

PARTY STATUS

WHAT DOES IT MEAN AND HOW DO I APPLY?

10 V.S.A. § 6085 AND ACT 250 RULE 14

This guide is not intended to be comprehensive, but it should give the reader a good sense for what party status entails with regard to Land Use Permitting in Vermont. For more details, the reader can consult the Vermont statutes and the Act 250 Rules, starting with those cited above.

EACH ACT 250 DISTRICT COMMISSION IS A QUASI-JUDICIAL BODY.

It's like a mini- administrative court.

As an administrative tribunal, each District Commission's sole focus is to render written decisions on Act 250 land use permit applications

As the "judges" hearing these applications, the Act 250 District Commissioners must base their decisions on the information (evidence) submitted by parties.

To present evidence to the Commission for consideration, you must have "Party Status."

WHY IS PARTY STATUS IMPORTANT?

IT IS THE LAW

- Act 250's party status standard parallels federal standing law.

PROPER PARTY STATUS

- assures that commissions receive relevant information.
- provides you with legal rights to testify or present evidence on a land use permit application. Without party status, you may not appeal a commission decision.

PARTIES BY STATUTE

The right to participate is not absolute. It is determined by statute. Per 10 V.S.A. § 6085(c)(1), The following persons are automatically entitled to party status:

The permit applicant

The landowner

The municipality in which the project site is located, and its municipal and regional planning commissions

Municipalities and regional planning commissions adjacent to the project tract

The solid waste management district in which the land is located

State agencies affected by the project

IF YOU ARE NOT A PARTY BY STATUTE, AND YOU WOULD LIKE TO OBTAIN PARTY STATUS, YOU MUST SATISFY THE FOLLOWING REQUIREMENTS:

10 V.S.A. § 6085 states that “any ...person who has a particularized interest protected by this chapter that may be affected by an act or decision by a District Commission” shall be entitled to party status.

For clarity, let’s break this statutory language down into its key components.

I. ANY PERSON



A “person” may fall into any one of these categories:



Individual



Association



Corporation



Neighborhood Association (whether or not incorporated)



Partnership



Non-profit with affected members

2. YOU MUST HAVE A PARTICULARIZED INTEREST IN THE PROJECT

Your interest in the project must be particular to you, rather than the general public.
The interest must be real – not speculative.
For example:

You will see it.



You will hear it.



You will smell it.



It will affect an activity that you engage in.



**3. YOUR
INTEREST MUST
BE PROTECTED
BY THE LAND
USE STATUTES
AND MAY BE
AFFECTED BY
THE
COMMISSION'S
PENDING
DECISION**

Your interest must be one that is protected by an Act 250 criterion, such as:

- Aesthetics
- Noise
- Odors
- Runoff/water pollution
- etc.

Persons concerned solely about business competition, potential diminution of property values, or other issues beyond Act 250's jurisdiction are not parties.

HOW DO I APPLY?

If you believe that you meet the foregoing requirements for obtaining party status, you may apply for party status in one of several ways:

- **Letter** addressed to the commission. Commission addresses: <https://nrb.vermont.gov/act250-program/district-staff-and-commissions>
- **Email** addressed to the commission in care of the district coordinator (see addresses link above)
- **Party Status Petition Form** available on the Natural Resources Board Website: <https://nrb.vermont.gov/documents/party-status-petition-form>
- **Oral Petition.** If a hearing is already scheduled, the chair will accept oral party status requests near the start of the hearing. Be sure to fill out the hearing sign-in sheet. You can check for a hearing date on the notice you received in the mail, or on the Act 250 Database online: <https://anrweb.vt.gov/ANR/vtANR/Act250.aspx>

WHEN TO SUBMIT YOUR PETITION

- **Party status is not automatic.** Party status must be requested either orally or in writing on or before the first hearing or prehearing conference on the application, whichever is held first. A late petition may be accepted if the district commission finds that the petitioner has demonstrated good cause for failure to request party status in a timely fashion, and the late appearance will not unfairly delay the proceedings or place an unfair burden on the parties. 10 V.S.A. Section 6085(c)(3)
- **A Public Hearing is NOT always held.** Most land use permit applications are reviewed and approved without a public hearing. In these cases, no hearing will be held unless someone with a potentially affected interest files a request for a hearing by the deadline established in the Act 250 Minor Application Notice, which announces that the application is being reviewed.

WHAT MUST THE PETITION CONTAIN?

10 V.S.A. Section 6085(c)(2) and Act 250 Rule 14 dictate that a party status petition must contain the following information:

- A detailed statement of how and why you are interested in the project.
- A statement of whether you support, or oppose, the proposed project.
- In the case of an organization, a description of your organization, its purposes, and its membership.
- A statement of the reasons why you believe the commission should grant you party status.
- If applicable, a description of the location of your property in relation to the proposed project, including a map, if possible.
- A description of the potential effect(s) of the proposed project upon your interests with respect to each of the relevant Act 250 criteria or sub-criteria under which you are requesting party status.

The [Party Status Petition Form](#), available from the Board's website, can help to guide you through this required content.

LIMITS OF PARTY STATUS

- If you are granted party status, your right to submit testimony or cross-examine parties or witnesses is limited to only those Act 250 Criteria under which you are granted party status.
- Likewise, if you are granted party status, your right to appeal the commission's decision on the permit application is limited to only those Act 250 Criteria under which you are granted party status.
- If the commission grants you "friend of the commission" status under 10 V.S.A. § 6085(c)(5), you may provide written memoranda to the commission, but you may not file evidence or cross-examine parties or witnesses without first receiving commission approval, and you may not appeal the commission's decision on the permit application.

PARTY STATUS DETERMINATIONS

- Most commonly, a commission will issue a preliminary determination on each party status request at the start of a hearing.
- After public testimony is received, most hearings are recessed.
- During its deliberations on the application, the commission will reexamine its preliminary party status determinations. As required by 10 V.S.A. § 6085(c)(5), the commission will state its final party status determinations in its written decision on the application.
- A commission denial of party status can be appealed.

QUESTIONS?

CONTACT YOUR ACT 250 DISTRICT COORDINATOR

([HTTPS://NRB.VERMONT.GOV/ACT250-PROGRAM/DISTRICT-STAFF-AND-COMMISSIONS](https://nr.vermont.gov/act250-program/district-staff-and-commissions))

Districts 1 and 8 Environmental Commissions
440 Asa Bloomer State Office Building, 4th Floor
88 Merchants Row
Rutland, VT 05701
(802) 786-5920

Districts 2 and 3 Environmental Commissions
100 Mineral Street, Suite 305
Springfield, VT 05156-3168
(802) 289-0599

District 4 Environmental Commission
111 West Street
Essex Junction, VT 05452
(802) 879-5614

Districts 5, 6 & 9 Environmental Commissions
10 Baldwin Street
Montpelier, VT 05633-3201
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