proposes to add a second floor to the existing structure and create 4 units of housing on top of the existing structure. Their total unit count is 4. This project does not qualify for the reduced counting under the 4=1 provision.

**Example:** Person B owns an existing structure. Person B proposes to construct an extended wing onto the existing structure to create 4 units of housing. Their total unit count is 4. This project does not qualify for the reduced counting under the 4=1 provision.

**(7) The construction of 4 units in an existing structure that is **already subject to an Act 250 land use permit** would require the District Coordinator to determine whether a land use permit amendment is required based on the proposed change to the permitted project.**

**Example:** Person A proposes to construct 4 housing units in an existing commercial building subject to Land Use Permit 10P0041. Their unit count would be 1. In addition, this project would require an analysis under the Board’s definition of material change to determine whether an Act 250 land use permit amendment is needed.

## II. Priority Housing Project Provision

### What does the priority housing project provision in the HOME Act allow?

From July 1, 2023, to July 1, 2026, an Act 250 Permit is **not** required for the construction of a priority housing project in any of the following three types of state designated areas: downtown development districts, neighborhood development areas, or growth centers. This provision is in addition to existing priority housing provisions in law and does not affect their applicability.

### What do you need to meet the priority housing project provision of the HOME Act?

Your housing project must meet **all** the following requirements:

- Located within one of the following [state-designated](#) areas: downtown development district, neighborhood development area, or growth center;
- Meet the definition of a priority housing project (PHP). See [PHP Flowchart](#) here and contact your district coordinator as necessary;

- Project exceeds the unit thresholds under existing law (see section III below).
- Request a jurisdictional opinion (JO) determining that the project qualifies **before July 1, 2026**.
- Substantially complete construction of the project **before July 1, 2029**.

### III. Jurisdictional opinion is required to qualify for these provisions

#### What is required and by when?

To qualify for either the 24-unit housing or the priority housing project provisions, you must:

- (1) request a jurisdictional opinion from an Act 250 district coordinator **before July 1, 2026**.
- (2) Substantially complete construction of the housing project **before July 1, 2029**.

#### What is a jurisdictional opinion, and how is one requested?

A jurisdictional opinion is a written statement issued by a district coordinator that determines whether a proposed project requires an Act 250 permit.

To request a jurisdictional opinion, contact your [district coordinator](#) and provide them with information documenting your project's compliance with the checklist(s) above.

#### When are the requirements for jurisdictional opinion and substantial completion of the project before July 1, 2029, required?

A jurisdictional opinion and a construction completion deadline are **only** required for the construction of housing projects that either<sup>3</sup>:

- (1) qualify as Priority Housing Projects and **exceed** the following jurisdictional thresholds:

Municipal Population	Number of Housing Units
6,000 to 9,999	74 Units
5,999 or fewer	49 Units
Involves demolition of historic building(s)	9 Units

- (2) involve 10 to 24 units of housing and/or utilize the 4 = 1 provisions to qualify.

**Note:** if the project does not exceed the PHP limitations nor involve 10-24 units or the 4 = 1 counting provision, then the Jurisdictional Opinion and completion deadline requirements do **not** apply.<sup>4</sup>

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<sup>4</sup> However, you may still request a Jurisdictional Opinion.