Chapter 117

In Vermont, municipal authority to adopt plans and bylaws, including local land use regulations, is derived from the state. The chapter in state statutes that governs municipal planning and land use regulation is the Vermont Municipal and Regional Planning and Development Act (24 V.S.A., Chapter 117), or simply “Chapter 117.”

Although the local authority to plan for and regulate development is governed by the state, the powers granted to municipalities under Chapter 117 are broad. Vermont municipalities are not required to plan or to adopt land use regulations. However, if a city, town, or incorporated village decides to adopt a municipal plan, regulations, or other planning tools authorized by statute, the procedures and requirements found in Chapter 117 must be followed. So, if you’re a…

• planning commissioner responsible for drafting and updating local plans and bylaws,

• member of an “appropriate municipal panel” (a planning commission, zoning board of adjustment or a development review board charged with reviewing development applications), or a

• zoning administrator who administers and enforces local bylaws, …it's important that you become familiar with Chapter 117 and use it to guide your work!

The chapter is divided into twelve “subchapters” that are further subdivided into numbered “sections” (e.g., §4301) used to cite particular provisions in the statutes.

Chapter 117 Subchapters

The chapter is divided into 12 subchapters that are further divided into numbered sections (e.g., §4301) use to cite particular provisions in the statutes.

1. General Provisions; Definitions
2. Municipal Planning Commissions
3. Regional Planning Commissions
4. Regional Development
5. Municipal Development Plan
6. Implementation of the Plan
7. Bylaws
8. Non-regulatory Implementation of the Plan
9. Adoption, Administration & Enforcement
10. Appropriate Municipal Panels
11. Appeals
12. Construction, Savings Clause, Severability

Act 115 Amendments

The regulatory sections of Chapter 117 have been amended many times over the years, usually to address court rulings or specific areas of concern. Additional powers such as the creation of design control districts, expanded site plan review, and local Act 250 review were added. Other powers, such as the ability to regulate accepted agricultural practices were taken away. Court decisions resulted in new permit recording requirements and statutory limitations on enforcement.

Provisions for the establishment of “development review boards” - to do the local development review work - were enacted to help streamline the permitting process.

In 2001, a legislative study committee - the Chapter 117 Committee - was established to review the regulatory subchapters of Chapter 117 and recommend ways to further improve the local permitting process for affordable housing development. The Committee’s report to the legislature -
Affordable Housing under 24 V.S.A.
Chapter 117 - outlined a number of
detailed recommendations for amend-
ing Chapter 117. These included the
recommendation for a complete and
comprehensive update of its regulato-
ry provisions.

The Chapter 117 Committee, after
fulfilling its legislative mandate,
reconvened in 2002 to develop statu-
tory language. These efforts resulted
in the second major update of
Chapter 117 and became part of Act
115 - the state’s “permit reform” legis-
lation - that was signed into law in
May 2004.

Act 115 changes to Chapter 117
are extensive, and are addressed in
more detail in other bulletins and sub-
sequent information and training
materials. The changes include:
• Revised statutory definitions.
• Provisions for both regulatory and
non-regulatory plan implementa-
tion, including a requirement that
all implementation measures,
including bylaws, conform to the
municipal plan.
• Streamlined bylaw adoption and
amendment procedures, particularly
for rural municipalities.
• Provisions for the adoption of “uni-
fied” and “freestanding” regulations.
• Additional protections for affordable
housing - including mobile home
parks, multi-family and accessory
dwellings - under local land use reg-
ulations.
• New requirements for the issuance
of zoning permits and municipal
approvals.
• New requirements for public hearing
notices, party status (interested per-
sons), and appeals.

Effective Dates

Act 115 went into effect almost
immediately after being signed into
law and on July 1, 2004 existing sec-
tions of Chapter 117 pertaining to
local land use regulation were
repealed. All bylaws and bylaw
amendments adopted after July 1st
must conform to the new statutory
requirements. A “savings clause”
§4481 protects existing zoning and
subdivision regulations through
September 1, 2011; however, to the
extent that existing bylaws conflict
with particular requirements of the
new law, local regulations will be
“overridden” after September 1,
2005. Additional guidance regarding
effective dates is available from the
Vermont Department of Housing &
Community Affairs, the Vermont
League of Cities & Towns, and your
regional planning commission.
Chapter 117 materials are also avail-
able on-line at the Vermont Planning
Information Center’s web site:
www.vpic.info.

“Dillon’s Rule”

Vermont is not a Home Rule State

Vermont is one of thirty-nine states that
operate under “Dillon’s Rule” - a relatively
little known judicial doctrine named for
Judge John F. Dillon of Iowa, the nation’s
premier authority on municipal law in the
1860s. Judge Dillon was deeply troubled
by widespread municipal corruption during
his day. His landmark decision in Clark v.
City of Des Moines (1865) first established
the rule of statutory construction that would
later be named for him - that municipal cor-
porations possess and can exercise only
those powers granted to them in express
words, those necessarily implied or incident
to powers expressly granted, and those
essential to the declared objects and purp-
oses of the corporation.
### Effective Dates Summary

<table>
<thead>
<tr>
<th>July 1, 2004</th>
<th>September 1, 2005</th>
<th>September 1, 2011</th>
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<tbody>
<tr>
<td><strong>Chapter 117</strong></td>
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<tr>
<td>• New statutory provisions governing local bylaws, and other plan implementation measures, go into effect</td>
<td>• Required provisions under the savings clause go into effect</td>
<td>• Savings clause expires</td>
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<td>• Affected sections of the previous Chapter 117 are repealed</td>
<td><strong>Local Bylaws</strong></td>
<td><strong>Local Bylaws</strong></td>
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<tr>
<td>• “Savings Clause” [§4481] protects existing local bylaws through August 2005</td>
<td>• Local bylaws are overridden, to the extent they conflict with the following statutory provisions:</td>
<td>• Bylaws must be amended to conform to new statutory requirements by this date</td>
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<td><strong>Local Bylaws</strong></td>
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<td><strong>Local Bylaws</strong></td>
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<tr>
<td>• Existing bylaws remain in effect</td>
<td><strong>Statutory Definitions</strong> [§4302]</td>
<td></td>
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<tr>
<td>• Existing development review procedures remain in effect to the extent that they are specified in the bylaws</td>
<td><strong>Required Provisions</strong> [§4412]</td>
<td></td>
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<tr>
<td>• New bylaws and bylaw amendments must conform to new statutory requirements</td>
<td><strong>Limitations</strong> [§4413]</td>
<td></td>
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<tr>
<td>• New bylaw adoption procedures go into effect, unless otherwise specified under local bylaws</td>
<td><strong>Adoption, Administration, Enforcement</strong> [§§4440-4454]</td>
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<td><strong>Appropriate Municipal Panels</strong> [§§4460-4464]</td>
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<td><strong>Appeal Procedures</strong> [§§4465-4472]</td>
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### Notes on Effective Dates

Act 115 established three important dates or deadlines under Chapter 117 that affect municipal bylaws with the effects shown above.

If your bylaw incorporates bylaw adoption, and public notice, hearing and development review procedures by reference to former (repealed) statutory sections, you should check with your municipal attorney regarding their continued application through September 1, 2005. As of September 1, 2005, new statutory requirements will apply.

The override provision under the savings clause applies only to required (mandated) provisions in statute, and not to optional (enabled) provisions that include permissible types of regulation [§§4414-4424] and non-regulatory implementation measures [§§4430-4433].

Statutory definitions [§4302] include new definitions pertaining to “affordable housing”, “conformance with the plan” and “nonconformities” which include nonconforming lots, uses and structures.

**Required Provisions (and Prohibited Effects)** [§4412] includes new requirements pertaining to housing (mobile homes, mobile home parks, group homes, multi-family and accessory dwelling units), lots (merger, frontage and access) and protections for home occupations, child care homes, and nonconformities.

**Limitations** [§4413] extends and clarifies existing limitations under local bylaws for the regulation of public facilities, power generation and transmission facilities, accepted agricultural and silvicultural practices, and also restricts municipal regulation of hunting, fishing and trapping.

**Adoption, Administration and Enforcement** [Subchapter 9] deals with all aspects of bylaw adoption, administration and enforcement - including: new requirements for bylaw adoption; zoning administrator appointments; the issuance of zoning permits; and also incorporates former requirements relating to violations and enforcement.

**Appropriate Municipal Panels** [Subchapter 10] incorporates new development review procedures, including development review board, public notice, hearing and decision requirements. It also allows for expanded administrative review, as specified in the bylaw, and clarifies the role of advisory commissions (e.g., conservation, design review, housing commissions) in the development review process.

**Appeals** [Subchapter 11] incorporates revised appeal provisions, including new definitions and participation requirements for “interested persons” allowed to appeal a local decision to Environmental Court.

**“Savings Clause”**

This provision, found in §4481, explains that except for certain provisions that have a separate trigger date (September 1, 2005), the new Chapter 117 language and the amendment and repeal of the prior Chapter 117 statute does not invalidate any local zoning ordinance, subdivision regulation or other bylaws enacted under that prior law - i.e. they are “saved” from the effect of the new law until September 1, 2011, when all other provisions need to be amended to be in conformance.
Chapter 117 Bulletins

The following ten bulletins were published in November 2004 to provide information about the changes to 24 V.S.A. Chapter 117, the state statute governing local planning and regulation, enacted in 2004. These all are available through www.vpic.info and from the Education and Training Collaborative partners listed below.

1. Chapter 117 Overview (legislative intent and effective dates)
2. Conformance with the Municipal Plan
3. Permissible Regulations
4. Bylaw Preparation & Adoption
5. Required Provisions & Limitations
6. Equal Treatment of Housing
7. Zoning Permits
8. Development Review Procedures
9. Appeals
10. Appropriate Municipal Panels

Contact information:
Regional Planning Commissions

Vermont Land Use Education and Training Collaborative
Working Together to Provide Improved Learning Opportunities for Vermont's Local Boards and Commissions

Questions about this bulletin and other chapter 117 materials produced by the Collaborative may be directed to the following members of the Vermont Land Use Education and Training Collaborative Steering Committee. For links to websites go to “About Us” at www.vpic.info.

Chapter 117 Bulletins

For more information, please visit www.vpic.info.

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