

**CITY OF ESSEX JUNCTION  
PLANNING COMMISSION  
REGULAR MEETING AGENDA**

Online & 2 Lincoln St.  
Essex Junction, VT 05452  
**Thursday, April 6, 2023**  
**6:30 PM**

E-mail: [cyuen@essexjunction.org](mailto:cyuen@essexjunction.org)

[www.essexjunction.org](http://www.essexjunction.org)

Phone: 802-878-6944, ext. 1607

This meeting will be held in-person at 2 Lincoln Street and available remotely. Options to join the meeting remotely:

- **JOIN ONLINE:** [Join Zoom Meeting](#)
- **JOIN CALLING:** (toll free audio only): (888) 788-0099 | Meeting ID: 953 1240 7791; Passcode: 040339

1. **CALL TO ORDER** [6:30 PM]
2. **AGENDA ADDITIONS/CHANGES**
3. **PUBLIC TO BE HEARD**
  - a. Comments from Public on Items Not on Agenda
4. **MINUTES**
  - a. March 9, 2023\*
5. **BUSINESS ITEMS**
  - a. Potential Impacts of S.100\*
  - b. Land Development Code Updates\*
  - c. Inclusionary Zoning
    - Priority Housing in Neighborhood Development Area
    - Transit Oriented Development study
  - d. Rental Registry & Inspection Program Next Steps
6. **READING FILE**
  - a. Nothing this month
7. **MEMBERS UPDATES**
8. **STAFF UPDATES**
9. **ADJOURN**

\*attachments included in the packet

*This agenda is available in alternative formats upon request. Meetings of the Planning Commission, like all programs and activities of the City of Essex Junction, are accessible to people with disabilities. For information on accessibility or this agenda, call the City Manager's office at 802-878-6944 TTY: 7-1-1 or (800) 253-0191.*

**VILLAGE OF ESSEX JUNCTION  
PLANNING COMMISSION  
PUBLIC HEARING  
MINUTES OF MEETING  
MARCH 9, 2023  
DRAFT**

**MEMBERS PRESENT:** Phil Batalion, Chair (remote); Patrick Scheld, Vice Chair; Diane Clemens; Scott McCormick; Elijah Massey

**ADMINISTRATION:** Regina Mahony, City Manager; Chris Yuen, Community Development Director

**OTHERS PRESENT:** Katie Ballard; Ned Daly; Mike Hoey, ABC 22 / Fox 44 News

**1. CALL TO ORDER**

Patrick Scheld called the meeting to order at 6:32 PM. Mr. Scheld will be running the meeting as Mr. Batalion is participating remotely.

**2. AGENDA ADDITIONS/CHANGES**

Mr. Batalion suggested that the Item 5c, Housing-Conversation with Katie Ballard & Ned Daly from the Housing Commission be discussed prior to Item 5b, Rental Registry & Inspection Program Next Steps. All agreed.

**3. PUBLIC TO BE HEARD**

**a. Comments from Public on Items Not on Agenda**

None.

**4. MINUTES**

**a. February 2, 2023**

**MOTION by DIANE CLEMENS, SECOND by ELIJAH MASSEY, to approve the minutes of February 2, 2023. Motion passed 5-0.**

Mr. McCormick requested including a table with action items and who is responsible for each in the minutes going forward. Mr. Yuen said that he will ask the Recording Secretary to do this from now on.

**5. BUSINESS ITEMS**

**a. Introduce Chris Yuen, Community Development Director; Zoning Administrator appointment**

Ms. Mahony introduced Mr. Yuen, who has been working as the Community Development Director for a little over a month. Mr. Yuen said that he previously worked in consulting and has worked in public transit network design throughout the United States and Europe. He has lived in Toronto, Vancouver, Hong Kong and Portland. He is excited to join the City of Essex Junction in this role.

The position of Zoning Administrator needs to be nominated by the Planning Commission (PC), and formally appointment by the City Council. Ms. Mahony said that this is a statutory step that the PC is responsible for, and Mr. Yuen said that it will need to be repeated every three years. She clarified the roles of the Zoning Administrator and Assistant Zoning Administrator, noting that the current Assistant Zoning Administrator should also be formally appointed as well.

**DIANE CLEMENS made a motion, seconded by SCOTT MCCORMICK that the Planning Commission nominate Community Development Director Christopher Yuen for a three-year term as Zoning Administrator. Motion passed 5-0.**

**b. Housing – Conversation with Katie Ballard & Ned Daly from the Housing Commission:**

Mr. Scheld introduced Housing Commissioners Ms. Ballard and Mr. Daly and thanked them for attending.

**i. Inclusionary Zoning**

Ms. Ballard said that she is the Chair of the Housing Commission (HC), and a City resident. She gave an overview of the work that the HC has been doing on the issues of inclusionary zoning and the development of a rental registry, as well as the other agencies that they have been working with. The HC has voted and is in favor of inclusionary zoning and feels that it is now time to pass the baton onto other boards for implementation. She discussed how the HC defines inclusionary zoning, noting that it would apply for both rentals and owner-occupied units. The HC has worked to get input from landlords and developers, who expressed concern about the current planning review structure in both Essex and Essex Junction regarding larger projects. Ms. Ballard discussed the recommended implementation process, and asked what type of role the PC would like to have in it. Ms. Clemens asked how this program would support the middle class. She said that it is important to balance the needs of those looking for studios and those looking for family housing. Ms. Mahony said that inclusionary zoning is one of many tools for housing access, and that other programs may better target this group.

Mr. Battalion said that the PC is in favor of inclusionary zoning, however more work is needed prior to implementation. Mr. Scheld said that some type of incentive would need to be required in order to entice developers to participate, as otherwise low-income units would be a financial loss. Developers may not be able to access the same subsidies if only a few of their units are affordable, rather than the entire building. Mr. Yuen said that inclusionary zoning alone will not increase housing supply, but can influence the types of housing built. To increase total housing supply, it must be paired with the adjustment of density and dimensional limitations in the Land Development Code. Mr. Battalion asked how inclusionary zoning was enforced. Ms. Mahony discussed the different options and suggested that the PC speak with South Burlington, as they have recently implemented inclusionary zoning. Ms. Clemens said that it would make sense to have inclusionary zoning work simultaneously with a rental registry. Mr. Massey said that mixed-income buildings have a lot of benefits, all agreed that this was preferable. Ms. Ballard discussed potential incentives, noting that this was something that the HC felt would need to be further explored by the PC. Mr. McCormick said that he is fearful that inclusionary zoning could drive developers out of Essex Junction, which would harm the overall housing shortage. Ms. Clemens added that Essex Junction already has a four-story limit on buildings, but a density bonus through a fifth floor may help increase financial viability for developers required to add affordable housing through inclusionary zoning.

**i. Housing Trust Fund**

Ms. Ballard said that the HC has not discussed using these funds to mitigate construction costs, however she thinks that it could be viable. They did, however, investigate the possibility of inclusionary zoning funds to finance the Housing Trust Fund (HTF). She said that the HC investigated the amount of money that would be required to start this fund, as well as the types of uses that would be acceptable. The City Council and Selectboard have said to the HC that they would like to see them do a broad community

engagement effort on this issue, which is anticipated to begin in May. Ms. Ballard said that the HTF could be used to assist a variety of people, such as first-time homebuyers and landlords looking to repair their units. Mr. Scheld said that it is important to prioritize the most vulnerable community members to ensure that enough money continues to be available. Ms. Ballard said that it is important for there to be some flexibility in the fund as time goes on and the fund increases.

Ms. Mahony said that some communities allow developers to make a payment to the HTF in lieu of following inclusionary zoning regulations. These funds can be saved to build a major low-income housing project. There may be efficiencies to this method, but it may run contrary the potential goal of creating mixed-income buildings through inclusionary zoning. She also said that Vermont is in a period where construction is very expensive, and it is important to balance this fact with a desire to include housing opportunities for all. Inclusionary zoning could also be included in some, but not all, zoning districts. Ms. Ballard said that inclusionary zoning is not something that the HC is actively working on, however the creation of a housing trust fund continues to remain a priority. Mr. McCormick asked what the PC's role would be in the creation of a HTF. Ms. Ballard said that both the City Council and Selectboard are interested in putting this issue on the ballot after at least a year has passed post-separation. She expects that conversations will continue regarding the issue. Ms. Mahony said that the HTF will most likely be a City Council issue, however this will directly connect with the PC's other work on housing. Inclusionary zoning is directly tied to the Land Development Code (LDC) and will thus need to be reviewed by the PC. Mr. McCormick suggested that the HC and PC continue to stay in communication on these issues. Ms. Ballard said that a HC member will plan to join PC meetings every other month. Mr. Scheld said that this expertise would be helpful in developing housing policies. Mr. Scheld thanked the HC for their hard work on these issues.

Mr. Scheld said that the PC would need more information on the results of the previous inclusionary zoning Developer's Roundtable event and requests that the HC share the notes from the event if possible. Ms. Clemens said that it is important to engage the City Council to determine how they feel on these issues, as it could determine how the PC proceeds. Ms. Mahony said that many of these issues, especially a HTF, would be voted on and potentially partially funded by the taxpayers. Mr. Yuen said that the HC is working on developing best uses for the HTF, and that these may be different between the Town and City. The HC is currently joint for these communities but will be separating in the next few months. Mr. Scheld said that it is important to expand affordable housing now as the City has many new developments being built. Ms. Clemens said that she expects additional development in the City once the Crescent Connector is constructed. Mr. McCormick asked if inclusionary zoning would be added into the LDC, Ms. Mahony said that it could be done as an ordinance or in the LDC, but the LDC makes the most sense. Mr. Yuen said that he hopes that the City Council will be reviewing the current draft LDC amendments in May, as there are some state-level changes that will need to be included. Ms. Mahony said that, once the process is started, all applications must be reviewed under the current and future LDC.

### **iii. Rental Registry & Inspection Program**

Mr. Yuen said that two UVM students are assisting in process and implementation research. The students have read through ordinances of other Vermont communities, and have begun having conversations with other towns. He asked if the PC had any questions, that they would like the students to address. Mr. McCormick said had recently spoke with Barre officials and that the biggest issue that they face is compliance and enforcement. Barre has had a rental registry for at least fifteen years and second homes are also required to be listed on the registry. No new staffers were required to implement this, as the fire

department conducts inspections. Mr. Scheld said that he would like to see something in the registry that benefits landlords, such as the easier sharing of information. It is important that it be seen as a positive issue to all, not just the tenants. Mr. Yuen said that he will ask the UVM students to look into the benefits to small landlords. Mr. Scheld suggested that they review similar communities throughout the nation that have implemented rental registries. Ms. Mahony suggested reaching out to Brattleboro and Bennington to ask about the implementation of the rental registry.

Mr. Massey said that it would be helpful to focus on the positive aspects of enforcement from other communities and learn from best practices. Ms. Clemens said that having the rental registry would also help to make sure that the LDC was properly enforced. She discussed sensitivity around the rise in short-term rentals, as a desire to regulate these properties as well. Ms. Mahony gave an update on the City budget, and said that if approved this budget will include a new position which will be responsible for the rental registry, code enforcement and health inspection; as well as a planner to cover more committee work. It is assumed that some of the salary for this person would be covered by the rental registry.

### **c. Rental Registry & Inspection Program Next Steps**

**Chris Yuen:** Follow up with the City of Winooski, collaborate with UVM students and continue to provide the PC with updates about the process; share HC document link to with Planning Commission; Send VPR Vermont Edition article link to the PC

**UVM Students:** Contact Shaun Gilpin, at the Vermont Housing & Community Development Department and Chip Sawyer, City of St. Albans Community Development Director.

**Katie Ballard:** Locate and share housing commission notes from the inclusionary zoning Developer Roundtable with Staff

**Scott McCormick:** Send the PC notes from meeting with Barre officials, including the contact information for the Deputy Fire Chief.

## **6. READING FILE**

### **a. Nothing this month**

## **7. MEMBERS UPDATES**

Ms. Clemens directed the PC to a recent article in VPR Vermont Edition regarding housing.

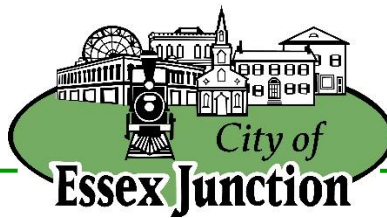
## **8. STAFF UPDATES**

None.

## **9. ADJOURN**

**MOTION by DIANE CLEMENS, SECOND by SCOTT MCCORMICK, to adjourn the meeting at 9:09 PM. Motion passed 5-0.**

Respectfully submitted,  
Darby Mayville



## MEMORANDUM

**To:** Planning Commission  
**From:** Christopher Yuen, Community Development Director  
**Meeting Date:** 04/06/2023  
**Subject:** S.100 Omnibus Housing Bill potential municipal impacts

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### Issue:

The S.100 Omnibus Housing Bill being considered in the State Legislature will have significant impact on municipal policy.

### Discussion:

As of the writing of this memorandum, S.100 has been passed by the Senate and will now be debated by the House.

While some elements of the bill have changed, particularly around Act 250 Exemptions, the attached summary of the bill from February 23 provides a useful preview of its potential impacts. The most likely zoning bylaw impacts include:

- Section 1: Minimum parking requirements
- Section 2: Multiunit dwellings in areas where single family units are allowed
- Section 2: Accessory Dwelling Unit (ADUs) review requirement not to stricter than for single family homes

The City of Essex Junction is well positioned to implement required changes quickly as we have a set of Land Development Code updates scheduled to be considered by Council in the coming months that largely aligns with the likely requirements. After the conclusion of the legislative session in mid-May, Council may amend the proposed Land Development Code updates to meet the requirements of the state housing bill and then warn it for public hearing in June.

### Cost:

This memo is solely for informational purposes.

### Recommendation:

This memo is solely for informational purposes.

**S.100 – An act relating to housing opportunities made for everyone**

Office of Legislative Counsel

23 February 2023

Section	Summary
Municipal zoning	
Sec. 1 24 V.S.A. § 4414	Municipality can't require more than 1 parking space per dwelling unit or ADU. But may require 1.5 if existing other parking isn't sufficient.
Sec. 2 24 V.S.A. § 4412	<ul style="list-style-type: none"> <li>• Municipalities must allow duplexes where single family units are allowed. Municipalities must allow multiunit dwellings with up to 4 units in areas of the town served by sewer and water- as defined in this section.</li> <li>• Changes to accessory dwelling unit (ADU) requirements-; requires towns to subject ADUs to same standards of review as single-family homes; prohibits towns from making the criteria for detached ADUs stricter than for single family homes</li> <li>• Municipalities cannot not prohibit hotels renting to those with housing assistance funds</li> <li>• In residential districts served by sewer and water, bylaws shall establish building and lot standards to allow 4 or more units per acre; no dimensional standard for multiunit dwellings can be more restrictive than those for single-family dwellings</li> <li>• In residential districts served by sewer and water, affordable housing may add an additional floor and use it to add additional units up to 40% of the density requirement</li> <li>• Bylaws cannot limit the square footage of duplexes that otherwise complies with the building code</li> <li>• Municipalities are allowed to define what areas are “served by municipal sewer and water infrastructure”</li> </ul>
Sec. 3 24 V.S.A. § 4413	Limits what aspects a of an emergency shelter (homeless shelter) can be regulated in town zoning, including that bylaws cannot limit their daily and seasonal hours of operation.
Sec. 4 24 V.S.A. § 4303	Adds definitions for “accessory dwelling unit,” “duplex,” “emergency shelter,” and “multiunit or multifamily dwelling”

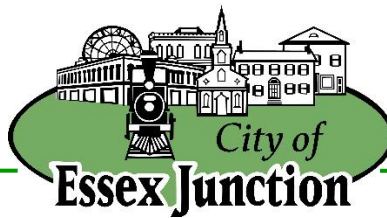
Sec. 5 24 V.S.A. § 4441	Requires that specific information be submitted to the Department of Housing and Community Development when municipalities adopt new zoning bylaws or update bylaws
Sec. 6 24 V.S.A. § 4465	Removes the ability of any 10 voters or property owners in a town to appeal a zoning decision
Secs. 7-8 24 V.S.A. § 4463 24 V.S.A. § 4418	Allows towns to give their administrative officer authority to approve subdivisions and decide if a hearing is required for subdivisions.
Sec. 9 24 V.S.A. § 4471	Clarifies existing law that the character of the area cannot be appealed in decisions on certain types of housing. Other elements of the decision may be appealed.
Sec. 10 24 V.S.A. § 4464(b)	Establishes “by right zoning” which requires an appropriate municipal panel to provide reasons for adjusting dimensional requirements in permit decisions on housing.
Sec. 11 24 V.S.A. § 4348a	Adds detail to the required housing element in a regional plan. The regional plan shall include an estimate of the total housing investments needed and specific actions to address housing.
Sec. 12 24 V.S.A. § 4382	Requires the town plan be consistent with the goals of Chapter 117. Also requires the housing element of the municipal plan to include specific actions to address housing.
Sec. 13 24 V.S.A. § 3101(a)	Municipal energy codes adopted after July 1, 2023 cannot be more restrictive than the RBES, stretch code, or CBES, except those with charter amendments on it. A municipal energy may be stricter for large homes if the town receives approval from the Department of Public Service.
Sec. 14	Appropriates \$750,000 to the Municipal and Regional Planning Fund
Sec. 15	Appropriates \$300,000 to hire Housing Resource Navigators at the RPCs



Act 250	
Secs. 16- 17 10 V.S.A. § 6001 10 V.S.A. § 6081	<ul style="list-style-type: none"> <li>• Raises the Act 250 jurisdictional threshold for housing units from 10 units to 25</li> <li>• Removes the cap on the number of priority housing projects that make a project exempt from Act 250</li> <li>• Removes the ‘5-year, 5-mile’ rule for housing projects in designated areas and for subdivisions in neighborhood development areas</li> <li>• Amends the definition of priority housing projects to include projects located in designated village centers with permanent zoning and subdivision bylaws</li> <li>• Removes reference to the cap on the number of priority housing projects</li> <li>• No permit amendment is required for 24 units or fewer of housing</li> </ul>
Enhanced Designation	
Secs. 18-21 10 V.S.A. § 6081 24 V.S.A. § 2793f 10 V.S.A. § 6001	<ul style="list-style-type: none"> <li>• No Act 250 permit is needed for development or subdivisions in an enhanced designation area</li> <li>• A town may apply to the Natural Resources Board to have a designated area become an enhanced designation area by meeting the requirements in the section, which include adopting bylaws to address all of the Act 250 criteria and having sufficient staff to administer land use permits</li> <li>• The NRB shall draft model bylaws that towns may adopt which address all of the Act 250 criteria</li> </ul>
Covenants	
Sec. 22 27 V.S.A. § 545	Prohibits deed restrictions and covenants that require minimum dwelling unit size and more than one parking space.
Road Disclosure	
Sec. 23 27 V.S.A. § 617	Requires sellers to disclose if a property is located on a class 4 highway or legal trail.
Wastewater Connection Permits	
Secs. 24-25 10 V.S.A. § 1974	Exempts wastewater projects from needing a State permit if the municipality can meet the criteria to issue an authorization for it.

10 V.S.A. § 1983	
	ADU Jurisdiction
Sec. 26. 20 V.S.A. § 2730	Includes ADUs that are rented overnight or long term in the definition of public building for purposes of the fire and building safety codes.
	Fair Housing
Sec. 27	Creates a new FT litigator position at Human rights Commission and appropriates funding for the position in FY 2024
Sec. 28. 9 V.S.A. § 4507	Increases criminal fine for a violation of Fair Housing and Public Accommodations Act from \$1,000 to \$10,000
	Building Safety Study
Sec. 29	Directs Division of Fire Safety to study potential revisions to the fire and life safety codes that could facilitate creation of new housing units.
	<b><u>Housing Programs</u></b>
Sec. 30	Appropriates \$2.5m GF to provide eviction rescue funding on behalf of tenants for rental arrears and prevent eviction for nonpayment of rent if such funding will preserve a tenancy.
Sec. 31	Appropriates \$200k GF to DHCD for funding to expand home-sharing opportunities throughout the State.
Sec. 32	Appropriates \$500k GF to DHCD to provide financial support for home repair, home improvement, housing transition, park infrastructure, legal assistance, and technical assistance and directs DHCD , with CVOEO, to report on needs, opportunities, and barriers for mobile homes.
Sec. 33	VHFA – modifies definition of “first-generation homebuyer” to mean a person whose parents have not owned a home, or have lost a home in foreclosure or similar legal process.
Secs. 35-37	Sec. 35 repeals session law “Missing Middle-Income Homeownership Development Pilot Program” Sec. 36 replaces with codified “Middle-Income Homeownership Development Program,” which is modified to expand the demographic and geographic reach of the Program and improve accessibility.

	Sec. 37 appropriates \$20m GF to VHFA for the Program.
Secs. 38-39	Sec. 38 creates the Rental Housing Revolving Loan Program within VHFA to provide subsidized loans for rental housing developments that serve middle-income households. Sec. 39 appropriates \$20m GF to VHFA for the Program
Secs. 40-41	Sec. 40 amends the Vermont Rental Housing Improvement Program to expand the types of new units that may be created using Program grants or forgivable loans. Sec. 41 appropriates \$20m GF to DHCD for the Program
Sec. 42	Appropriates \$25m GF to VHCB to create new housing across a variety of types and sectors
Sec. 43	Charges the Auditor of Accounts to deliver a plan, cost estimate, and timetable for conducting a performance audit of the residential housing development and approval process
Sec. 44	Effective Dates



## MEMORANDUM

**To:** Planning Commission  
**From:** Christopher Yuen, Community Development Director  
**Meeting Date:** 04/06/2023  
**Subject:** Amendments to Land Development Code Update

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### Issue:

The Land Development Code (LDC) updates approved by the Planning Commission in August 2022, will be discussed by City Council in May and June. Staff is recommending that council consider some additional amendments to the LDC updates.

### Discussion:

Extensive updates to the LDC were discussed and approved by the Planning Commission in August 2022. These updates aimed to improve alignment with the Comprehensive Plan, the Five Corners Design Plan, Address the severe housing shortage, improve stormwater management outcomes, address State Statute Changes, and to reflect Essex Junction's charter as a new city entity.

With time-sensitive issues such as Essex Junction's separation from the Town, as well as some personnel turnover, Council only advanced the Cannabis-related sections of the LDC amendments towards adoption, tabling discussion of the remainder of the updates. The LDC updates are now scheduled to be discussed by council in May and June.

Staff is recommending that council consider some additional amendments to the LDC updates. These amendments are meant to address new statutory requirements, and to address procedural issues identified by Staff over the past few months. The amendments include:

1. **Changes to meet requirements set by S.100 Housing Bill, if it passes during the current State legislative session.**

See S.100 Memorandum for details.

2. **Reinstating of Conceptual Plan Review for Planned Unit Developments**

To reduce late discoveries of LDC non-compliance and the subsequent need for remedial action by developers, the Community Development Department has recently implemented new internal development review procedures. These procedures are designed to ensure sufficient municipal review at early stages of development applications so developers don't spend significant resources designing and engineering buildings that ultimately cannot be approved due to basic land-use or dimensional limitations in the Land Development Code.

In the latest proposal for Section 511 of the LDC Updates submitted by the Planning Commission, major applications for Planned Unit Developments (PUDs) required "Preliminary Development Plan" and "Final Development Plan" review. To better align with the new internal review practices, the City Manager and the Community Development Department now agree that all PUDs should

undergo “Conceptual Development Plan” and “Final Development Plan” review. Instead of making the higher-level, less detailed “Conceptual Development Plan” review optional, we now recommend making the more detailed, “Preliminary Development Plan” review optional.

### **3. Minor changes to Section 704: Lighting**

The current LDC offers clear guidance and regulation on lighting in parking lots, on building facades, on landscaping features and on roadways. However, recent infill housing projects on uniquely shaped lots have faced some ambiguity with lighting standards on pedestrian pathways.

To address non-conventional site plans where pedestrian paths are not directly adjacent to parking lots and driveways, we are recommending that lighting intensity and uniformity standards in Section 704 D be extended to cover walkways.

### **4. Changes to Chapter 11: Sewer Regulations**

To streamline coordination with public works and the wastewater department, we are recommending amended wording in Chapter 11 to require applicants to submit sewer allocation requests at the time of a zoning application, site plan application, or sketch plan approval. If the request is for a development larger than a single-family dwelling, it must indicate the gallons/day being requested by referencing the State of Vermont Wastewater System & Portable Water Supply Rules Subchapter 8. Allocations will expire 2 years from issuance if no substantial construction progress is made, unless an extension is granted. Any change of use that impacts wastewater volumes are to be submitted to the City for reallocation. [Section 1102].

The proposed amendments are attached.

### **5. Minor changes to comply with requirements of the FEMA National Flood Insurance Program**

In March 2023, Chittenden County Regional Planning Commission (CCRPC), completed a review of municipal bylaws for compliance with the FEMA National Flood Insurance Program (NFIP). Having Zoning bylaws that align with NFIP requirements is important to ensure that the community remains eligible for flood insurance, along with a more favorable rate for state disaster aid (the Emergency Relief and Assistance Fund, aka ERAF). The recent review found that the LDC is not in compliance with the NFIP requirements.

The non-compliant elements are all minor administrative issues and can be addressed through minor changes to wording in Section 614 of the Land Development Code. Staff recommends the inclusion of these amendments in the upcoming LDC updates.

CCRPC’s Bylaw Review Report is attached.

While the Planning Commission may provide feedback on these amendments, formal approval is not necessary at this time as the LDC Updates are in the purview of City Council.

#### **Cost:**

This memo is solely for informational purposes.

#### **Recommendation:**

This memo is solely for informational purposes. No action is needed at this time.

## **SECTION 1102: SEWER ALLOCATION**

A. Allocation of Capacity. Discharge capacity shall be requested by an applicant who has submitted an application for a ~~allocated to any applicant who has, at the time of application for an allocation, obtained a~~ Zoning Permit, Sketch Plan Approval or Site Plan Approval for a proposed project. ~~(regardless of whether such approval is subject to appeal). To obtain an allocation from the facility project information shall be provided that includes the amount of gallons/day requested using the State of Vermont Wastewater System and Portable Water Supply Rules Subchapter 8 for uses outside of single-family dwelling bedroom additions, and has complied with all requirements established by the Village wastewater treatment facility to obtain an allocation of capacity from such facility.~~ Applicants under this section shall be allocated capacity according to the date they apply for an allocation of capacity under this Chapter in an amount equal to that approved by the Village City wastewater treatment facility.

B. Expiration of Allocations. Any allocation of capacity shall expire two (2) years from the date such allocation is made if the improvements needing such capacity are not substantially completed within such two (2) year period. For good cause shown, Staff may approve one extension of one (1) year provided a request for such extension is filed with Staff at least thirty (30) days prior to the expiration of the initial two (2) year period. ~~Allocation will be issued (awarded) upon the applicant's signature on a State of Vermont "Voluntary Request Permit Revocation" form specifically related to the permitted project. The Village of Essex shall execute the Voluntary Request for Permit Revocation only if improvements are not substantially completed within a two (2) year period or when any extension as expired.~~

~~Any amendment regarding expiration of allocations can be made applicable to allocations already granted under this Chapter provided such amendment grants those holding allocations under this Chapter at least six (6) months from the date of any such amendment to utilize such allocation.~~

For the purposes of this Chapter improvements shall be substantially completed when they are capable of being issued a Certificate of Occupation. ~~utilized for their intended purpose.~~

C. Assignability of Allocations. Allocations of capacity is not alienable, assignable or transferable without written approval of the Village City, may not be sold or transferred for use on property other than that for which the allocation is initially granted. Allocations may not be used for substantially different projects on the same property for which an allocation is initially granted. Any change in use that impacts wastewater characterization or allocation amount that differs from what was approved shall be submitted to the City for an reallocation request.

D. Administration. Requests for allocation of capacity under this Chapter shall be submitted on a standard form and shall be accompanied by an application fee established by the Trustees.

Except as provided below, the Staff shall act to approve or deny any request for allocation of capacity within thirty (30) days of the receipt of said application. Failure to act within said thirty (30) day period shall not constitute approval of an application.

A decision of the Staff to approve or deny an allocation of capacity under this Chapter shall be

appealable to the Trustees.

Staff shall have no authority to approve a request for allocation of capacity in an amount of ten thousand (10,000) gallons per day or greater. Staff shall forward a request for such allocation to the Trustees who shall hold a public hearing. The Trustees shall give due consideration to the following:

1. Whether the proposed project complies with the Plan and ~~Village-City~~ Ordinances in effect, or which have been warned for public hearing before the Trustees.
2. Ability of the ~~Village's-City's~~ Wastewater Treatment facility and collection system to accommodate the proposed discharge.
3. Impact of the proposed allocation on the ~~Village's-City's~~ ability to sustain balanced growth within the limits of remaining available capacity.

# NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community: Essex Junction

C.I.D. : 500035

State: Vermont

Reviewed by: Darren Schibler

Date of Review: 03/10/2023

Bylaw Reviewed: Village of Essex Junction Land Development Code

Community Floodplain Management Regulations Reviewed by (circle one): FEMA State Other (CCRPC)

Reviewer's Determination: ☐ The floodplain management regulations are compliant.

☒ The floodplain management regulations are not compliant.

Approved by: \_\_\_\_\_ (FEMA only) Date of Approval: \_\_\_\_/\_\_\_\_/\_\_\_\_

The "Item Description" is a synopsis of the regulatory requirement and should not be construed as a complete description. Refer to the actual language contained in the National Flood Insurance Program Floodplain Management Regulations at Title 44 Code of Federal Regulations (CFR) Part 59 and 60 for the complete description of the required minimum criteria. Below the "Level of Regulations" column, you can indicate whether the community ordinance meets or exceeds the respective provision in the non-shaded areas.

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d <sup>1</sup>	e <sup>1</sup>	
ORDINANCES MUST CONTAIN THE FOLLOWING PROVISIONS:						
1. Citation of Statutory Authority				N		Not cited; some CFRs referenced in definitions but not authority; State cited indirectly in §103
2. Framework for administering the ordinance (including permit system, establishment of the office for administering the ordinance, record keeping, etc.).				Y		§401 (Permits) Chapter 3 (Administration) §614(D)
3. Adequate enforcement provisions (including a violation and penalty section specifying actions the community will take to assure compliance).				Y		Chapter 10 (Enforcement)
4. Variance section with evaluation criteria and insurance notice. [60.6(a)]				Y		§1703 (Variances) §614(E)
5. Effective Date: 09/14/2022      Adoption Date: 09/14/2022				Y		Title Page (2)

<sup>1</sup> If a community has both floodways and coastal high hazard areas, it must meet the requirements of both level 60.3(d) and 60.3(e).



# NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community Essex Junction C.I.D. 50035 State Vermont

Reviewed by: Darren Schibler Date of Review: 03/10/2023

Item Description <i>(Section reference to the NFIP Regulations follows)</i>	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d <sup>1</sup>	e <sup>1</sup>	
6. Signature of Appropriate Official and Certification Official.				N		
<b>OTHER PROVISIONS AND ACTIONS THAT MAY BE NECESSARY TO MAKE THE ORDINANCE LEGALLY ENFORCEABLE AND ENSURE THAT IT CAN BE PROPERLY ADMINISTERED:</b>						
7: Purpose section citing health, safety, and welfare reasons for adoption.				Y		§102, §614
8: Disclaimer of Liability section advising that the degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.				N		
9. Abrogation and Greater Restriction section. (e.g., This Ordinance shall not in any way impair/remove the necessity of compliance with any other applicable laws, ordinances, regulations, etc. Where this Ordinance imposes a greater restriction, the provisions of this Ordinance shall control.)				N		
10. Severability section. (e.g., If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.)				Y		§104
11. Public hearing (State/local laws may require hearings)				Y		§501(E)
12. Publication (State/local laws may require public notices)				Y		§501(D)
<b>MINIMUM NFIP CRITERIA:</b>						
13. Definitions: [59.1] <u>X</u> Base Flood; <u>X</u> Base Flood Elevation; <u>   </u> Development; <u>X</u> Existing manufactured home park or subdivision; <u>X</u> Expansion to an existing manufactured home park or subdivision; <u>X</u> Flood Insurance Rate Map; <u>X</u> Flood Insurance Study; <u>X</u> Floodway; <u>X</u> Lowest Floor; <u>X</u> Manufactured Home; <u>X</u> Manufactured Home Park or Subdivision; <u>X</u> New Construction; <u>X</u> New Manufactured Home Park or Subdivision; <u>X</u> Recreational Vehicle; <u>X</u> Special Flood Hazard Area; <u>X</u> Start of Construction;				N		§701(E) Flood plain definitions does not contain "Development;" general definition does not meet 40 CFR §59.1

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<u>X</u> Structure; <u>X</u> Substantial Damage; <u>X</u> Substantial Improvement; <u>X</u> Violation;  Other Definitions as appropriate such as <u>X</u> Floodproofing; ___ Highest adjacent grade for community's with mapped AO Zones; <u>X</u> Historic Structures						
14. Adopt or reference correct Map and date. [60.3(b)] (If the community has an automatic adoption provision in its ordinance, is it a valid provision?)				N		Outdated reference in §614; recommend referencing "most current" maps and studies
15. Adopt or reference correct Flood Insurance Study and date. [60.3(c), (d), and/or (e)] (If the community has an automatic adoption provision in its ordinance, is it a valid provision?)				N		Outdated reference in §614; recommend referencing "most current" maps and studies
16. Require permits for all proposed construction or other development including placement of manufactured homes to determine whether such construction or development is in a floodplain. [60.3(a)(1)]	n/a					n/a
17. Require permits for all proposed construction and other development within SFHAs. [60.3(b)(1)]				Y		§401
18. Assure that all other State and Federal permits are obtained. [60.3(a)(2)]				Y		§614(A)(3)
19. Review permits to assure sites are reasonably safe from flooding and require for new construction and substantial improvements in flood-prone areas [60.3(a)(3)]: (a) Anchoring (including manufactured homes) to prevent flotation, collapse, or lateral movement of the structure. [60.3(a)(3)(i)]				Y		§614(C)(2)(a)

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(b) Use of flood-resistant materials. [60.3.(a)(3)(ii)]				Y		§614(C)(2)(b)
(c) Construction methods and practices that minimize flood damage. [60.3(a)(3)(iii)]				Y		§614(C)(2)(c)
(d) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities designed and/or located to prevent water entry to accumulation. [60.3(a)(3)(iv)]				Y		§614(C)(2)(d)
20. Review subdivision proposals and other development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding [60.3(a)(4)]. If a subdivision or other development proposal is in a flood-prone area, assure that: (a) Such proposals minimize flood damage. [60.3(a)(4)(i)]				Y		§905B (ensure subdivisions are not located in floodplains) §614(C) (minimize flood damage for proposals in floodplain)
(b) Public utilities and facilities are constructed so as to minimize flood damage. [60.3(a)(4)(ii)]				Y		§614(C)(1)
(c) Adequate drainage is provided. [60.3(a)(4)(iii)]				Y		§614(C)(2)
21. Require new and replacement water supply and sanitary sewage systems to be designed to minimize or eliminate infiltration. [60.3(a)(5) and 60.3(a)(6)]				Y		§614(C)(4)
22. Require onsite waste disposal systems be designed to avoid impairment or contamination. [60.3(a)(6)(ii)]				Y		§614(C)(5)
23. Require base flood elevation data for subdivision proposals or other developments greater than 50 lots or 5 acres. [60.3(b)(3)]				Y		§614(B)(1)
24. In A Zones, in the absence of FEMA BFE data and floodway data, obtain, review, and reasonably utilize other BFE and floodway data as a basis for elevating residential structures to or above the base flood level, and				Y		§614(B)(2)

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for floodproofing or elevating non-residential structures to or above the base flood level. [60.3(b)(4)]						
25. Where BFE data are utilized in Zone A, obtain and maintain records of the lowest floor and floodproofing elevations for new and substantially improved construction. [60.3(b)(5)]				Y		§614(D)
26. In riverine areas, notify adjacent communities of watercourse alterations and relocations. [60.3(b)(6)]				Y		§614(A)(2)
27. Maintain the carrying capacity of an altered or relocated watercourse. [60.3(b)(7)]				Y		§614(C)(3)
28. Require all manufactured homes to be elevated and anchored to resist flotation, collapse, or lateral movement. [60.3(b)(8)]				Y		§614(C)(6) §614(C)(2)(a)
29. Require all new and substantially improved <u>residential</u> structures within A1-30, AE, and AH Zones have their lowest floor (including basement) elevated to or above the Base Flood Elevation. [60.3(c)(2)]				Y		§614(C)(8) & (9)
30. <sup>2</sup> In AO Zones, require that new and substantially improved <u>residential</u> structures have their lowest floor (including basement) to or above the highest adjacent grade at least as high as the FIRM's depth number. [60.3(c)(7)]				n/a		Community has no AO zones
31. Require that new and substantially improved <u>non-residential</u> structures within A1-30, AE, and AH Zones have their lowest floor elevated or floodproofed to or above the Base Flood Elevation. [60.3(c)(3)]				Y		§614(C)(10)
32. <sup>2</sup> In AO Zones, require new and substantially improved <u>non-residential</u> structures have their lowest floor elevated				n/a		Community has no AO zones

<sup>2</sup> Item 30 and 32 are not required if the community has no AO Zones.

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	a	b	c	d <sup>1</sup>	e <sup>1</sup>	
or completely floodproofed above the highest adjacent grade to at least as high as the depth number on the FIRM. [60.3(c)(8)]						
33. Require that for floodproofed non-residential structures, a registered professional engineer/architect certify that the design and methods of construction meet requirements at 60.3(c)(3)(ii). [60.3(c)(4)]				Y		§614(C)(10)
34. Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are used solely for parking of vehicles, building access or storage in an area other than a basement and which is subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of floodwaters in accordance with the specifications in 60.3(c)(5). (Openings requirement)				Y		§614(C)(12) Should specify exclusive use for parking, access, and storage
35. <sup>3</sup> Until a regulatory floodway is designated, no encroachment may increase the Base Flood level more than 1 foot. [60.3(c)(10)]				n/a		Regulatory floodway designated; §614(C)(7) prohibits any increase in BFE
36. <sup>4</sup> In Zones AO and AH, require drainage paths around structures on slopes to guide water away from structures. [60.3(c)(11)]				n/a		Community has no AO / AH zones
37. Require that manufactured homes placed or substantially improved within A1-30, AH, and AE Zones, which meet one of the following location criteria, to be elevated such				Y		§614(C)(8), applies to all buildings regardless of location; however,

<sup>3</sup> Item 35 is not required if all streams have floodways designated.

<sup>4</sup> Item 36 is not required if the community has no AO or AH Zones.

# NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

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that the lowest floor is to or above the Base Flood Elevation and be securely anchored: (i) outside a manufactured home park or subdivision; (ii) in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; iv) on a site in an existing park which a manufactured home has incurred substantial damage as a result of a flood. [60.3(c)(6)]						needs to mention anchoring in flood zones
38. In A-1-30, AH, and AE Zones, require that manufactured homes to be placed or substantially improved in an <u>existing</u> manufactured home park to be elevated so that (i) the lowest floor is at or above the Base Flood Elevation; OR (ii) the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored. [60.3(c)(12)]				Y		§614(C)(8), applies to all buildings regardless of location or type
39. In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must (i) be elevated and anchored; OR (ii) be on the site for less than 180 consecutive days; OR (iii) be fully licensed and highway ready. [60.3(c)(14)]				Y		§614(C)(13)
40. Designate a regulatory floodway which will not increase the Base Flood level more than 1 foot. [60.3(d)(2)]				Y		§614(B)(1)
41. In a regulatory floodway, prohibit any encroachment, which would cause any increase in the Base Flood level unless hydrologic and hydraulic analyses prove that the proposed encroachment would not increase flood levels during the Base Flood discharge. [60.3(d)(3)]				Y		§614(C)(7)

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	a	b	c	d <sup>1</sup>	e <sup>1</sup>	
42. In V1-30, VE, and V Zones, obtain and maintain the elevation of the bottom of the lowest horizontal structural member of the lowest floor of all new and substantially improved structures. [60.3(e)(2)]					n / a	n/a
43. In V1-30, VE, and V Zones, require that all new construction and substantial improvements:					n / a	n/a
(a) Are elevated and secured to anchored pilings or columns so that the bottom of the lowest horizontal structural member is at or above the Base Flood Elevation. [60.3(e)(4)]					n / a	n/a
(b) A registered professional engineer/architect certify that the design and methods of construction meet elevation and anchoring requirements at 60.3(e)(4)(i) and (ii). [60.3(e)(4)]					n / a	n/a
(c) Have the space below the lowest floor either free of obstruction or constructed with breakaway walls. Any enclosed space shall be used solely for parking, building access, or storage. [60.3(e)(5)]					n / a	n/a
(d) All new construction is landward of mean high tide. [60.3(e)(3)]					n / a	n/a
(e) Prohibit use of fill for structural support. [60.3(e)(6)]					n / a	n/a
(f) Prohibit alteration of sand dunes and mangrove stands, which would increase potential flood damage. [60.3(e)(7)]					n / a	n/a
44. Require that manufactured homes placed or substantially improved within V1-30, VE, and V Zones, which meet one of the following location criteria, meet the V Zone standards in 60.3(e)(2) through (e)(7):					n / a	n/a
(i) outside a manufactured home park or subdivision;						
(ii) in a new manufactured home park or subdivision;						
(iii) in an expansion to an existing manufactured home park or subdivision;						

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# NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

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(iv) on a site in an existing park which a manufactured home has incurred substantial damage as a result of a flood. [60.3(e)(8)]						
45. In V1-30, VE, and V Zones, require that manufactured homes to be placed or substantially improved in an <u>existing</u> manufactured home park to be elevated so that (i) the lowest floor is at or above the Base Flood Elevation; OR (ii) the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored. [60.3(e)(8)(iv)]					n / a	n/a
46. In V1-30, VE, and V zones, all recreational vehicles to be placed on a site must (i) be elevated and anchored; OR (ii) be on the site for less than 180 consecutive days; OR (iii) be fully licensed and highway ready. [60.3(e)(9)]					n / a	n/a

## Additional Information:

- N Stand-alone Ordinance?  
 N Automatic Adoption?  
 Y Additional Regulatory Measures? If yes, specify:
- Stormwater regulations, §713
  - Riparian buffer requirements, §516

## State Requirement:

- Y ANR Referral Requirement [24 VSA §4424]?

## Comments: