

## Planning Commission Reporting Form for Municipal Bylaw Amendments

This report is intended to be in accordance with 24 V.S.A. §4441 (c), which states:

*“When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal. A single report may be prepared so as to satisfy the requirements of this subsection concerning bylaw amendments and subsection 4384(c) of this title concerning plan amendments. .... The report shall provide(:)*

*(A) brief explanation of the proposed bylaw, amendment, or repeal and ....include a statement of purpose as required for notice under section §4444 of this title,*

Amendment to the Charlotte Land Use regulations to permit any existing “Event Facility” as an “**Allowed by Right**” use within the existing West Charlotte Village (WCV) zoning district.

Additions and Amendments to the “Land Use Regulations for the Town of Charlotte, Vermont” would include;

### **Chapter 10, Section 10.2 – Definitions.**

**Add –** “**Event Facility:** Any lot or structure where events take place on a regular basis involving the gathering of individuals assembled for the common purpose of attending an event. Such events or gatherings may include community or civic events; or celebrations or ceremonies (such as weddings, funerals, receptions, parties, etc.); or entertainment performances (such as concerts, plays, etc.); or private or public functions (whether held by profit or not for profit or governmental entities); or banquets or food and drink service, including alcoholic drinks; or similar activities to the foregoing. The events may occur entirely within a structure, outside of a structure on the lot, or both inside and outside of the structure and on the lot. The facility owner operator may or may not charge fees for the use of the facility and the services provided at the facility.”

### **Table 2.1 (B) Allowed By Right (No permit needed)**

**Add –** “6. Event Facility in existence and operating as of January 1, 2016.”

### **Section 3.12 Performance Standards**

**Amend -** (1) noise in excess of 70 decibels (DbA), or which otherwise represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area; or within the Commercial/Light Industrial District, noise in excess of 75 decibels (DbA); **With -** “**or within the West Charlotte Village District (WCV), noise in excess of 65 decibels by any Event Facility in existence and operating as of January 1, 2016.**”

The Planning Commission feels that lowering the current performance standard of 70 DbA down to 65 decibels (DbA) does not set a good precedent because any future application within the Town for such a use might inherit this constraint. Additionally, collateral activities upon the property (e.g. lawn mowing, or the unloading of a refrigeration truck, etc.) are likely to raise decibel levels above 65 decibels (DbA).

Furthermore, language addressing how decibels (DbA) are measured, including average duration (e.g. 5 minutes, 30 minutes, 1 hour, etc.), height, and location should be added to the Land Use Regulations:

The Planning Commission is interested determining an appropriate method to measure sound and are currently researching methods for this end that are pertinent to the development of municipal ordinance. However, the petitioner has provided the following example language to the Planning Commission. This language has not been included within the petition:

*“DbA: The sound pressure level and decibels as measured with a sound level meter using A-weighting.*

*Sound loudness or amplitude is measured on a logarithmic scale in units called decibels, represented by the symbol “dB”. A weighting is a frequency response adjustment of a sound level meter that conditions the output signal to approximate human response.*

*To account for intermittent sounds over time, a weighted average sound level called the “equivalent continuous” sound level (Leq) is often used. Leq averages sound pressure rather than decibels, and results in weighting the levels of loud and infrequent noises. When DbA is used in these land use regulations it shall refer to a “DbA Leq (5 minutes), which means the established maximum sound level should not be exceeded when averaged over a five minute period. Exterior sound levels shall be measured at the property line of the property generating the sounds. Where practical, the microphone of the sound level meter shall be positioned three to five feet above the ground and away from reflective services.”*

**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:**

The following sections address how such a facility might further the goals and policies of the Town Plan.

### **4.3 The Economy**

“There appears to be support in the Town for increasing commercial development within the existing districts.” (page 27.)

#### ***Report of the Charlotte Business and Economic Planning Committee***

“4. Help retain and increase opportunities for local employment that maintain and enhance the historic, small scale, rural character of Charlotte.” (page 30.)

### **5.3 Economic Development**

#### **5.3.1 General Policies**

“3. Commercial development is encouraged in the West Charlotte and East Charlotte village areas, in accordance with other policies and strategies of the Town Plan.” (page 101.)

The proposed language does not address provision or impact on safe and affordable housing.

The “Old Lantern” exists as a pre-existing nonconforming use within the West Charlotte Village District (WCV) because there is not a relevant category for which it would be defined in the current (March 2016) Land Use Regulations.

The “Restaurant (no fast food or drive-through)” category under Conditional Uses outlines the closest definition of the Old Lantern’s function currently within the Land Use Regulations:

“An establishment or which the primary function is to serve food and beverages to the public for consumption primarily at tables or counters on the premises. This definition includes cafes, bakeries with table or counter service, bars and taverns. This definition excludes Restaurant/Fast Food Restaurants and Restaurant/Drive-through.” (Land Use Regulations for the Town of Charlotte, Vermont, Approved March 1, 2016, page 138.)

However, with respect to the primary function of the “Old Lantern”, “Restaurant (no fast food or drive-through)” is not an adequate category. What is needed to properly categorize the venue is articulated (above) as “Event Facility”, according to the Charlotte Town attorney David Rugh.

However, by granting “Allowed By Right” status, the current facility could significantly increase its capacity without ever having to submit a permit (notwithstanding any constraints with respect to wastewater capacity). The WCV district dimensional standards allow for up to a 20% building coverage. Considering the “Old Lantern” facility is on a 9.49 acre parcel that is built out to roughly 4% of its allowed building coverage, the current 8,376 sq. ft. facility could be increased up to eight times its original size by current or future owners of the property. In this case, there could be unintended impacts with respect to traffic, energy use, stormwater management, and other performance standards (indicated in Section 3.12 of the regulations). Normally, these items are vetted through the Conditional Use or Site Plan Review processes.

If the Planning Commission agrees to grant a grandfathered “Allowed By Right” status for the “Old Lantern” to become a conforming use “Event Facility”, then the PC may be advised by the Land Use Regulations (Section 5.5 Site Plan Review);

“In accordance with the Act [sec 4416], site plan review by the Planning Commission is required for all development except for agriculture, forestry, single and two family dwellings and associated accessory uses and structures (unless otherwise specified in these regulations), and subdivisions (unless a specific use is being proposed in association with a proposed subdivision and the specific use is not exempt for Site Plan Review), and except for development that is specifically exempted from these regulations under Section 9.2.” (Land Use Regulations for the Town of Charlotte, Vermont, Approved March 1, 2016, page 72.)

Although Section 9.2 does not exempt the Improvement or the Substantial Improvement of a facility from having to undergo a Site Plan Review, the Regulations however do not clearly state that such improvements must undergo a Site Plan Review. Each of the zoning district standards where “Event Facility” is determined to be an allowable use should have explicit language to assist in regulating its development. An example might state as follows;

“Substantial Improvements to an Event Facilities are allowed within this district, but are required by the Planning Commission to undergo a Site Plan Review in accordance with Section 5.5 --- Or Section 5.1(B) of the Regulations.”

The Town should undertake regulation of such development under Site Plan Review (by the Planning Commission) and Conditional Use Review (by the Zoning Board of Adjustment) as was undertaken by the proposed Roman-Hardy event barn at 783 Mt. Philo Rd. during 2016).

**2. Correct technical, typographical and formatting errors.**

**Within –**

- (1) **noise** in excess of 70 decibels (DbA), or which otherwise represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area; or within the Commercial/Light Industrial District, noise in excess of 75 decibels (DbA); or within the Charlotte West Village District (WCV), noise in excess of 65 decibels (DbA) by any Event Facility in existence and operating as of January 1, 2016.”

**Replace –**

“Charlotte West Village District (WCV), noise in excess of 65 decibels (DbA)”

**With –**

“West Charlotte Village District (WCV), noise in excess of 70 decibels (DbA)”

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

The language does not carry out any specific proposals for any planned community facilities.

**Please Note:**

- The planning commission shall hold at least one public hearing within the municipality after public notice on any proposed bylaw, amendment or repeal and;
- At least **15** days prior to the first hearing, a copy of the proposed plan or amendment and the written report shall be delivered with proof of the receipt, or mailed by certified mail, return receipt requested, to each of the following:
  1. the chairperson of the planning commission of each abutting municipality, or in the absence of any planning commission in an abutting municipality, to the clerk of that abutting municipality;
  2. the executive director of the regional planning commission of the area in which the municipality is located;
  3. the Department of Economic, Housing and Community Development within the Agency of Commerce and Community Development.

**Plan and Bylaw Adoption Tools – Bylaw Amendment Reporting Form**  
*September 2010 – Land Use Education and Training Collaborative*

- The planning commission may make revisions to the proposed bylaw, amendment, or repeal and to the written report, and shall then submit the proposed bylaw, amendment or repeal and the written report to the legislative body of the municipality. If requested by the legislative body or supported by petition the planning commission shall promptly submit the amendment with changes only to correct technical deficiencies, together with any recommendations.
- Simultaneously, with the submission, the planning commission shall file with the clerk of the municipality a copy of the proposed bylaw, amendment, or repeal, and the written report for public review.