

City Manager (802) 334-5136
334-3891
City Clerk/Treasurer 334-2112
334-3892
Public Works 334-2124
Zoning Adm./Assessor ... 334-6992
Recreation/Parks 334-6345
Fax 334-5632



City of Newport
222 Main Street
Newport, Vermont 05855



PROPOSED ZONING AND SUBDIVISION BYLAW AMENDMENTS

Enclosed for your review and comments is a copy of Newport City's proposal to make three amendments to the city's current Zoning and Subdivision Bylaw.

Comments and/or questions can be made by attending the Public Hearing on February 7, 2017 or by contacting the Zoning Administrator prior to February 7, 2017.

Charles Elliott, Zoning Administrator

NEWPORT CITY

Proposed Zoning changes

February 7, 2017 Public Hearing

Service List

Chairman of Planning Commission, Town of Coventry (certified)
P.O. Box 104, Coventry, VT 05825

Chairman of Planning Commission, Town of Derby (certified Mail)
P.O. Box 25, Derby, VT 05829

Chairman of Planning Commission, Town of Newport (certified mail)
5876 VT Rte. 105, Newport Ctr., VT 05857

David Snedeker, Executive Director (certified mail)
NVDA, P.O. Box 630, St. Johnsbury, VT 05819

DHCA (certified mail)
National Life Building, Drawer 20, Montpelier, VT 05620

James Johnson, Newport City Clerk (email)

Laura Dolgin, City Manager(email)

Paul Monette, Mayor(email)

City Council Members (4 copies)(email)

Planning Commission Members (5 copies)(email)

Three Individual Property owners affected by the Zoning District Change (Item No. 1).

Parcel No. 117020: (certified mail)
N P C Realty Company, Inc
1264 Whittier Road, Holland, VT 05830

Parcel No. 11721: (certified mail)
Francis & Julie Lamoureux
36 Allen Farm Road, West Charleston, VT 05872

Parcel No. 116003 & 116004: (certified mail)
Robert Quirion
1376 East Main Street, Newport, VT 05855

CITY OF NEWPORT NOTICE OF PUBLIC HEARING

Notice is hereby given to the residents of the City of Newport, VT that the Newport City Planning Commission will hold a public hearing in the Council Room of the Municipal Building on Tuesday February 7, 2017 at 7:00 p.m. This hearing will be held for public review of and comment on the proposed revisions to the zoning bylaw, as described below, pursuant to Title 24 VSA, Chapter 117.

The purpose of the proposed changes to the zoning bylaw is to provide for the future growth and development of the City of Newport. The proposed revisions to the zoning bylaw, if adopted, will affect lands within the City of Newport as described with each proposed change.

Proposed Zoning Bylaw Amendments

- 1. Change the Zone from Industrial to Commercial-B for properties fronting on East Main Street between the City Center Industrial Park and existing Commercial-B Zone on the west side of North Country Credit Union. This change will affect the H&R Block property, old Louis Garneau property and the Agway Farm and Garden property.**
- 2. Amend the Zoning Bylaw to require a "Certificate of Occupancy" for all new tenants of all new Construction, change of property Ownership, and change of Tenants for all non-residential properties. This "Certificate of Occupancy" requirement will affect all properties within the City.**
- 3. Modify "Section 304.09 Shore Land Control District" by adding language that synchronizes the City Bylaw with recently modified State Statute requirements and explains that unless all State Required Permits are obtained, all City Permits are voided. This will affect all properties along the Lake Shore and associated Wetlands within the City.**

Copies of the proposed zoning bylaw revision may be obtained from the office of the Zoning Administrator. Dated in Newport City, Vermont, January 23, 2017.

Newport City Planning Commission

Newport City
Planning Commission
Report for Bylaw Amendment
Change Zoning from Ind. To Com. – East Main St.

This report is in accordance with 24 V.S.A. Chapter 117 Section 4441 (c).

Below is a brief explanation of the proposed bylaw amendment.

The proposal is to change the Zoning from Industrial to Commercial B for the four Lots 116003, 116004, 117020 and 117021 fronting East Main street between Harvest Equipment and the North Country Credit Union. Three of these four lots are already used for commercial purposes. The fourth, the former Louis Garneau building, is currently vacant. The purpose of the change is to allow commercial development consistent with what is already taking place along this highway in both Newport City and Derby.

Findings regarding how the proposal:

1. Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing.

This amendment conforms to the goals and policies of the municipal plan and should have no effect on the availability of safe and affordable housing, however, it should have the effect of promoting commercial growth and employment along this section of East Main Street.

2. Is compatible with the proposed future land uses and densities of the municipal plan.

This amendment should have little or no effect on future land uses or densities.

3. Carries out, as applicable, any specific proposals for any planned community facilities.

This amendment should have little or no effect on planned community facilities.



Zoning Change to Com-B, East Main St.

Newport City, VT

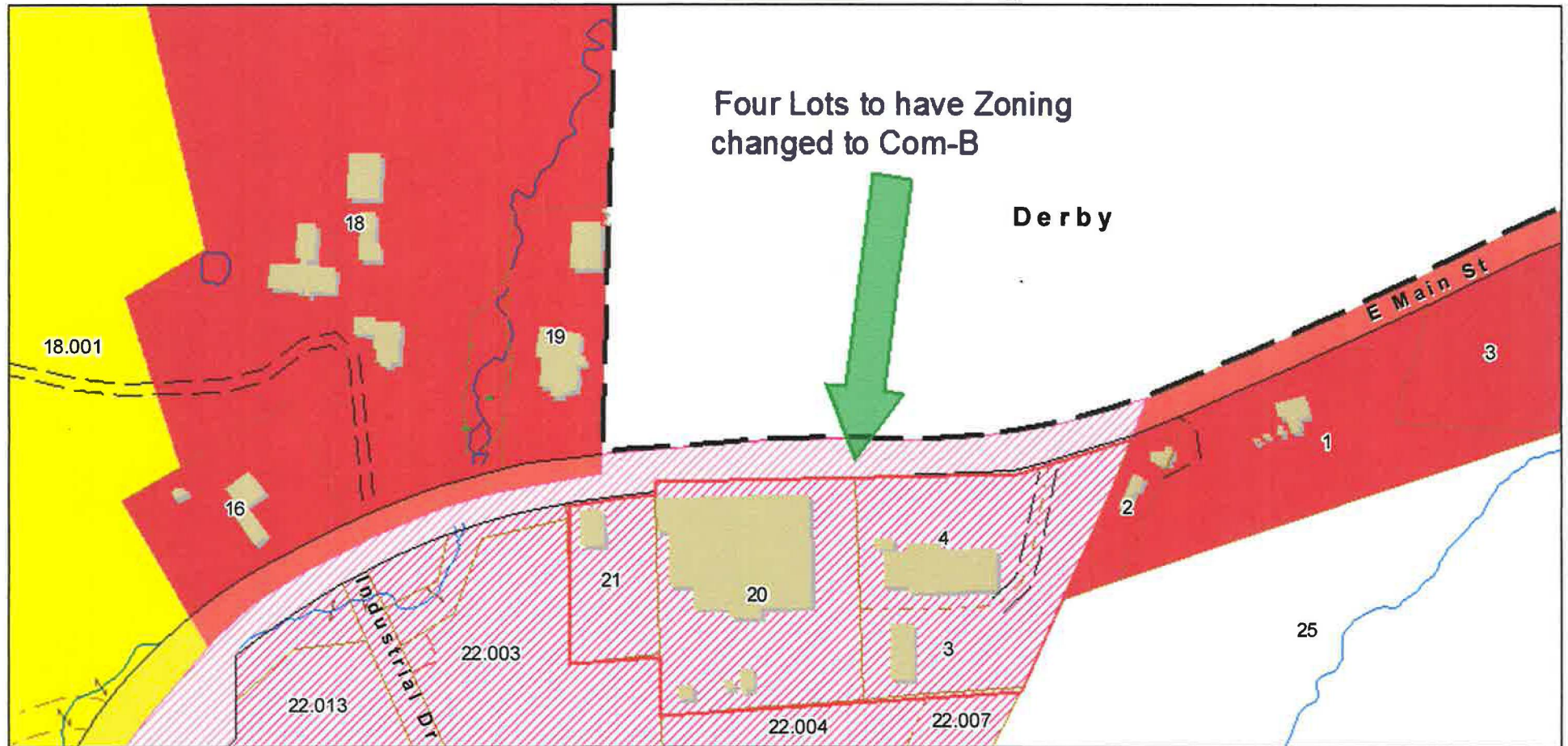


January 20, 2017

1 inch = 268 Feet

www.cai-tech.com

0 268 537 806



Large Scale	Property Line	Property Hook	Shadow	Industrial
CAI Town Line	Public Road	Wetland	Right of Ways	Urban Residential
Street Names	Right of Way	WaterLines	Wet Areas	General Residential
Common Line	Utility	Buildings	Commercial B	

Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

Newport City
Planning Commission
Report for Bylaw Amendment
Certificate of Occupancy

This report is in accordance with 24 V.S.A. Chapter 117 Section 4441 (c).

Below is a brief explanation of the proposed bylaw amendment.

Bylaw Section 702 Zoning Permit:

The proposed change will add “Certificate of Occupancy” to Section 702 making it illegal to use or occupy any land, structure or part thereof until a certificate of occupancy is issued by the Administrative Officer, stating that the proposed use of the structure or land conforms to the requirements of the Zoning Bylaw. The Certificate of Occupancy is as provided for in, and conforms to the requirements, of Title24 VSA Section 4449(a)(2).

Bylaw Section 702.5 Certificate of Occupancy:

Section 702.5 has been added to explain what is required to obtain a certificate of occupancy and who is required to have one.

Findings regarding how the proposal:

1. Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing.

This amendment conforms to the goals and policies of the municipal plan and should have no effect on the availability of safe and affordable housing, however, it should have the effect of assuring higher quality and operational efficiency of affordable housing.

2. Is compatible with the proposed future land uses and densities of the municipal plan.

This amendment should have little or no effect on future land uses or densities.

3. Carries out, as applicable, any specific proposals for any planned community facilities.

This amendment should have little or no effect on planned community facilities.

PROPOSED TARIFF

702 Zoning Permit and Certificate of Occupancy

No land development as defined herein, which is subject to these regulations, shall be commenced in the City of Newport until a zoning permit has been issued by the Administrative Officer, as provided for in Title 24 VSA Sections 4448, 4449, 4416, and 4464(c). ***It is unlawful to use or occupy or permit the use or occupancy of any land, structure or part thereof until a certificate of occupancy is issued therefore by the Administrative Officer, stating that the proposed use of the structure or land conforms to the requirements of this bylaw, as provided for in Title 24 VSA Section 4449(a)(2).***

702.1Exemptions

No zoning permit shall be required for the following activities:

- A. Accepted agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with Title 24 VSA §4413(d). Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Administrative Officer prior to any construction, as required for accepted agricultural practices. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.

- B. Accepted management practices for silvicultural (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with Title 24 VSA §4413(d).
- C. Power generation and transmission facilities, which are regulated under Title 30 VSA §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Municipal Plan.
- D. Hunting, fishing, and trapping as specified under Title 24 VSA §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as recreation facilities.
- E. Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion or a change of use.
- F. Interior alterations or repairs to a structure which do not result in exterior alterations or expansion or a change in use. Change in use means a change in the use of the property as a whole.
- G. Entry stairs (excluding decks and porches), handicap access ramps, landings less than 25 sq ft, bulkheads, and walkways.
- H. Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities regulated under §335 or changes in contours which result in new drainage patterns.
- I. Small detached accessory buildings associated with residential uses which are less than 64 square feet of floor area and less than twelve (12) feet in height, and are not located within required setback areas.
- J. Garage sales, yard sales, auctions, or similar activities that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year. All garage sales, yard sales, auctions, or similar activities that do exceed twelve (12) total days in any calendar year shall be considered a retail business and an appropriate permit shall be required.
- K. Firewood sheds that are used EXCLUSIVELY for protecting split and blocked firewood from the elements.
- L. Temporary carports/garages, provided that every fall they are erected no sooner than October 15th and every spring they are dismantled no later than May 15th.
- M. Highway signs regulated by the State.
- N. All onsite equipment needed for the customer's personal use to communicate with a wireless service.

702.2 Application Requirements

An application for a zoning permit shall be filed with the Administrative Officer on form(s) provided by the municipality. Required application fees, as set by the City Council, also shall be submitted with each application. In addition, the following information will be required as applicable:

- A. All applications shall include a sketch plan, no smaller than 8.5" x 11", drawn to scale, that depicts the following when applicable:
 - 1. the dimensions of the lot, including existing property boundaries,
 - 2. the location and footprint of existing and proposed structures or additions,
 - 3. the location of existing and proposed accesses (curb cuts), driveways and parking areas,
 - 4. the location of existing and proposed easements and rights-of-way,
 - 5. setbacks from property boundaries, road rights-of-way, surface waters and wetlands,
 - 6. the location of existing and proposed water and wastewater systems, and
 - 7. other such information as required by the Administrative Officer to determine conformance with these regulations.

- B. Uses Subject to Development Review. For development requiring one or more approvals from an Development Review Board prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted concurrently with the application for a zoning permit and referred to the Secretary of the Development Review Board. The applicant shall include a list of the names and addresses of all adjoining property owners, without regard to any public right-of-way.
- C. Flood Hazard Area Approval. Any application for development within the Flood Hazard Area Overlay District shall include copies of application information as required for referral to the Vermont Agency of Natural Resources in accordance with Title 24 VSA §4424(D).

702.3 Issuance

A zoning permit shall be issued by the Administrative Officer only in accordance with Title 24 VSA §4449 and the following provisions:

- A. Within thirty (30) days of receipt of a complete application, including all application materials, fees, the Administrative Officer shall act to either issue or deny a zoning permit in writing, or to refer the application to the Development Review Board and/or state for consideration. In accordance with Title 24 VSA §4448, §4449, if the Administrative Officer fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.
- B. No zoning permit shall be issued by the Administrative Officer for any use or structure which requires the approval of the Development Review Board or City Council until such approval has been obtained. For permit applications that must be referred to a state agency for review, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.
- C. If public notice has been issued by the City Council for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Administrative Officer shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the 150-day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of this bylaw Title 24 VSA §4449(d).
- D. A zoning permit shall include a statement of the time within which appeals may be taken under Title 24 VSA §4465; and shall require posting of a notice of permit by the property owner, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for all appeals have expired.
- E. The Administrative Officer, within three (3) days of the date of issuance, shall deliver a copy of the zoning permit to the Assessor; and shall post a copy of the permit in the municipal offices for a period of fifteen (15) days from the date of issuance.

702.4 Effective Date

- A. No zoning permit shall take effect until the time for appeal under Title 24 VSA §4465 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.
- B. Zoning permits and associated approvals shall remain in effect for 2 year(s) from the date of issuance, unless the permit and associated approvals specify otherwise. All development authorized by the permit shall be substantially commenced within this 2-year period or reapplication and approval shall be required to continue development. The Administrative Officer may administratively renew a permit for a period not to exceed

one (1) additional year upon finding that there was reasonable cause for delay in the start of the development.

702.5 Certificate of Occupancy

- A. It shall be unlawful to use or occupy or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure after the effective date of this bylaw, within the area affected by this bylaw, until a certificate of occupancy is issued therefore by the administrative officer, stating that the proposed use of the structure or land conforms to the requirements of this bylaw. Provision of a certificate as required by 30 V.S.A. Section 51 (residential building energy standards) or 53 (commercial building energy standards) shall be a condition precedent to the issuance of any such certificate of occupancy.**

Certificates of occupancy are only issued to property owners. It is the responsibility of the property owner to obtain certificates of occupancy for new tenants when required.

Certificates of occupancy are required for all new structures or additions to existing structures and change of allowed use of the structure in whole or in part that is not incidental and subordinate to the primary use.

Certificates of occupancy are required for all new non-residential tenants regardless of similarities to previous tenants in all commercial rental properties. A certificate of occupancy is not required for a change of residential tenants in a residential rental property.

Certificates of occupancy are required for all new owners of existing properties. The new owner is responsible for obtaining a certificate of occupancy before occupying or allowing others to occupy any property they purchase.

The certificate of occupancy is a local certificate for the City of Newport only. It is the property owner's responsibility to obtain all State, Federal, Army Corp of Engineers and any other permits that may be required. All required permits must be obtained prior to the local certificate of occupancy being issued. In the event that the local certificate of occupancy is issued prior to other valid permits being obtained, the local certificate of occupancy is automatically voided.

**APPLICATION FOR CERTIFICATE OF OCCUPANCY
NEWPORT CITY**

222 Main Street, Newport, VT 05855

Property Owner's Name: _____ Daytime Phone: (____) _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Email Address: _____

E-911 Locatable Address: _____

Property Tax ID #: _____ Zoning District: _____

I, _____, certify that this request for a FINAL Certificate of Occupancy is for a change in tenancy only. The proposed tenant is _____

Owner's Signature: _____ Date: _____

I, _____, certify that all construction, landscaping, lighting, etc. has been completed and all conditions have been complied with in regards to Zoning Permit # _____ which was issued on _____ and I hereby request that a FINAL Certificate of Occupancy be issued.

Owner's Signature: _____ Date: _____

I, _____, certify that the property is ready for occupancy for the use approved under Permit # _____ which was issued on _____, however, the following items remain to be completed to be in full compliance with the permit:

I hereby request that a TEMPORARY Certificate of Occupancy be issued for _____ months, during which time I will bring the property in full compliance.

Owner's Signature: _____ Date: _____

For Administrative Use Only – 7/08

Application Number: _____ Submitted on: _____ Fee: _____

Based upon the representations contained herein this Certificate of Occupancy is hereby -

Granted: _____ Denied: _____ By: _____

Administrative Officer

Reasons for Denial or Conditions: _____

A copy of the complete permit is on file in the Zoning Administrator's Office

APPLICATION FEES (effective _____)
(ALL FEES ARE NON-REFUNDABLE)

Certificate of Occupancy \$ _____
Temporary Certificate of Occupancy \$ _____ + \$ _____ per month (up to 12 months)

It is **HIGHLY RECOMMENDED** that applicants discuss the application and requirements with the Zoning Administrator prior to submission to ensure that all necessary information is submitted and to ensure efficient and timely processing of the application. The Zoning Office phone number is (802) 334-6992.

An interested person may appeal any decision by the Administrative Officer to the Development Review Board in accordance with 24 VSA, Chapter 117, §4465, in writing, within 15 days of the date of such decision. The fee is \$200.

An interested person who has participated in the municipal regulatory proceeding may appeal the decision rendered in that proceeding by the appropriate municipal panel (Development Review Board) to Environmental Court in Accordance with 24 VSA, Chapter 117, §4471, in writing, within 30 days of the date of such decision. The entry fee required by 32 VSA section 1431 must accompany the Notice of Appeal.

If you fail to appeal a decision, your right to challenge the decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 V.S.A. §4472(d).

ACKNOWLEDGMENT OF RESPONSIBILITY

I hereby affirm that I am the fee title owner or the owner's agent* of the property for which this application has been made. I am the party whom the city should contact regarding any matter pertaining to this application and it is my responsibility to keep myself informed of the progress of the application.

I further understand that additional information such as a survey of the property, traffic analysis, or expert testimony may be required for analysis of the application, and that upon my written authorization, fees for such additional information will be my responsibility.

I agree to allow city personnel access to the property to review all aspects of this application and for tax assessment purposes.

Property Owner's Signature: _____

*NOTE: Written documentation must be submitted and approved by the Zoning Administrator proving that the agent is legally authorized to act on the property owner's behalf.

APPLICATION FOR CERTIFICATE OF OCCUPANCY

NEWPORT CITY

In addition to the requirements of Zoning Permit No. _____, the following list of City and State permits and/or certificates, must be in place prior to a Certificate of Occupancy being issued.

NEWPORT CITY:

City water allocation: No. _____.

City sewer allocation: No. _____.

Driveway location, drainage and other conditions as may be required for the project must be approved by the Director of Public Works.

STATE of VERMONT:

Wastewater System and Potable Water Supply Permit No. _____ and certification of compliance with Section 1.5 of the Permit _____.

Residential Building Energy Standards Certificate: _____.

Commercial Building Energy Standards Certificate: _____.

Act 250 Permit No. _____.

State Fire Marshalls Certificate of Occupancy _____.

Lake Shore Permit No. _____.

Lake Encroachment Permit No. _____.

Wetland Permit No. _____.

Army Corp of Engineers _____.

Other _____

Note:

1. This Certificate of Occupancy is a local certificate for the City of Newport only. Any permits or certificates of occupancy required by the State or other governmental agencies is the sole responsibility of the property owner.

2. Certificates of Occupancy are only issued to property owners. Property Owners are responsible for obtaining Certificates of Occupancy for new tenants when required. Certificates of Occupancy are required for all new non-residential tenants regardless of similarities to prior tenants. Certificates of Occupancy are required for new and change of ownership of all properties excluding undeveloped land. A Certificate of Occupancy is not required for a change of residential tenants in a residential rental property.

Planning Commission

Bylaw Amendment Report

This report is in accordance with 24 V.S.A. Chapter 117 Section 4441 (c).

Below is a brief explanation of the proposed bylaw amendment.

Bylaw "Section 304.09 Shore Land Control District" is being modified.

The proposed change adds language that synchronizes the City Bylaw with recently modified State Statute requirements and explains that unless all State required permits are obtained, all City permits are voided.

Findings regarding how the proposal:

1. Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing.

This amendment conforms to the goals and policies of the municipal plan and should have no effect on the availability of safe and affordable housing.

2. Is compatible with the proposed future land uses and densities of the municipal plan.

This amendment will have little or no effect on future land uses or densities.

3. Carries out, as applicable, any specific proposals for any planned community facilities.

This amendment will have little or no effect on planned community facilities.

DRAFT – 04-22-2016

Proposed Tariff

304.09 Shore Land Control District

In accordance with Title 24 VSA §4414 and §4424, the following special regulations are established for all development located within 1,000 feet of the high-water level of Lake Memphremagog:

- A.** Sanitary Provision for areas not served by public sewer systems shall be in accordance with the adopted state regulations for individual subsurface sewage disposal systems.
- B.** A permit shall be required for the filling or grading of any wetland. Before a permit is issued, said application for the permit shall be reviewed by the Vermont Agency of Natural Resources.
- C.** All activity involving new or expansion of existing structures, new or expansion of cleared areas or impervious surfaces less than 250 feet from the shoreline in those portions of the General Residential District that are located within the Shore Land Control District shall have all applicable State of Vermont and Army Corp of Engineers permits before a valid Zoning Permit can be granted.
- D.** No permit shall be issued until all State of Vermont and Army Corp of Engineers permits related to shore land development have been obtained. Failure of the developer to obtain all State and Army Corp of Engineers required permits automatically VOIDS all associated Newport City permits.
- E.** Nonresidential developments will require individual project permits and shall be required to obtain all applicable State of Vermont permits.

Section 1.02 304.09 Shoreland Control District

In accordance with Title 24 VSA §4414 and §4424, the following special regulations are established for all development located within 1,000 feet of the high water level of Lake Memphremagog:

- A.** Sanitary Provision for areas not served by public sewers shall be in accordance with the adopted state regulations for individual subsurface sewage disposal systems.
- B.** A permit shall be required for the filling or grading of any wetland. Before a permit is issued, said application for the permit shall be reviewed by the Vermont Department of Water Resources.

All structures, except boathouses, docks and uncovered porches, shall be at least 75 feet from the shoreline in those portions of the General Residential District that are located within the Shoreland Control District.

Existing Bylaw

DRAFT – 04-22-2016

Explanatory Copy

304.09 Shore Land Control District

In accordance with Title 24 VSA §4414 and §4424, the following special regulations are established for all development located within 1,000 feet of the high water level of Lake Memphremagog:

- A. Sanitary Provision for areas not served by public sewer **systems** shall be in accordance with the adopted state regulations for individual subsurface sewage disposal systems.
- B. A permit shall be required for the filling or grading of any wetland. Before a permit is issued, said application for the permit shall be reviewed by the **Vermont Agency of Natural Resources** *Department of Water Resources*.
- C. All **activity involving new or expansion of existing** structures, **new or expansion of cleared areas or impervious surfaces less than** *except boathouses, docks and uncovered porches, shall be at least 250* 75 feet from the shoreline in those portions of the General Residential District that are located within the Shore Land Control District **shall have all applicable State of Vermont and Army Corp of Engineers permits before a valid Zoning Permit can be granted.**
- D. No permit shall be issued until all State of Vermont and Army Corp of Engineers permits related to shore land development have been obtained. Failure of the developer to obtain all State and Army Corp of Engineers required permits automatically VOIDS all associated Newport City permits.
- E. Nonresidential developments will require individual project permits and shall be required to obtain all applicable State of Vermont permits.

Note: Regular type is existing material
Bold type is new material
Italic is to be deleted