

**ADMINISTRATIVE OFFICER
VILLAGE OF OLD BENNINGTON
115 FOX HILL ROAD
SHAFTSBURY, VERMONT 05262
(802) 442-9090**



March 12, 2014

DEHCD
National Life Building, Drawer 20
Montpelier, VT 05602-0501

Re: Village of Old Bennington
Proposed Amendment of Zoning Bylaw

Dear Sir:

Enclosed for your review and information please find the following document forwarded in connection with the above proposed Old Bennington Village Zoning Bylaw amendment:

1. Proposed Zoning Bylaw Amendment
2. Planning Commission Hearing Notice on Proposed Amendments
3. Planning Commission Report on Proposed Amendments

Sincerely,

A handwritten signature in black ink, appearing to be "James W. Carter". The signature is written in a cursive style with a long horizontal stroke extending to the right.

James W. Carter
Administrative Officer

SECTION 20 – DEFINITIONS

DWELLING, ONE-FAMILY – a detached residential structure occupied solely by:

1. The property owner and his or her family; OR
2. A lessee and his or her family, subject to the provisions of **SECTION 50** of this Bylaw.
3. Persons employed by the property owner or lessee, who fulfill one or more needs of family members, such as personal caregivers or property caretakers.

Such use shall not include bed and breakfast use, boarding house or rooming house use.

DWELLING, TWO-FAMILY – a detached residential structure consisting of two complete residential units, each unit of which is configured for occupancy by one family, and each unit of which is occupied solely by:

1. The property owner and his or her family; OR
2. A lessee and his or her family, subject to the provisions of **SECTION 50** of this Bylaw.
3. Persons employed by the property owner or lessee of one of the residential units, who fulfill one or more needs of family members, such as personal caregivers or property caretakers.

Such use shall not include bed and breakfast use, boarding house or rooming house use.

DWELLING, MULTI-FAMILY – a detached residential structure, consisting of three or more complete residential units, each unit of which is configured for occupancy by one family, and each unit of which is occupied solely by:

1. The property owner and his or her family; OR
2. A lessee and his or her family, subject to the provisions of **SECTION 50** of this Bylaw.
3. Persons employed by the property owner or lessee of one of the residential units, who fulfill one or more needs of family members, such as personal caregivers or property caretakers.

Such use shall not include bed and breakfast, boarding house, or rooming house use.

RENTAL PROPERTY - An entire one-family dwelling, an accessory dwelling unit located within or appurtenant to an owner occupied one-family dwelling, or one or more complete units in either a two-family or multi-family dwelling, that may be leased subject to the provisions of **SECTION 50** of this Bylaw.

REPAIR - Minor work required to restore a structure or area to its condition prior to damage or injury, so as to render the repaired structure or area indistinguishable from its condition and appearance prior to the damage or injury. Consult the Administrative Officer to determine whether a zoning permit is required due to the nature or extent of the work contemplated. (Also see “Replacement in Kind)

REPLACEMENT IN KIND – Correction of a minor defect or damage to a structure or area, solely by the addition, replacement or substitution of the same materials, so as to render the structure or area indistinguishable from its condition and appearance prior to occurrence of the defect or damage. Consult the Administrative Officer to determine whether a zoning permit is required due to the nature or extent of the work contemplated. (Also see “Repair”)

SECTION 50 – PERMITTED USES

- A. One family dwellings
- B. Accessory structures to one family dwellings and accessory dwelling units
- C. Rental Properties, subject to the following:

The Village Plan highlights our unique character as a small, quiet, peaceful, historic village. It underscores the need to protect that unique character by working to minimize the impact of excessive traffic and by effectively managing future growth and development.

Short-term residential rentals, or rentals of partial dwelling units, may be associated with increased noise disturbances in the neighborhood, significantly increased vehicular traffic, excessive parking of vehicles on residential lots in the historic district, and other land-use impacts not typically associated with longer-term rentals of entire residential units. Therefore, the following are required:

1. Documentary evidence of a rental term of three months or longer.
2. Any property rental must include one or more entire dwelling units.

Succeeding paragraphs are to be re-numbered

SECTION 82 – ZONING PERMITS

(d) Alterations to structures as defined in Section 20, except those alterations qualifying as “Repair(s)” or “Replacements in Kind,” as defined in Section 20.

VILLAGE OF OLD BENNINGTON
Old Bennington, Vermont
Notice of Public Hearing

Please Take Notice That:

Pursuant to 24 V.S.A. Chapter 117, Sections 4441, 4442 and 4444, the residents, property owners and interested parties of the Village of Old Bennington are hereby notified and warned that the Old Bennington Village Planning Commission will hold a public hearing to consider revisions to the Old Bennington Village Zoning Bylaw on April 24, 2014 at 7:30 P.M, at the Old First Church Barn located on Monument Circle.

The complete text of the proposed Zoning Bylaw revisions are set forth below.

Purpose:

The proposed Zoning Bylaw revisions are intended to implement the objectives and goals set forth in the Old Bennington Village Municipal Plan, to wit: promoting the health, safety and general welfare of the Village, its residents and visitors; ensuring a high quality of life for all residents by maintaining an aesthetically pleasing environment, by preserving the Village as a primarily residential community, through limitation of commercial activity to the few existing commercial uses.

Geographic Areas Affected:

The proposed Zoning Bylaw revisions pertain to all areas of the Village.

The Proposed Revisions to the Old Bennington Village Zoning Bylaw are as follows:

SECTION 20 – DEFINITIONS

DWELLING, ONE FAMILY – A detached residential structure occupied by:

1. The property owner and his or her family; OR
2. A lessee and his or her family subject to the provisions of **SECTION 50** of this Bylaw.
3. Persons employed by the property owner or lessee of one of the residential units, who fulfill one or more needs of family members, such as personal caregivers or property caretakers.

Such use shall not include bed and breakfast use, boarding house or rooming house use.

REPORT OF THE OLD BENNINGTON VILLAGE PLANNING COMMISSION

TO THE

OLD BENNINGTON VILLAGE BOARD OF TRUSTEES

Pursuant to 24 V.S.A. 4441(c) and 24 V.S.A. 4384(c)

Of the Statutes of the State of Vermont

In December, 2012, the Old Bennington Village Planning commission was requested, by the Old Bennington Village Board of Trustees, to review the Village Zoning Bylaws to determine if they should be revised to better regulate the potential proliferation of short term rentals of Village residences.

A copy of the proposed, revised, Old Bennington Village Zoning Bylaw Sections, submitted and proposed to appropriately implement that regulation, is appended hereto.

The expressed concern of the Trustees was that the proliferation of such rentals might result in the creation of a commercial atmosphere in the Village, and that such an atmosphere would undermine and derogate the historic and traditional rural residential nature of the Village, to the detriment of the vast majority of its residents.

The requested review was immediately undertaken by the Planning Commission, with the advice of counsel. The review disclosed significant issues of Constitutional and Common law, particularly as they relate to the property rights of a property owner, coupled with the desire, on the part of Planning Commission members, to safeguard those rights, notwithstanding the proposed regulation.

Thus, in their extended deliberations, the members of the Commission were always cognizant of the overriding need to with balance the rights of all of the parties involved, as well as the community, as a whole, by crafting a Bylaw that would operate to the benefit of all concerned.

It is therefore respectfully submitted that the proposed Zoning Bylaw conforms to the goals and policies contained in the Old Bennington Municipal Plan, including the effect of the proposal on the availability of safe and affordable housing.

Further, the proposed Zoning Bylaw is compatible with the proposed future land uses and densities of the Municipal Plan, and carries out, as applicable, any specific proposals for any planned community uses.

Respectfully submitted:

Robert Bullington, Chairman
Old Bennington Village Planning Commission