



**Monday, September 16, 2024, 12:30 PM, Bushor Conference Room 1st Floor, City Hall  
OR REMOTELY via ZOOM**

**When: Sep 16, 2024 12:30 PM Eastern Time (US and Canada)**  
**Topic: Ordinance Committee Meeting**

**Please click the link below to join the webinar:**

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## **1. Agenda**

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|                    |                                                                                                                                                           |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Subject</b>     | <b>1.1. Motion to amend/adopt agenda</b>                                                                                                                  |
| Meeting            | September 16, 2024 - Ordinance Committee Meeting - Monday, September 16, 2024, 12:30 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM |
| Category           | 1. Agenda                                                                                                                                                 |
| Department         |                                                                                                                                                           |
| Type               |                                                                                                                                                           |
| Recommended Action |                                                                                                                                                           |

## 2. Adopt Draft Minutes

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|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Subject</b>     | <b>2.1. Adopt Draft Minutes from September 11</b>                                                                                                         |
| Meeting            | September 16, 2024 - Ordinance Committee Meeting - Monday, September 16, 2024, 12:30 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM |
| Category           | 2. Adopt Draft Minutes                                                                                                                                    |
| Department         | City Attorney                                                                                                                                             |
| Type               |                                                                                                                                                           |
| Recommended Action |                                                                                                                                                           |

## 3. Public Forum

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|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Subject</b> | <b>3.1. Verbal Comments</b>                                                                                                                               |
| Meeting        | September 16, 2024 - Ordinance Committee Meeting - Monday, September 16, 2024, 12:30 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM |
| Category       | 3. Public Forum                                                                                                                                           |
| Department     | Council and Board                                                                                                                                         |
| Type           |                                                                                                                                                           |

## 4. Comprehensive Development Ordinance Discussion regarding Secondary Structures

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|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Subject</b>     | <b>4.1. Comprehensive Development Ordinance Discussion regarding Secondary Structures</b>                                                                 |
| Meeting            | September 16, 2024 - Ordinance Committee Meeting - Monday, September 16, 2024, 12:30 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM |
| Category           | 4. Comprehensive Development Ordinance Discussion regarding Secondary Structures                                                                          |
| Department         | Council and Board                                                                                                                                         |
| Type               |                                                                                                                                                           |
| Recommended Action |                                                                                                                                                           |

## 5. Police Oversight Ordinance Discussion

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|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Subject</b>     | <b>5.1. Police Oversight Ordinance Discussion</b>                                                                                                         |
| Meeting            | September 16, 2024 - Ordinance Committee Meeting - Monday, September 16, 2024, 12:30 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM |
| Category           | 5. Police Oversight Ordinance Discussion                                                                                                                  |
| Department         | Council and Board                                                                                                                                         |
| Type               |                                                                                                                                                           |
| Recommended Action |                                                                                                                                                           |

## 6. Any Other Committee Business

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|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Subject</b>     | <b>6.1. Any Other Committee Business</b>                                                                                                                  |
| Meeting            | September 16, 2024 - Ordinance Committee Meeting - Monday, September 16, 2024, 12:30 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM |
| Category           | 6. Any Other Committee Business                                                                                                                           |
| Department         | Council and Board                                                                                                                                         |
| Type               |                                                                                                                                                           |
| Recommended Action |                                                                                                                                                           |

## 7. Adjournment

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|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Subject</b>     | <b>7.1. Motion to adjourn</b>                                                                                                                             |
| Meeting            | September 16, 2024 - Ordinance Committee Meeting - Monday, September 16, 2024, 12:30 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM |
| Category           | 7. Adjournment                                                                                                                                            |
| Department         | Council and Board                                                                                                                                         |
| Type               |                                                                                                                                                           |
| Recommended Action |                                                                                                                                                           |



## OFFICE OF THE CLERK/TREASURER

City of Burlington

City Hall, Room 20, 149 Church Street, Burlington, VT 05401

Voice (802) 865-7000

Fax (802) 865-7014

TTY (802) 865-7142

### MEMORANDUM

**TO:** Ordinance Committee Members

**FROM:** Lori Olberg, Licensing and Records Coordinator

**DATE:** September 10, 2024

**SUBJECT:** 09/09/24 City Council Ordinance: Comprehensive Development Ordinance  
ZA-24-04, Neighborhood Code ZA

Enclosed please find copies of the ordinance (and memo) that was referred to your Committee for consideration. Please keep these as part of your records.

Thank you.





# CITY OF BURLINGTON

ORDINANCE 5.28

Sponsor: Office of City Planning,  
Planning Commission

Public Hearing Dates: \_\_\_\_\_

First reading: 09/09/24  
Referred to: Ordinance Committee

Rules suspended and placed in all  
stages of passage: \_\_\_\_\_

Second reading: \_\_\_\_\_

Action: \_\_\_\_\_

Date: \_\_\_\_\_

Signed by Mayor: \_\_\_\_\_

Published: \_\_\_\_\_

Effective: \_\_\_\_\_

**In the Year Two Thousand Twenty-Four**

## **An Ordinance in Relation to**

COMPREHENSIVE DEVELOPMENT ORDINANCE  
ZA-24-04, Neighborhood Code 2A

**It is hereby Ordained** by the City Council of the City of Burlington as follows:

1 That Appendix A-Burlington Comprehensive Development Ordinance of the Code of Ordinances of the City  
2 of Burlington be and hereby is amended by amending Article 3: Applications, Permits, and Project Reviews,  
3 Part 3, Impact Fees, Sec. 3.3.3(a), Exceptions and Waivers; Part 4 Design Review, Sec. 3.4.2(b)  
4 Applicability; moves Map 4.5.1-1 Design Review Overlay District to Sec. 3.4.2(b) as amended and  
5 renumbered Map 3.4.2; amends Sec. 4.3.1(e) Residential Districts established; modifies Map 4.3.1-1 Base  
6 Zoning Districts; amends the Residential Corridor District purpose statement in Sec. 4.4.5 (a) 5; modifies  
7 Map 4.4.5-1 Residential Zoning Districts; updates Table 4.4.5-2; amends Sec. 4.4.5 (d) 1. B. Residential  
8 Development Bonuses by re-naming and modifying both Sec. 4.4.5 (d) 1. B. (i) and Table 4.4.5-4; amends  
9 Sec. 4.4.5 (d) 1. B. (ii) and deletes Table 4.4.5-5; amends Sec. 4.4.5 (d) 1. B. (ii) and re-numbers Table 4.4.5-  
10 6; creates Sec. 4.4.5-2 (d) 2. D. Exceptions to Maximum Building Footprint Limit; creates Sec. 4.4.5 (d) 4.  
11 D. Additional Unit; deletes Sec. 4.5.1 Design Review Overlay District and reserves section; deletes Sec.  
12 5.2.3 (b) 10.; amends Sec. 5.2.5 (b) 7.; deletes Sec. 5.4.5 Accessory Dwelling Units; amends Table 7.2.1-B  
13 Sign Types Permitted by Form/Zoning District in 7.2.1 Sign Types; and amends Article 13 – Definitions  
14 thereof to read as follows:  
15

## **Article 3: Applications, Permits, and Project Reviews**

### **PART 3: IMPACT FEES**

#### **Sec. 3.3.3 Exemptions and Waivers**

##### **(a) Exemptions:**

The following types of development are exempt from this Part:

1. additions to existing dwelling units, provided such additions are for residential purposes;
2. alterations to an existing use provided that such alteration occurs entirely within an existing building and within the same square footage;

3. land development which does not result in new building square footage (e.g. parking lots, facade renovations, signs, etc.);
4. additions to existing buildings for which the sole purpose is to provide additional means of egress (e.g. stair towers, elevators, etc).
5. the creation of an Additional Unit on lot or within Owner Occupied Single Detached Dwelling as described in Sec. 4.4.5 (d) 4. D.

#### **PART 4: SITE PLAN AND DESIGN REVIEW**

##### **Sec. 3.4.1 Purpose**

These site plan review regulations are enacted to provide for the consideration of site features and their location and arrangement so as to protect important natural and cultural features, ensure the adequacy of parking and circulation, provide for necessary landscaping and screening, and protect and maintain the character and development pattern of the surrounding area.

Additionally, design review regulations are intended to provide for the detailed review of certain uses, structures, and architectural features in those areas of the city which contain structures of historical, architectural, or cultural merit, and where the community has a particular interest in the design of future development in order to address specific land development objectives.

##### **Sec. 3.4.2 Applicability**

###### **(a) Site Plan Review:**

Site Plan Review shall be required for the approval of all development subject to the provisions of this ordinance with the exception of single-family dwellings not otherwise subject to the requirements of Design Review.

###### **(b) Design Review:**

No structure may be erected, reconstructed, substantially altered, restored, moved, or demolished or any site improvement or modification made without approval subject to the provisions of this part and the review criteria described in Art 6 Design Review shall be required for the approval of all development subject to the provisions of this ordinance within the Design Review Overlay District as defined in Article 4 Sec. 4.5.1, and any of the following: the following geographic areas or for all development subject to the following provisions:

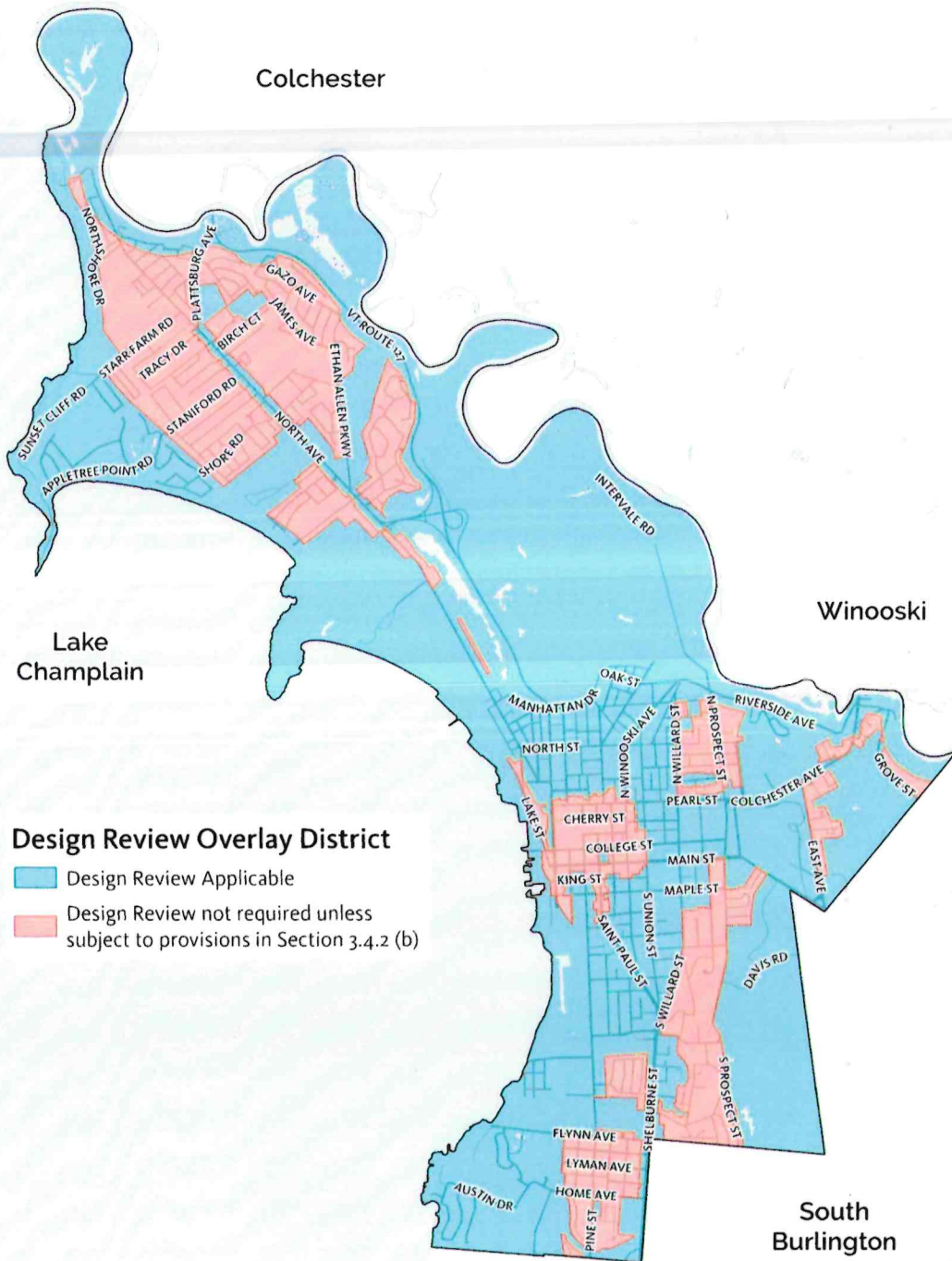
1. For any projects located within the geographic areas as delineated as applicable on Map 3.4.2-1 Design Review Applicable.
- 1.2. For any projects within geographic areas delineated as not applicable on Map 3.4.2-1 but that are subject to the following provisions:
  - a. Any development subject to the provisions of Article 3, Part 5 – Conditional Use and Major Impact Review;
  - b. Any development subject to the provisions of Article 5, Part 3 – Non-Conformities;
  - c. Any development subject to the provisions of Article 5, Part 4 – Special Use Regulations;
  - d. Any development subject to the provisions of Sec. 7.1.6 Non-Conforming Signs and Article 7, Part 3 Sign Plans;
  - e. Any development subject to the provisions of Article 10 – Subdivision;
  - f. Any development subject to the provisions of Article 11 – Planned Development; and,
  - g. A project within an RL District where a building contains 3 or more units or proposes more than one building on a lot subject to Sec. 4.4.5.
  - h. Any development made subject to the provisions of this Part by direct reference not otherwise noted here.

Design Review shall not be required for:

1. Single detached dwellings and duplex dwellings within an RL district not otherwise subject to any of the above provisions.

72 ~~1.2.~~ All applications subject to the planBTV: Downtown Code under Art. 14, ~~which shall be exempt from review under~~  
73 ~~this section, and the development review principles and standards contained in Article 6—Development Review~~  
74 ~~Standards, and~~ instead shall be subject to the requirements of Article 14.  
75





**Map 3.4.2-1 Design Review Overlay District**

Burlington Comprehensive Development Ordinance  
Districts effective Jan. 30, 2008 with amendments effective 06-02-2021 (ZA-21-03)

**Article 4: Zoning Maps and Districts**

**PART 3: ZONING DISTRICTS ESTABLISHED**

***Sec. 4.3.1 Base Districts Established:***

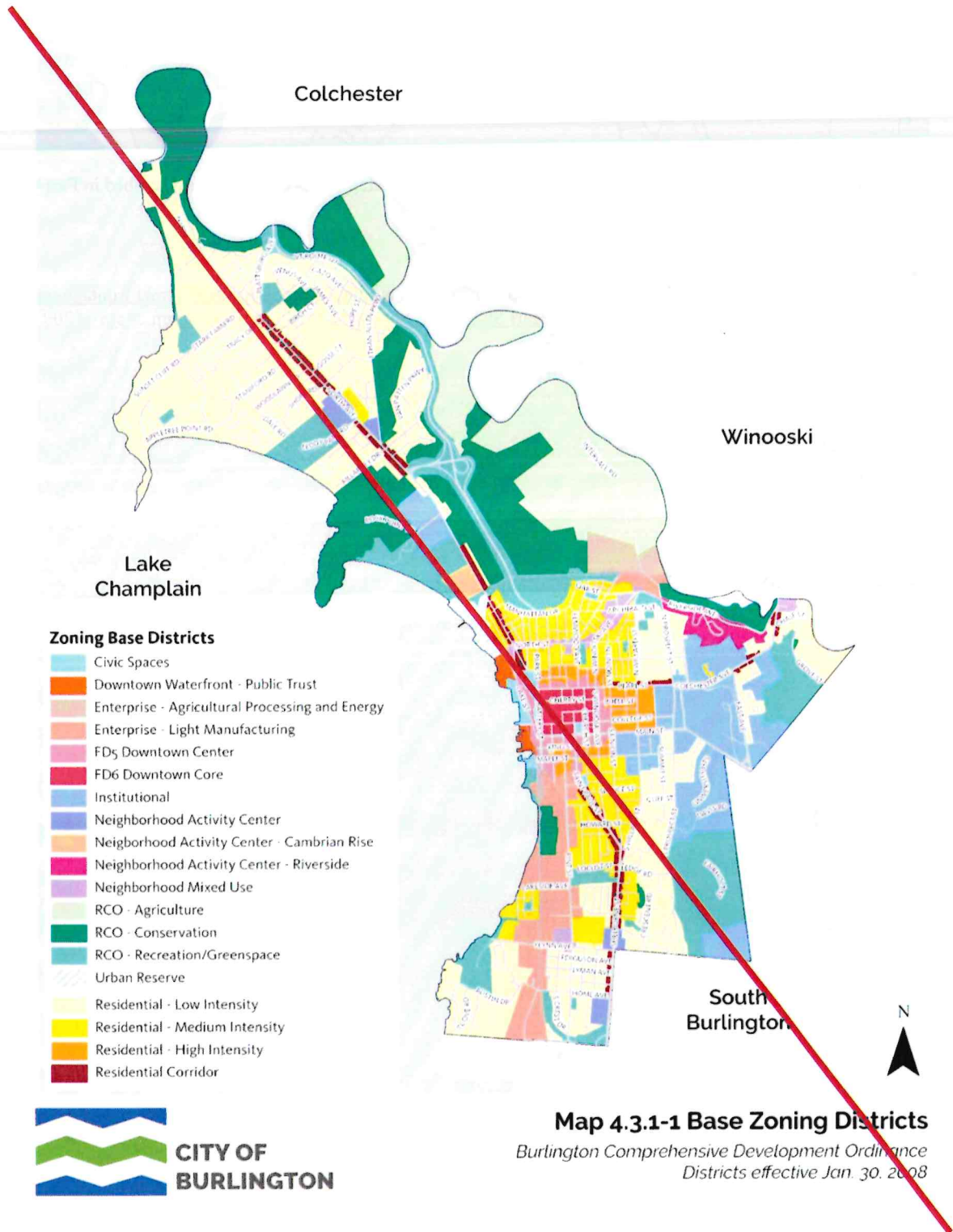
The following zoning districts are hereby established as illustrated in Map 4.3.1-1 and further described in Part 4 below:

(a) through (d) – *As Written.*

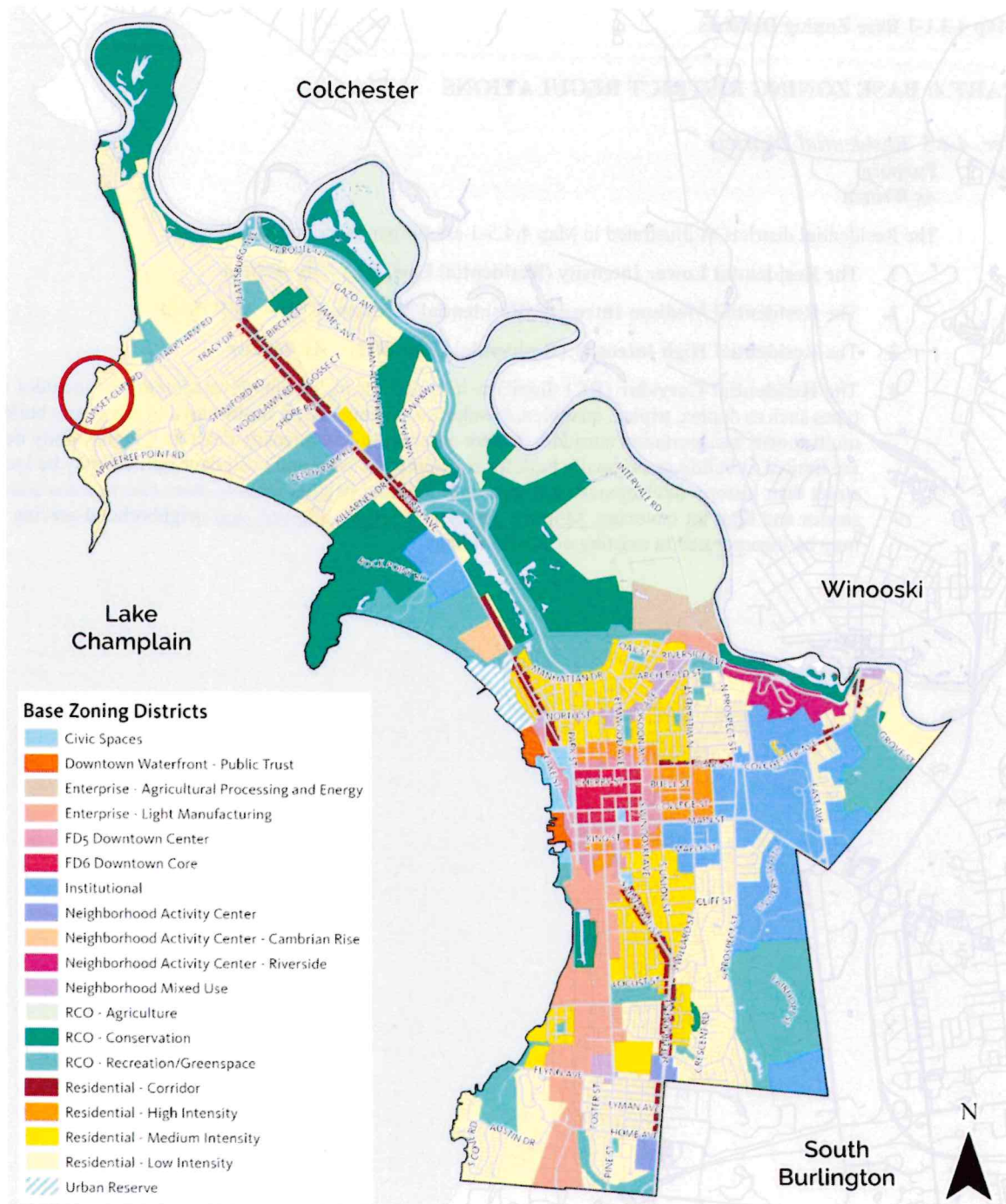
(e) A series of four (4) **Residential** districts: (*see Sec. 4.4.5*)

- Residential Corridor (RC), where mapped, this district applies to properties with street frontage on North Avenue, Colchester Avenue, St. Paul Street, Pearl Street, and Shelburne Street to a maximum depth of 200 ft;
- Residential High Intensity (RH);
- Residential Medium Intensity (RM); and
- Residential Low Intensity (RL);

(f) through (g) – *As Written.*







**Map 4.3.1-1 Base Zoning Districts**

Burlington Comprehensive Development Ordinance  
Districts effective Jan. 30, 2008 with amendments effective 06-05-24 (ZA-24-02)



Map 4.3.1-1 Base Zoning Districts

PART 4: BASE ZONING DISTRICT REGULATIONS

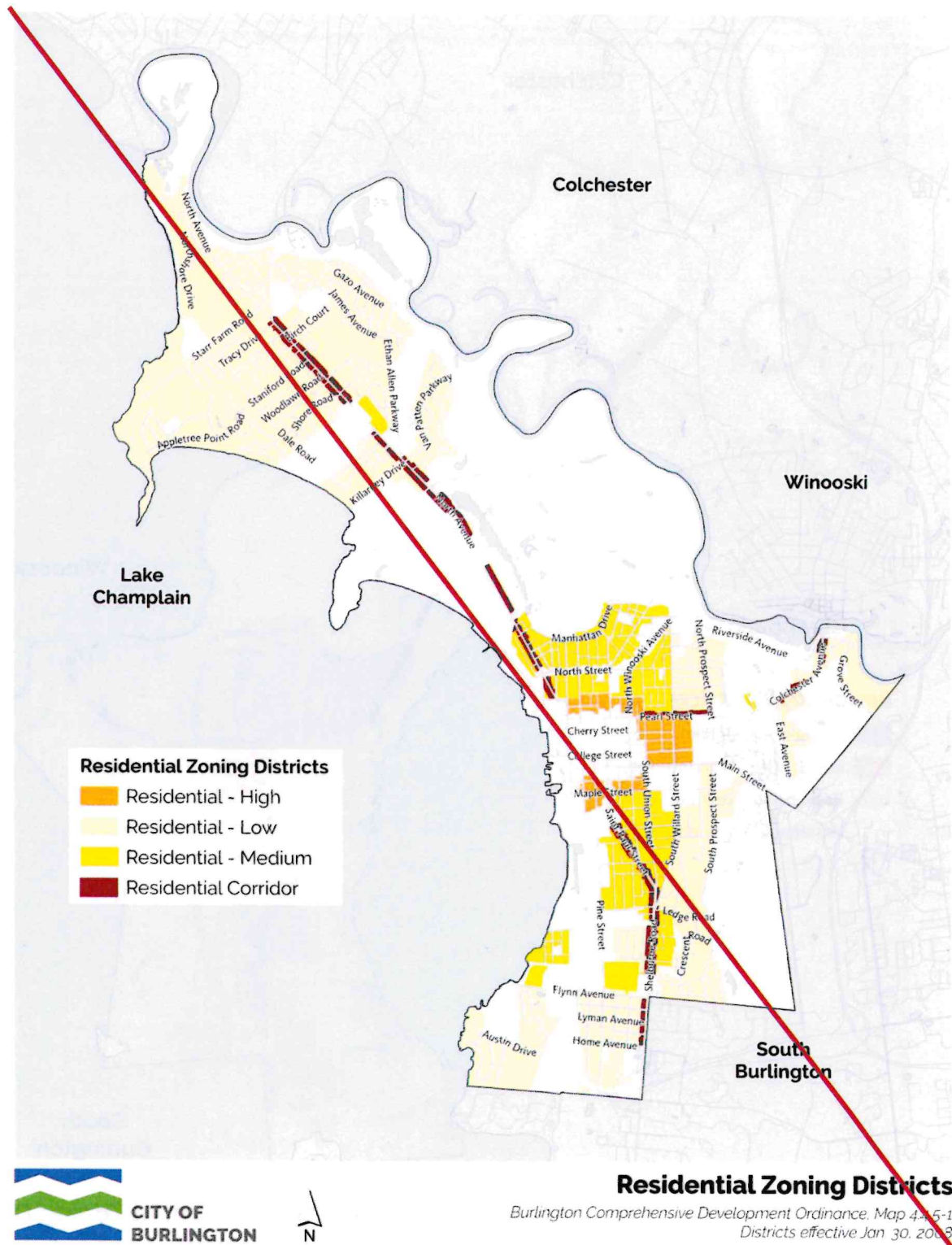
Sec. 4.4.5 Residential Districts

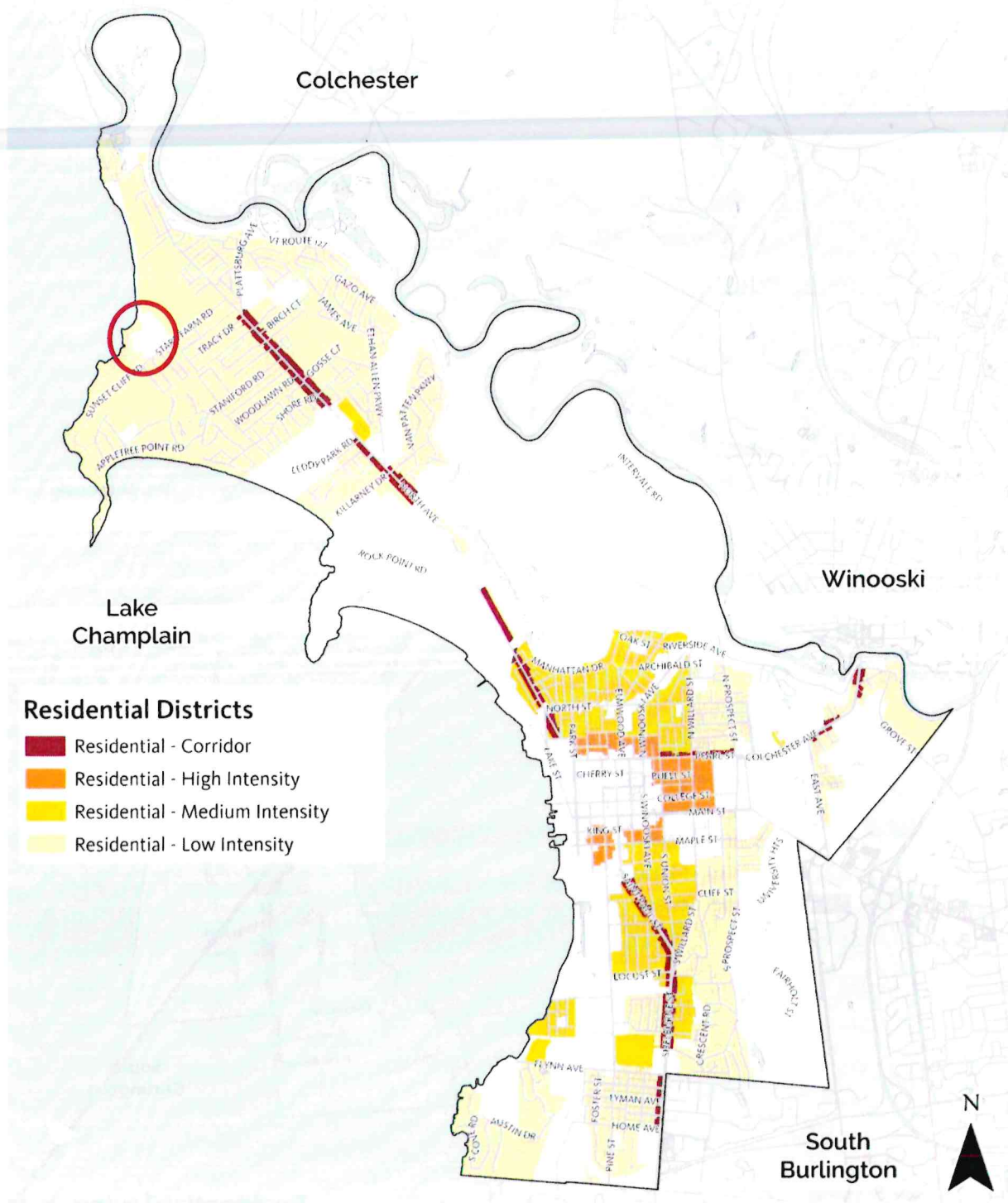
(a) Purpose:

*As Written*

The Residential districts as illustrated in Map 4.4.5-1 are further described as follows:

1. The **Residential Lower Intensity (Residential Low, RL)** – *As Written*
2. The **Residential Medium Intensity (Residential Medium, RM)** – *As Written*
3. The **Residential High Intensity (Residential High, RH)** – *As Written*
4. The **Residential Corridor (RC)** district is intended for residential development that includes a mix of housing types such as duplex, triplex, quadplex, townhouse, and mid-sized, multi-unit and mixed-use buildings along major multi-modal transportation corridors that are adjacent to low intensity districts. Single-family detached dwellings are limited to buildings originally built for such purpose. New and infill development may be located closer to the street than historic development patterns, with building heights ~~ranging from two to three and a half up to four~~ stories and high lot coverage. Multiple Principal Uses are allowed, and neighborhood-serving commercial uses may be incorporated in existing or new buildings.







## (b) Dimensional Standards

*As written.*

Table 4.4.5-1 Lot size, Frontage, Setback, and Lot Coverage Standards in Residential Districts

*As written.*

Table 4.4.5-2 Principal &amp; Secondary Structures Massing and Placement Standards in Residential Districts

| District                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Max Height & Stories <sup>1,3</sup> | Max Dwelling Units per Structure <sup>2,3</sup> | Max. Principal Structure Footprint <sup>3</sup> | Max. Secondary Structure Footprint <sup>3</sup> | Max Building face before providing offset <sup>5</sup><br>Max. Linear Elevation before offset <sup>4</sup> | Min. Distance between Structures on same lot |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| Residential Low (RL)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 35'<br>3 stories                    | 4                                               | 1,800 sq.ft                                     | 1,100 sq.ft.                                    | 50'                                                                                                        | 15'                                          |
| Residential Medium (RM)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 35'<br>3 stories                    | 4                                               | 1,800 sq.ft.                                    | 900 sq.ft. 1,100 sq.ft.                         |                                                                                                            |                                              |
| Residential High (RH)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 50'<br>4 stories                    | N/A                                             | N/A                                             | N/A                                             |                                                                                                            |                                              |
| Residential Corridor (RC)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                     |                                                 | 3,600 sq.ft.                                    | N/A                                             |                                                                                                            |                                              |
| <div>1. Details regarding the measurement of and exceptions to height limits are found in Art 5.</div> <div>2. Minimum dwelling unit size is 350 sq. ft.</div> <div>3. Within RL and RM zones, lots may have up to one (1) Principal and one (1) Secondary structure per lot, except as may otherwise be allowed by <u>Table 4.4.5-3</u> or Article 11. <u>Where an existing Principal Structure contains only an owner-occupied Single detached dwelling, and proposes to add one additional unit within the Principal Structure or in a Secondary Structure, see additional provisions in Sec. 4.4.5 (d) 4. D.</u></div> <div>4. Required on all building <del>fae</del><u> Elevations</u>. Minimum offset is 5 ft measured perpendicular to the building <del>face</del> <u>Elevation</u> in excess of 50 <del>ft</del> <u>linear feet</u>.</div> |                                     |                                                 |                                                 |                                                 |                                                                                                            |                                              |

## (c) Permitted and Conditional Uses:

*As Written*

## (d) District Specific Regulations:

The following regulations are district-specific exceptions, bonuses, and standards unique to the residential districts. They are in addition to, or may modify, city-wide standards as provided in Article 5 of this ordinance and district standards as provided above.

## 1. Additional Residential Development Permitted

In addition to any applicable development permitted according to Article 11- Planned Unit Development, the following additional development types and intensities shall be allowed within the Residential Districts, subject to the following standards.

## A. Reserved

Table 4.4.5-3 Reserved

**B. Residential Development Bonuses**

The following exceptions to maximum allowable residential standards in Tables 4.4.5-1 and 4.4.5-2 may be approved in any combination subject to the maximum limits set forth in Table 4.4.5-6 at the discretion of the DRB. Any bonuses that are given pursuant to this ordinance now or in the future shall be regarded as an exception to the limits otherwise applicable.

**(i) Senior Housing for Older Persons and Individuals with Disabilities Bonus**

Residential development in excess of the limits set forth in Tables 4.4.5-1 and 4.4.5-2 may be permitted by the DRB for projects including exclusively senior housing housing for Older Persons (as defined by the federal Fair Housing Act), housing for Individuals with Disabilities (as defined by the federal Americans with Disabilities Act), or a mixture exclusively thereof provided the following conditions are met:

- a) No less than twenty-five (25) per cent of the total number of units shall be reserved for low-moderate income households as defined by state or federal guidelines, including no less than ten (10) percent reserved for low-income households. (Projects taking advantage of this bonus are exempt from the Inclusionary Zoning requirements of Article 9, Part 1.);
- b) The proposal shall be subject to the design review provisions of Art. 6;
- ~~e) A maximum of an additional 10 feet of building height may be permitted in the RH District; and;~~
- ~~d)c) Lot coverage, height, and development intensity shall not exceed the following. The maximum dwelling units per building in Table 4.4.5-2 may be waived subject to the DRB approval under Article 11. and residential densities shall not exceed the following:~~

**Table 4.4.5-4: Senior Housing for Older Persons and Individuals with Disabilities Bonus**

| District | Maximum <u>Lot Coverage</u> | Maximum <u>Development Intensity Density</u> | Maximum <u>Height</u> |
|----------|-----------------------------|----------------------------------------------|-----------------------|
| RL       | 4455%                       | 20 du/ae 1.5 FAR                             | 4 stories, 50 ft      |
| RM       | 4865%                       | 40 du/ae 1.75 FAR                            |                       |
| RH       | 9290%                       | 80 du/ae 2.0 FAR                             | 5 stories, 62 ft.     |

**(ii) Residential Conversion Bonus**

Development in excess of the limits set forth in Tables 4.4.5-1 and 4.4.5-2 may be permitted by the DRB subject to conditional use review for the conversion of an existing non-conforming nonresidential principal use to a conforming residential use subject to all of the following conditions:

- a) Any applicable lot coverage, height, FAR, and units per building limits may be modified by the DRB up to a limit of 100% of the pre-application coverage, height and GFA condition.
- ~~a) Lot coverage and residential densities shall not exceed the following:~~

**Table 4.4.5-5: Residential Conversion Bonus**

| District | Maximum Coverage                         | Maximum Density                                |
|----------|------------------------------------------|------------------------------------------------|
| RL       | 50%<br>(62% with inclusionary allowance) | 8 du/ae<br>(8.75 with inclusionary allowance)  |
| RM       | 60%<br>(72% with inclusionary allowance) | 30 du/ae<br>(37.5 with inclusionary allowance) |
| RH       | 80%<br>(92% with inclusionary allowance) | 60 du/ae<br>(69 with inclusionary allowance)   |



**(iii) Limitations on Residential Development Bonuses:**

For projects where the conditions of more than one applicable bonus listed above and under Sec.5.4.8 (e) are met, and where any applicable development allowances per Article 9 are utilized, the applicant may use the most permissive exemption to the underlying lot coverage or residential intensities applicable.

In no case shall any development bonuses and allowances granted, either individually or in combination, enable a building to exceed the maximum density/development intensity, lot coverage, and building height permitted in any district as defined below:

**Table 4.4.5-56: Maximum Intensity, Lot Coverage and Building Heights with Bonuses**

| District | Maximum<br><b>Density</b> FAR* | Maximum<br>Height | Maximum<br>Lot Coverage* |
|----------|--------------------------------|-------------------|--------------------------|
| RH       | <u>80-du/ae2.0 FAR</u>         | <u>4562-feet</u>  | <u>9290%</u>             |
| RM       | <u>40-du/ae1.75<br/>FAR</u>    | <u>3550-feet</u>  | <u>7265%</u>             |
| RL       | <u>20-du/ae1.5 FAR</u>         | <u>3550-feet</u>  | <u>6255%</u>             |

\*- or 125% of the pre-application gross floor area or coverage of the qualifying principal building as may be applicable per Table 5.4.8-1 Historic Building Rehabilitation Bonus

**2. Exceptions to Dimensional Standards**

A. *through C – As Written*

**D. Exceptions to Maximum Building Footprint Limit**

(i) Existing structures legally existing as of January 1, 2024 in excess of the building footprint limits in Table 4.4.5-2 shall not be considered non-conforming. Such buildings shall only be allowed to be converted, adaptively reused, or enlarged, including for the purpose of adding additional units, within the limits this part or as otherwise permitted in Sec. 5.4.8 or Article 11.

(ii) Single-family homes legally existing as of January 1, 2024 in excess of the building footprint limits in Table 4.4.5-2 may be expanded to 125% of the pre-existing footprint, as long as no additional units are added.

**3. Exception for Neighborhood Commercial Uses**

*As Written*

**4. Miscellaneous Standards**

(A) *Through (C) –As Written*

**D. Additional Unit on lot or within Owner Occupied Single Detached Dwelling**

Where an existing Principal Structure in any Residential Zoning District contains only an owner-occupied Single Detached Dwelling, and an applicant proposes to add a single additional dwelling unit within the Principal Structure or within a detached Secondary Structure on the same lot as the owner-occupied home, the application shall be eligible for shall be subject to administrative review and approval according to Sec.3.2.7 (a) 13, and exempt from paying impact fees, according to Sec. 3.3.3., except where otherwise required.

**(e) Effective Date.**

The amendments to this Section 4.4.5 that allow for a secondary structure within RL and RM zones, except as may otherwise be allowed by Article 11, are effective October 1, 2024.

## Article 4: Zoning Maps and Districts

## PART 5: OVERLAY ZONING DISTRICT REGULATIONS

Sec. 4.5.1 ~~Reserved~~ Design Review Overlay District~~(a) Purpose:~~

~~The Design Review Overlay District (DR) is intended to provide detailed individual review of certain uses and structures in those areas of the city which contain structures of historical, architectural, or cultural merit, and where the community has a particular interest in the design of future development in order to address specific land development objectives.~~

~~(b) Areas Covered:~~

~~The geographic<sup>+</sup> areas subject to the Design Review Overlay shall be as delineated on Map 4.5.1—1: Design Review Overlay, that include the following:~~

~~(1) The following zoning districts:~~

~~A. The Downtown Waterfront—Public Trust district and all Neighborhood Mixed Use, Enterprise, Institutional, Urban Reserve, and Recreation, Conservation and Open Space districts; and,~~

~~B. Portions of the Residential Districts as identified in Map 4.5.1—1 and described below:~~

~~(2) The following areas within Residential Districts:~~

~~A. All properties west of the Burlington Bike Path north of College Street;~~

~~B. All properties west of the Vermont Railway line south of Lakeside Ave;~~

~~C. All properties within 500' of Lake Champlain or the Winooski River;~~

~~D. All properties with frontage on Brooks Avenue;~~

~~E. All properties within the area bounded by Maple, South Willard, Howard and South Union streets;~~

~~F. All properties with frontage on the west side of South Union St. between Main and Howard streets;~~

~~G. All properties with frontage on the north side of Howard St. between South Union and St. Paul streets;~~

~~(3) The following uses, buildings, and properties within Residential Districts:~~

~~A. All nonresidential uses, residential uses with home occupations, or other conditional uses, having frontage on the following major streets:~~

~~(i) Shelburne Street, from its point of beginning southerly to its intersection with Home Avenue;~~

~~(ii) South Union Street, from its intersection with Howard Street southerly to its terminus at Shelburne Street;~~

~~(iii) St. Paul Street, from its intersection with Howard Street southerly to its terminus at Shelburne Street;~~

~~(iv) Colchester Avenue, from its intersection with East Avenue northeasterly to its intersection with Barrett Street; and~~

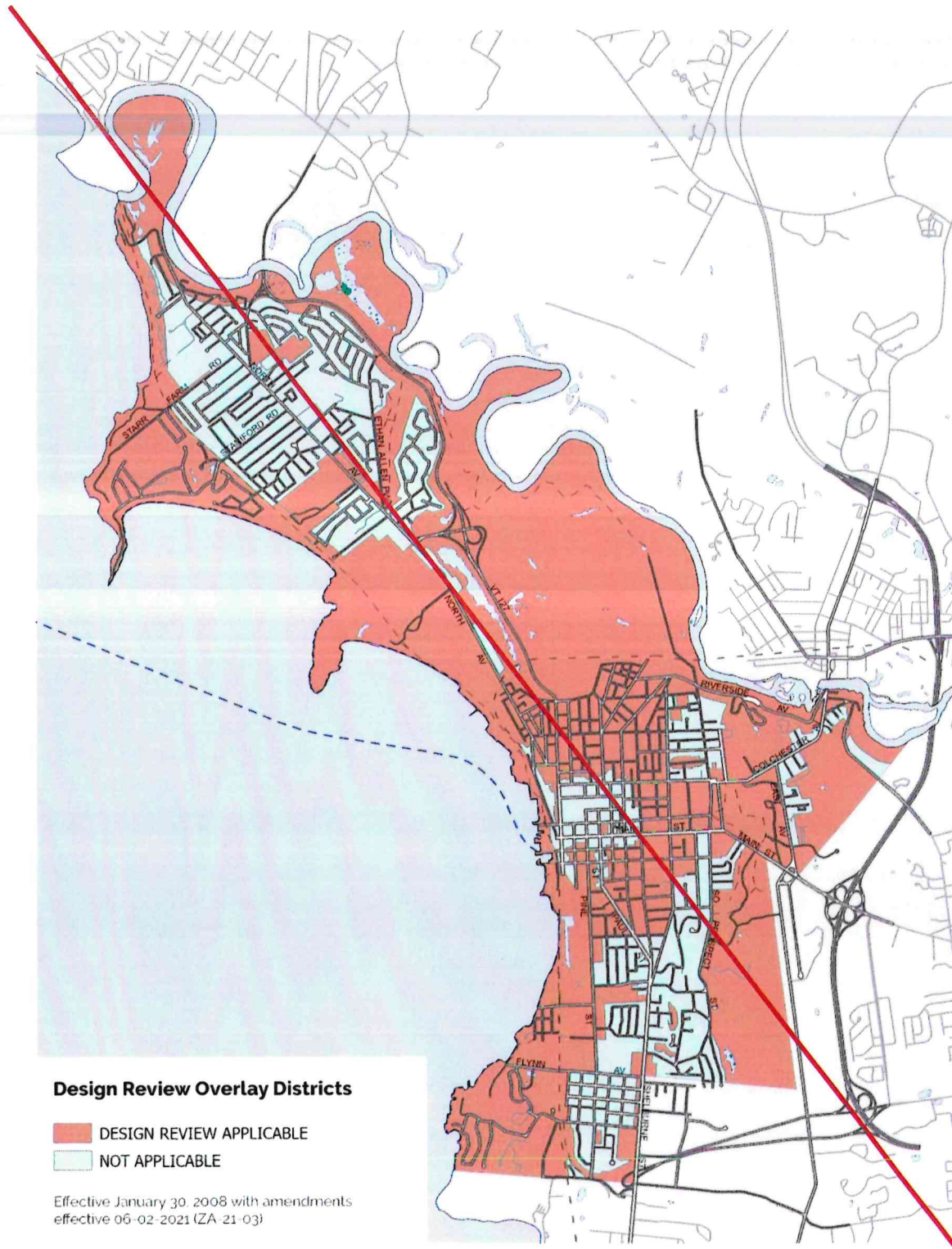
~~(v) North Avenue, from its intersection with Convent Square northerly to its intersection with Plattsburg Avenue.~~

~~(c) District Specific Regulations: Design Review Overlay District:~~

<sup>+</sup> This Section only defines the geographic areas of the city that are subject to Design Review. Other types of development are also subject to Design Review pursuant to the requirements of Article 3, Part 4.

286 ~~Within this overlay district, no structure may be erected, reconstructed, substantially altered, restored, moved, or~~  
287 ~~demolished or any site improvement or modification made without approval subject to the provisions of Article 3, Part 4~~  
288 ~~pertaining to Design Review and the review criteria described in Art 6.~~







~~Map 4.5.1-1: Design Review Overlay~~**Article 5: Citywide General Regulations****PART 2: DIMENSIONAL REQUIREMENTS****Sec. 5.2.3 Lot Coverage Requirements**

Where a maximum lot coverage is specified pursuant to the requirements of Article 4, no building or part of a building or impervious surface or other form of coverage shall exceed such maximum allowable except as specifically authorized by this ordinance.

**(a) Calculating Lot Coverage:**

As written.

**(b) Exceptions to Lot Coverage:**

In all districts, the following shall not be counted as lot coverage:

1. through 9. – *As Written*

~~10. For lot area occupied by an ADU, the DRB may approve up to 650 sq. ft. additional lot coverage over existing lot coverage, even if present or proposed lot coverage exceeds the standard lot coverage limits. To grant such an exemption, the DRB must find that the existing lot coverage has been lawfully created, and that the proposed location, site design, and improvements will enable on-site management of the first one inch of stormwater runoff from the lot area of the ADU exceeding the applicable lot coverage limit, and will not have undue adverse impact on public rights-of-way based on the review of the DPW Stormwater Program Manager.~~

\*\*\*

**Sec. 5.2.5 Setbacks**

Setbacks between structures and property lines where required are intended to provide access to light and air, provide fire separation and access, and maintain the existing neighborhood pattern of structures and open spaces between them and to the street.

**(a) Setback Required: As written****(b) Exceptions to Yard Setback Requirements**

The following projections into required yard setbacks may be permitted subject to the standards of Article 6 to ensure compatibility with neighboring properties:

1. through 6. – *As Written*

**7. Driveways**

Common or shared driveways and walkways along shared property lines and associated parking areas, including those to serve residential lots and developments per Sec. 4.4.5 (d) 4.A and Sec. 5.2.2, do not have to meet setback requirements along the shared property line. Other driveway encroachments may be permitted subject to ~~Sec. 4.4.5 (d) 1.A. Tables 4.4.5-1 and 4.4.5-2.~~

8. *As Written*

## Article 5: Citywide General Regulations

## PART 4: SPECIAL USE REGULATIONS

Sec. 5.4.5 Accessory Dwelling Units~~(a) Accessory Units, General Standards/Permitted Uses:~~

~~Where there is a principal structure on a lot which exists as an owner-occupied single family residence, one accessory dwelling unit, that is located within or appurtenant to such single family dwelling, shall be allowed as a permitted use if the provisions of this subsection are met. An accessory dwelling unit means a dwelling unit that is clearly subordinate to the principal dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. An accessory unit shall not be counted as a dwelling unit for the purposes of density calculation. Additionally, there must be compliance with all the following:~~

- ~~1. The property has sufficient wastewater capacity as certified by the Department of Public Works; and~~
- ~~2. The unit does not consist of more than 900 sq. ft., or 30 percent (30%) of the Gross Floor Area of the principal home, whichever is greater; and~~
- ~~3. Applicable setback and coverage requirements are met, except as provided for in Sec. 5.2.3 (b) 10; and~~
- ~~4. A deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit prior to the issuance of the certificate of occupancy for the unit. Such reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions including owner occupancy. No certificate of occupancy shall be issued for the unit unless the owner has recorded such a notice.~~

~~(b) Discontinuance of Accessory Units:~~

~~Approval of an accessory dwelling unit is contingent upon owner occupancy of either the principal or accessory dwelling unit as a primary residence. For purposes of this section, owner occupancy means that, after the creation of the accessory unit all individuals listed on the deed for the property must reside in the principal unit or in the accessory unit. If neither the principal unit nor the accessory unit is owner-occupied as a primary residence, the approval for the accessory dwelling unit is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval.~~

~~Furthermore, where additional square footage is added to a single family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.~~

## Article 7: Signs

## PART 2: SIGN TYPES

## Sec. 7.2.1 Sign Types

Table 7.2.1-B Sign Types Permitted by Form/Zoning District (continued)

| Sign Type                  | Residential |    |             |             | Civic, RCO & Urban Reserve |                                       |       |    | Sign Type Standards |
|----------------------------|-------------|----|-------------|-------------|----------------------------|---------------------------------------|-------|----|---------------------|
|                            | <u>RC</u>   | RH | RM/<br>RM-W | RL/<br>RL-W | Civic &<br>RCO-R/G         | RCO-A                                 | RCO-C | UR |                     |
| Awning & Canopy Sign       | ●           | ●  | ○           | ○           | ○                          | ○                                     | ○     | ○  | 7.2.2               |
| Band Sign                  | ●           | ○  | ○           | ○           | ○                          | ○                                     | ○     | ○  | 7.2.3               |
| Blade Sign                 | ●           | ●  | ●           | ●           | ●                          | ●                                     | ●     | ○  | 7.2.4               |
| Directory Sign             | ●           | ●  | ●           | ●           | ●                          | ●                                     | ○     | ○  | 7.2.5               |
| Freestanding Sign          | ●           | ○  | ○           | ○           | ●                          | ○                                     | ○     | ●  | 7.2.6               |
| Freestanding Yard Sign     | ●           | ●  | ●           | ●           | ●                          | ●                                     | ●     | ●  | 7.2.7               |
| Marquee                    | ○           | ○  | ○           | ○           | ○                          | ○                                     | ○     | ○  | 7.2.8               |
| Monument Sign              | ○           | ○  | ○           | ○           | ●                          | ○                                     | ○     | ●  | 7.2.9               |
| Outdoor Display Case       | ●           | ○  | ○           | ○           | ●                          | ●                                     | ○     | ○  | 7.2.10              |
| Projecting Sign            | ●           | ○  | ○           | ○           | ●                          | ○                                     | ○     | ○  | 7.2.11              |
| Sandwich Board             | ●           | ○  | ○           | ○           | ●                          | ●                                     | ●     | ●  | 7.2.12              |
| Wall Sign                  | ●           | ●  | ●           | ●           | ●                          | ○                                     | ○     | ○  | 7.2.13              |
| Window Sign                | ●           | ●  | ●           | ●           | ●                          | ●                                     | ●     | ○  | 7.2.14              |
| ● - Sign Type is permitted |             |    |             |             |                            | ○ - Sign Type is <u>not</u> permitted |       |    |                     |



**Article 13: Definitions**

***Sec. 13.1.2 Definitions***

For the purpose of this ordinance certain terms and words are herein defined as follows:

Unless defined to the contrary in Section 4303 of the Vermont Planning and Development Act as amended, or defined otherwise in this section, definitions contained in the building code of the City of Burlington, Sections 8-2 and 13-1 of the Code of Ordinances, as amended, incorporating the currently adopted edition of the American Insurance Association's "National Building Code" and the National Fire Protection Association's "National Fire Code" shall prevail.

Additional definitions specifically pertaining to Art. 14 planBTV: Downtown Code can be found in Sec. 14.8, and shall take precedence without limitation over any duplicative or conflicting definitions of this Article.

\*\*\*

**Building Footprint:** The sum of the area of the largest floor of a Building measured from the exterior Elevations. It does not include un-insulated porches if said areas are not used for human occupancy, nor protrusions in a wall (i.e. a bay window) if such protrusions do not create habitable area.

\*\*\*

**Elevation:** An exterior wall of a Building.

\*\*\*

\* Material stricken out deleted.

\*\* Material underlined added.

Ordinances 2024/ZA-24-04 Neighborhood Code 2A  
CC 1<sup>ST</sup> Read



**TO:** Burlington City Council  
**FROM:** Charles Dillard, AICP, Principal Planner  
Sarah Morgan, Planner  
**DATE:** August 29, 2024  
**RE:** Proposed ZA-24-04 Neighborhood Code Part 2

---

## **1. Overview & Background**

The City Council adopted ZA-24-02 (Neighborhood Code) at its March 25, 2024 meeting. This amendment creates a new framework for the city's residential zoning districts that enables a range of housing types, including single-family, ADUs, duplex through four-unit developments, and townhouses and small multi-unit buildings. These amendments enable greater flexibility for existing homes as well as a range of housing options within neighborhoods, create new zoning standards along transportation corridors identified in *planBTV*, and comply with Act 47 of 2023 of the VT Legislature.

During its discussion of the proposed Neighborhood Code amendments in fall and winter 2023, the Joint Neighborhood Code Committee bifurcated the Code to facilitate discussion of the Code's core concepts while reserving later discussion for a second package of amendments. Part One, those amendments adopted in March, addresses substantive changes to Article 4 and Appendix A, as well as other sections. Those changes evolved the residential zoning district standards, allowable uses, and district boundaries. This amendment, ZA-24-04, addresses the first series of additional amendments to incorporate the Neighborhood Code into other sections of the CDO, as well as to address technical corrections from ZA-24-02.

## **2. Neighborhood Code Part 2: Secondary Structures & Technical Corrections (ZA-24-04)**

A number of related standards need to be addressed throughout the CDO. Many of these were originally included in the "Relationship of Core Zoning Recommendations to other Ordinance Details" chart used in Joint Committee discussions, and some have emerged from additional public discussion at the hearings for Part 1 as well as from inquiries following the adoption of the code.

The purpose of Part 2 of the Neighborhood Code is to explore technical details and related standards necessary for implementing neighborhood-scale infill development across Burlington. Unlike Part 1 of the Neighborhood Code, recommendations will come from the Planning Commission as four or more separate amendments, detailed below. Using the general direction from past discussions of the Joint Committee, the Planning Commission, either as a body or through its Ordinance Committee, can review or make recommendations for these related standards within each proposed amendment.

Per the request of the City Council on March 25th, the Commission has discussed considerations related to the allowance of secondary structures in the Residential Districts. This amendment originally included modifications to the Planned Unit Development (PUD) standards, including consideration of a threshold for lot/project size in the Residential districts, as well as development intensity, permitted uses, and other topics as identified. However, at its July 9 meeting, the Commission discussed deferring action on amendments to PUD standards to its own upcoming amendment.

This initial amendment will provide clarifications and corrections relevant to the process and implementation of Neighborhood Code Part 1, including:

- Additional miscellaneous definitions to clarify and support consistent implementation of new standards, including what is counted with the maximum "building footprint"
- Consolidation of the applicability of Design Review and the Design Review Overlay zone into one section that provides clearer expectations of what is subject to review

- Possible situations where exceptions to maximum building footprint standards may be considered
- Technical Corrections, including clarifying the Residential Corridor Zone purpose statement to require frontage on a major thoroughfare; updating zoning for Starr Farm Park; internal reference correction

During the course of several meetings, the Commission has discussed the aforementioned proposed Part 2 topics. Ultimately, the Neighborhood Code Part 2 amendment addresses the standards outlined below and issues while leaving some existing and previously adopted standards unchanged.

A comprehensive list of anticipated amendments related to the Neighborhood Code will be communicated to City Council in a forthcoming memo.

### 3. **Proposed Amendment: ZA-24-04**

#### a. Amendment Type

|                |               |                                 |
|----------------|---------------|---------------------------------|
| Text Amendment | Map Amendment | <b>Text &amp; Map Amendment</b> |
|----------------|---------------|---------------------------------|

#### b. Purpose Statement

This amendment augments Neighborhood Code Part 1 by making technical corrections to various standards for Residential Districts, clarifies the relationship between secondary buildings allowed in the residential standards and citywide provisions for secondary structures, streamlines ordinance sections related to Design Review applicability, and addresses standards for residential development bonuses.

#### c. Proposed Amendments

The amendments to the *Burlington Comprehensive Development Ordinance* are included in this proposal and are categorized below to clarify which changes are related specifically to Secondary Structures and which are technical corrections:

##### i. Substantive Amendments related to Secondary Structures

###### 1. Amendment to *Article 3: Applications, Permits and Project Reviews*

- Amends Sec. 3.3.3 (a) 5 by adding "the creation of an Additional Unit on lot or with in Owner Occupied Single Detached Dwelling as described in Sec. 4.4.5 (d) 4. D." to developments exempt from Impact Fees. The purpose of this change is to explicitly state that the creation of one additional unit on a lot with an Owner Occupied Single Detached Dwellings is exempt from Impact Fees, which is relevant to changes made in Sec. 4.4.5 4. (d) 4. that clarifies the relationship between secondary residential structures allowed in residential districts and citywide provisions for Accessory Dwelling Units (ADUs).

###### 2. Amendments to both *Article 3 – Application, Permits, and Project Reviews* and *Article 4 – Zoning Maps and Districts* to clarify design review standards and expectations

- Deletes Sec. 4.5.1 Design Review Overlay District and moves *Map 4.5.1-1 Design Review Overlay to become Map 3.4.2-1*. By starting with the map of where Design Review is applicable, it presumes that all of the project types listed under 3.4.2 (b) 2. are subject to Design Review within the overlay district. Section 3.4.2 (b) 2 is retained to provide clarity that projects within this list will still be subject to design review despite being outside of the Design Review Overlay District.
- Corrects *Map 4.5.1-1 Design Review Overlay* (which will be re-named as *Map 3.4.2-1*) to (a) reflect Downtown Form Code boundaries, removing the applicability of design review from the areas and (b) Resolve any gaps between current Design Review Overlay District and the changes in district boundaries made in ZA-24-02 by including areas that were previously re-zoned from RL to RM or RC as part of the Design Review Overlay District.
- Amends Sec. 3.4.2 (b) to explicitly state that "Single detached dwellings and duplex dwellings within an RL district not otherwise subject to any of the above provisions." By



excluding the requirement that duplexes in RL districts are subject to Design Review aims to facilitate the development of this housing type in the RL District.

3. Amends *Article 4 – Zoning Maps and Districts* to make the following clarifications:
  - Amends *Table 4.4.5-2* to increase the Maximum Secondary Structure Footprint in the RM district from 900 ft<sup>2</sup> to 1,100 ft<sup>2</sup>.
  - Updates density & intensity standards that apply to projects utilizing Residential Development Bonuses to be consistent with standards used in *Tables 4.4.5-1 & 4.4.5-2* and *Article 11*
  - Creates an exception to Maximum Building Footprint Limits under Sec. 4.4.5 (d) 2.D, confirming that existing structures in excess of the building footprint limits in *Table 4.4.5-2* shall not be considered non-conforming and cross-references provisions in *Articles 5* and *11* that would allow for their reuse and/or expansion. This correction aligns with the District's purpose of allowing neighborhood-serving commercial uses.
  - Creates new standards for an Additional Unit on lot or with in Owner Occupied Single Detached Dwelling (Sec. 4.4.5 (d) 4. D.). The purpose of this section is to streamline the ordinance in an effort to make understanding ADU requirements less complex for the general user. This standard aims to enable a situation where, if someone adds an additional unit in an owner-occupied unit or if they build a single-unit secondary structure meeting these requirements, they can benefit from incentives including the admin review and the waiver of impact fees.
  - Collapses ADU requirements from *Article 3* into *Section 4.4.5* under the incentive for an Additional Unit on lot or with in Owner Occupied Single Detached Dwelling (Sec. 4.4.5 (d) 4. D.) in an effort to clarify the relationship between secondary structures and ADUs, as described above.
4. Amends *Article 5 – Citywide General Regulations* in the following ways:
  - Removes the exception to lot cover related to Accessory Dwelling Units (Sec. 5.2.3 (b) 10.), which was taken into consideration when modestly increasing lot cover standards in ZA-24-02.
5. Amends *Article 13 Definitions*, creating the following new definitions:
  - Creates a new definition for Building Footprint to clarify how building mass is measured as regulated in *Table 4.4.5-2*.
  - Creates a new definition for Elevation to clarify how building offset standards in *Table 4.4.5-2* are applied.

## ii. Additional Technical Corrections:

1. Amends *Article 4 – Zoning Maps and Districts* to make the following Technical Corrections:
  - Amends Sec. 4.3.1 to confirm that the Residential Corridor (RC) district, where mapped, apply only to properties with frontage on North Avenue, St. Paul Street, Pearl Street, Colchester Avenue or Shelburne Street. This technical correction provides clarifications that parcels without frontage on the identified corridors are not applicable to Residential Corridor standards and provides consistency with how the Downtown & Multimodal Mixed Use Parking District works.
  - Corrects the description of the Residential Corridor district in Sec. 4.4.5 to confirm the maximum building height of 4 stories and clarifies that multiple principal uses are allowed on lots in this district. This correction aligns with the District's purpose of allowing neighborhood-serving commercial uses.
  - Corrects mapping error on *Maps 4.3.1-1 Base Zoning Districts & 4.4.5-1 Residential Zoning Districts*.
  - Replaces an undefined term, "face," in *Table 4.4.5-2* with the defined term, "Elevation," in order to facilitate project review and provide clarity.
  - Re-names *Section Sec. 4.4.5 (d) 1. B. (i)* and *Table 4.4.5-4* to "Senior Housing and Housing for Individuals with Disabilities" bonus.

2. Amends *Article 5 – Citywide General Regulations* to make the following technical corrections:
  - Amends references made under Sec. 5.2.5 (b) to refer to tables created under ZA-24-02.
3. Amends *Article 7 – Signs* to reflect changes made in ZA-24-02
  - Modifies *Table 7.2.1-B Sign Types Permitted by Form/Zoning District* by correcting column headers with updated Residential Districts
  - Creates a new column for the RC district in *Table 7.2.1-B Sign Types Permitted by Form/Zoning District*, which is proposed to equate with the NMU district's sign standards, reflecting the potential for mixed-use development along the corridors

#### d. Relationship to *planBTV*

*This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).*

| Theme:    | Dynamic  | Distinctive | Inclusive | Connected |
|-----------|----------|-------------|-----------|-----------|
| Land Use: | Conserve | Sustain     |           | Grow      |

#### e. Compatibility with Proposed Future Land Use & Density

The proposed amendment is consistent in many respects with the Land Use and Density-related policies of *planBTV*. Generally, the slow pace of housing construction and rising housing costs are noted as one of the biggest challenges facing Burlington. Since the Plan's adoption, these challenges have become more pronounced. The foundational policy response to this challenge is the Plan's call to "identify and address unintended or unnecessary barriers to creating new housing and commercial spaces within parts of the city that are suitable to accommodate additional development." To that end, these amendments are largely technical in nature and are intended to clarify for the public and staff the standards and processes regulating residential construction in Burlington's neighborhoods.

The "Sustain" theme intends to "anticipate small and incremental change that is consistent with existing development patterns, building scale and neighborhood character." Specific policy goals and objectives, and their nexus with the amendment, are provided below:

- A primary and foundational change proposed in the amendment is to provide additional clarity and specificity to the form-based approach established in Neighborhood Code Part 1. This change is supported by Objective 2.2.
- Objective 8.1 directs the community to "enable the development of additional housing at all income levels by reducing regulatory barriers and disincentives to development, and encouraging infill and redevelopment of underutilized sites."

#### f. Impact on Safe & Affordable Housing

The amendment addresses safe and affordable housing in the following ways:

- In creating additional opportunities in some areas for developments where five or more homes are constructed, the amendment will help produce more purpose-built affordable homes through the Article 9 Inclusionary Zoning standards.
- In removing barriers to housing construction for all developers, including affordable housing developers, the amendment significantly expands the areas where such developers may operate and provide homes at scale.
- In facilitating the creation of more homes throughout the city, the amendment should help to slow the growth in housing costs as they relate to an undersupply.
- In facilitating greater choice in the housing market, the amendment will create expanded opportunities for aging-in-place, homes for individuals with disabilities who may require on-site assistance, and other types of supportive housing.
- Confirms established zoning standards facilitating Accessory Dwelling Unit construction, which are consistent with Objective 9.1.



**g. Planned Community Facilities**

This amendment has no direct impact on planned community facilities, aside from facilitating growth within the city's neighborhoods and thereby expanding the population of individuals with proximate access to such facilities.

**h. Process Overview**

The following chart summarizes the current stage in the zoning amendment process, and identifies any recommended actions:

| Planning Commission Process                      |                                                              |                                       |                              |                                                |
|--------------------------------------------------|--------------------------------------------------------------|---------------------------------------|------------------------------|------------------------------------------------|
| Draft Amendment prepared by:<br>Staff<br>6/25/24 | Presentation to & discussion by Commission<br>Various Dates* | Approve for Public Hearing<br>7/23/24 | Public Hearing<br>8/27/24    | Approved & forwarded to Council<br><br>8/27/24 |
| City Council Process                             |                                                              |                                       |                              |                                                |
| First Read & Referral to Ordinance Cmte          | Ordinance Cmte discussion<br>Various Dates*                  | Ordinance Cmte recommend              | Second Read & Public Hearing | Council Approval & Adoption                    |

\* The Planning Commission met on the following dates within 2024: 4/23, 5/14, 5/28, 6/11, 6/25, 7/9, 7/23



September 3, 2024

From Charles Dillard, Principal Planner

### Summary of Planning Commission Discussion on Secondary Structures

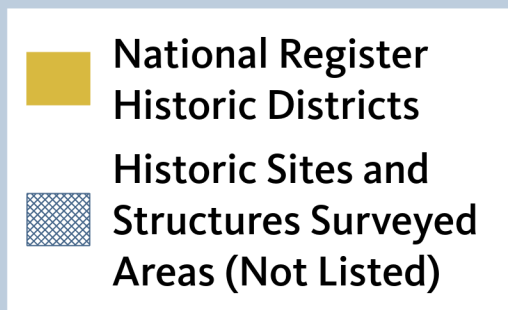
[T]he PC spent the first few meetings of this 2A discussion on the secondary structures standards. I'm attaching the version that they recommended out to CC. Here's a recap of the secondary structure discussion:

- Ultimately, they only recommended one change from the NC Part 1 adopted (delayed) standards – they are recommending to increase the maximum secondary structure footprint in the RM district from 900 sf to 1,100 sf, which is the standard adopted for the RL district.
- There was discussion of the height allowed in secondary structures. Councilor Brown McKnight attended one of the meetings where this was discussed. Essentially, the PC abstained from making any reduction or other change to the allowable building height. They discussed the idea of limiting secondary structure height to the existing primary structure, but decided that this would be unfair to existing properties/owners where the prevailing heights are low (e.g. NNE). There was an acknowledgement that some areas of the city that have steeper slopes – Hill District, for example, where secondary structures built in backyards that are sloping up from the street may appear quite tall. However, ultimately this did not outweigh their arguments in favor of keeping the max. Secondary structure height at 3 stories/35'.
- They discussed and decided not to make any changes to the max dwelling units per structure standard
- There was some discussion of the lot coverage standards, specifically whether the 45% allowed in the RL district should be increased to 55%, but they decided against that.



# Historic Districts + Surveyed Areas

Map does not include properties identified in the  
Modern Architecture Survey.



**TO:** Burlington City Council  
**FROM:** Charles Dillard, AICP, Principal Planner  
Sarah Morgan, Planner  
**DATE:** August 29, 2024  
**RE:** Proposed ZA-24-04 Neighborhood Code Part 2

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- Amends *Table 4.4.5-2* to increase the Maximum Secondary Structure Footprint in the RM district from 900 ft<sup>2</sup> to 1,100 ft<sup>2</sup>.
- Updates density & intensity standards that apply to projects utilizing Residential Development Bonuses to be consistent with standards used in *Tables 4.4.5-1 & 4.4.5-2* and *Article 11*
- Creates an exception to Maximum Building Footprint Limits under Sec. 4.4.5 (d) 2.D, confirming that existing structures in excess of the building footprint limits in *Table 4.4.5-2* shall not be considered non-conforming and cross-references provisions in *Articles 5* and *11* that would allow for their reuse and/or expansion. This correction aligns with the District's purpose of allowing neighborhood-serving commercial uses.
- Creates new standards for an Additional Unit on lot or with in Owner Occupied Single Detached Dwelling (Sec. 4.4.5 (d) 4. D.). The purpose of this section is to streamline the ordinance in an effort to make understanding ADU requirements less complex for the general user. This standard aims to enable a situation where, if someone adds an additional unit in an owner-occupied unit or if they build a single-unit secondary structure meeting these requirements, they can benefit from incentives including the admin review and the waiver of impact fees.
- Collapses ADU requirements from *Article 3* into *Section 4.4.5* under the incentive for an Additional Unit on lot or with in Owner Occupied Single Detached Dwelling (Sec. 4.4.5 (d) 4. D.) in an effort to clarify the relationship between secondary structures and ADUs, as described above.

4. Amends *Article 5 – Citywide General Regulations* in the following ways:

- Removes the exception to lot cover related to Accessory Dwelling Units (Sec. 5.2.3 (b) 10.), which was taken into consideration when modestly increasing lot cover standards in ZA-24-02.

5. Amends *Article 13 Definitions*, creating the following new definitions:

- Creates a new definition for Building Footprint to clarify how building mass is measured as regulated in *Table 4.4.5-2*.
- Creates a new definition for Elevation to clarify how building offset standards in *Table 4.4.5-2* are applied.

ii. Additional Technical Corrections:

1. Amends *Article 4 – Zoning Maps and Districts* to make the following Technical Corrections:

- Amends Sec. 4.3.1 to confirm that the Residential Corridor (RC) district, where mapped, apply only to properties with frontage on North Avenue, St. Paul Street, Pearl Street, Colchester Avenue or Shelburne Street. This technical correction provides clarifications that parcels without frontage on the identified corridors are not applicable to Residential Corridor standards and provides consistency with how the Downtown & Multimodal Mixed Use Parking District works.
- Corrects the description of the Residential Corridor district in Sec. 4.4.5 to confirm the maximum building height of 4 stories and clarifies that multiple principal uses are allowed on lots in this district. This correction aligns with the District's purpose of allowing neighborhood-serving commercial uses.
- Corrects mapping error on *Maps 4.3.1-1 Base Zoning Districts & 4.4.5-1 Residential Zoning Districts*.
- Replaces an undefined term, "face," in *Table 4.4.5-2* with the defined term, "Elevation," in order to facilitate project review and provide clarity.
- Re-names *Section Sec. 4.4.5 (d) 1. B. (i)* and *Table 4.4.5-4* to "Senior Housing and Housing for Individuals with Disabilities" bonus.



2. Amends *Article 5 – Citywide General Regulations* to make the following technical corrections:
  - Amends references made under Sec. 5.2.5 (b) to refer to tables created under ZA-24-02.
3. Amends *Article 7 – Signs* to reflect changes made in ZA-24-02
  - Modifies *Table 7.2.1-B Sign Types Permitted by Form/Zoning District* by correcting column headers with updated Residential Districts
  - Creates a new column for the RC district in *Table 7.2.1-B Sign Types Permitted by Form/Zoning District*, which is proposed to equated with the NMU district's sign standards, reflecting the potential for mixed-use development along the corridors

#### d. Relationship to *planBTV*

*This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).*

| Theme:    | Dynamic  | Distinctive | Inclusive | Connected |
|-----------|----------|-------------|-----------|-----------|
| Land Use: | Conserve | Sustain     |           | Grow      |

#### e. Compatibility with Proposed Future Land Use & Density

The proposed amendment is consistent in many respects with the Land Use and Density-related policies of *planBTV*. Generally, the slow pace of housing construction and rising housing costs are noted as one of the biggest challenges facing Burlington. Since the Plan's adoption, these challenges have become more pronounced. The foundational policy response to this challenge is the Plan's call to "identify and address unintended or unnecessary barriers to creating new housing and commercial spaces within parts of the city that are suitable to accommodate additional development." To that end, these amendments are largely technical in nature and are intended to clarify for the public and staff the standards and processes regulating residential construction in Burlington's neighborhoods.

The "Sustain" theme intends to "anticipate small and incremental change that is consistent with existing development patterns, building scale and neighborhood character." Specific policy goals and objectives, and their nexus with the amendment, are provided below:

- A primary and foundational change proposed in the amendment is to provide additional clarity and specificity to the form-based approach established in Neighborhood Code Part 1. This change is supported by Objective 2.2.
- Objective 8.1 directs the community to "enable the development of additional housing at all income levels by reducing regulatory barriers and disincentives to development, and encouraging infill and redevelopment of underutilized sites."

#### f. Impact on Safe & Affordable Housing

The amendment addresses safe and affordable housing in the following ways:

- In creating additional opportunities in some areas for developments where five or more homes are constructed, the amendment will help produce more purpose-built affordable homes through the Article 9 Inclusionary Zoning standards.
- In removing barriers to housing construction for all developers, including affordable housing developers, the amendment significantly expands the areas where such developers may operate and provide homes at scale.
- In facilitating the creation of more homes throughout the city, the amendment should help to slow the growth in housing costs as they relate to an undersupply.
- In facilitating greater choice in the housing market, the amendment will create expanded opportunities for aging-in-place, homes for individuals with disabilities who may require on-site assistance, and other types of supportive housing.
- Confirms established zoning standards facilitating Accessory Dwelling Unit construction, which are consistent with Objective 9.1.

**g. Planned Community Facilities**

This amendment has no direct impact on planned community facilities, aside from facilitating growth within the city's neighborhoods and thereby expanding the population of individuals with proximate access to such facilities.

**h. Process Overview**

The following chart summarizes the current stage in the zoning amendment process, and identifies any recommended actions:

| Planning Commission Process                   |                                                              |                                       |                              |                                                |
|-----------------------------------------------|--------------------------------------------------------------|---------------------------------------|------------------------------|------------------------------------------------|
| Draft Amendment prepared by: Staff<br>6/25/24 | Presentation to & discussion by Commission<br>Various Dates* | Approve for Public Hearing<br>7/23/24 | Public Hearing<br>8/27/24    | Approved & forwarded to Council<br><br>8/27/24 |
| City Council Process                          |                                                              |                                       |                              |                                                |
| First Read & Referral to Ordinance Cmte       | Ordinance Cmte discussion<br>Various Dates*                  | Ordinance Cmte recommend              | Second Read & Public Hearing | Council Approval & Adoption                    |

\* The Planning Commission met on the following dates within 2024: 4/23, 5/14, 5/28, 6/11, 6/25, 7/9, 7/23

# Neighborhood Code 2A

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CITY COUNCIL ORDINANCE COMMITTEE

2024.09.16

# Proposed Standards – Secondary Structures

| District                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Max Height & Stories <sup>1,3</sup> | Max Dwelling Units per Structure <sup>2,3</sup> | Max. Principal Structure Footprint <sup>3</sup> | Max. Secondary Structure Footprint <sup>3</sup> | Max Building face before providing offset <sup>5</sup><br><u>Max. Linear Elevation before offset<sup>4</sup></u> | Min. Distance between Structures on same lot |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|------------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| Residential Low (RL)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 35’<br>3 stories                    | 4                                               | 1,800 sq.ft                                     | 1,100 sq.ft.                                    | 50’                                                                                                              | 15’                                          |
| Residential Medium (RM)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 35’<br>3 stories                    | 4                                               | 1,800 sq.ft.                                    | <del>900 sq.ft.</del> <u>1,100 sq.ft.</u>       |                                                                                                                  |                                              |
| Residential High (RH)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 50’<br>4 stories                    | N/A                                             | N/A                                             | N/A                                             |                                                                                                                  |                                              |
| Residential Corridor (RC)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                     |                                                 | 3,600 sq.ft.                                    | N/A                                             |                                                                                                                  |                                              |
| <div>1. Details regarding the measurement of and exceptions to height limits are found in Art 5.</div> <div>2. Minimum dwelling unit size is 350 sq. ft.</div> <div>3. Within RL and RM zones, lots may have up to one (1) Principal and one (1) Secondary structure per lot, except as may otherwise be allowed by <u>Table 4.4.5-3</u> or Article 11. <u>Where an existing Principal Structure contains only an owner-occupied Single detached dwelling, and proposes to add one additional unit within the Principal Structure or in a Secondary Structure, see additional provisions in Sec. 4.4.5 (d) 4. D.</u></div> <div>4. Required on all building <del>faces</del><u>Elevations</u>. Minimum offset is 5 ft measured perpendicular to the building <del>face</del> <u>Elevation</u> in excess of 50 <u>linear feet</u>.</div> |                                     |                                                 |                                                 |                                                 |                                                                                                                  |                                              |



# Planning Commission Discussion – Secondary Structures

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The Planning Commission amended the Secondary Structures standards in the following way:

- Increased the Maximum Secondary Structure Footprint in the RM district from 900 sq. ft. to 1,100 sq. ft.

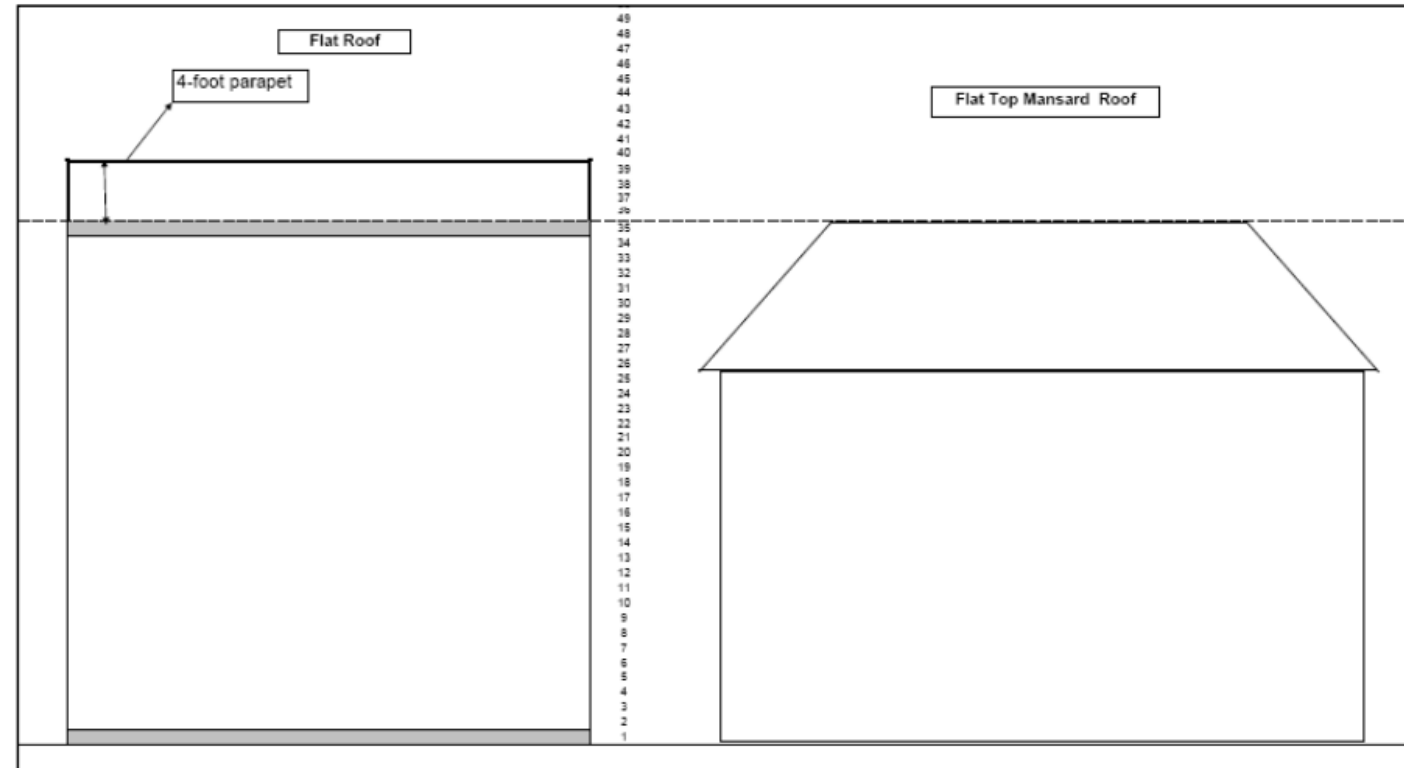
The PC made no changes to the height standards related to Primary or Secondary Structures

- Concerns of equity/fairness when considering limiting building height to that of the lot's primary structure (e.g. New North End)
- No clear urban design rationale; varying heights contribute positively to character of streetscapes
- If limited to Primary Structure height, that height could always increase through additions to the Primary Structure

# Core Concepts – How the CDO regulates height

## Flat Roofs

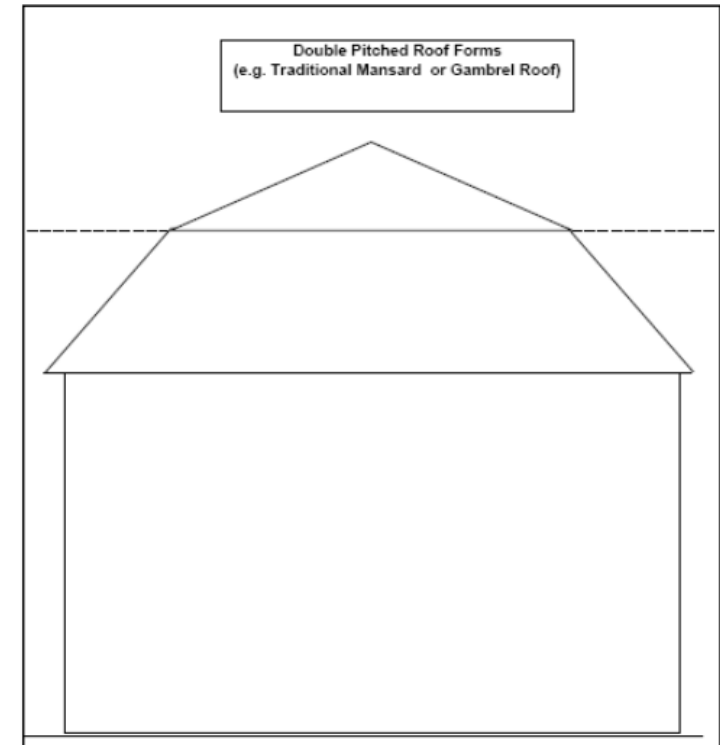
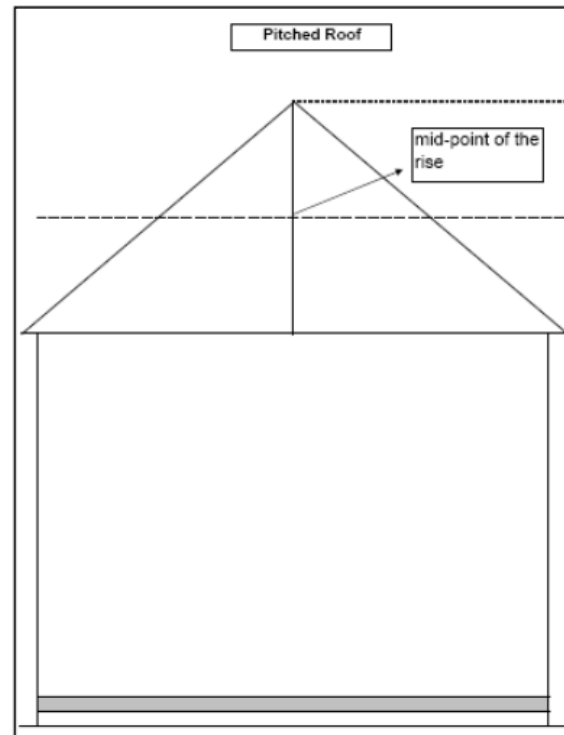
- The highest point of the decking of a flat or flat-topped mansard roof. A parapet no taller than four (4) feet shall not be considered part of a flat roof for the purposes of measuring building height.



# Core Concepts – How the CDO regulates height

## Pitched Roofs

- The midpoint of the rise between the roofplate and the ridge of the highest gable of a pitched or hipped roof. A doublepitched roof (e.g. gambrel or double-pitched mansard) shall be measured to the roofplate of the highest pitch.



# Core Concepts – How the CDO regulates height

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## Sloped Sites

- Building height shall be measured from the average grade along the street-facing façade at intervals of no less than 32-feet or more than 65-feet along the entire length of the street-facing façade (s).





# Alternative Secondary Structure Height Standards

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Two Categories:

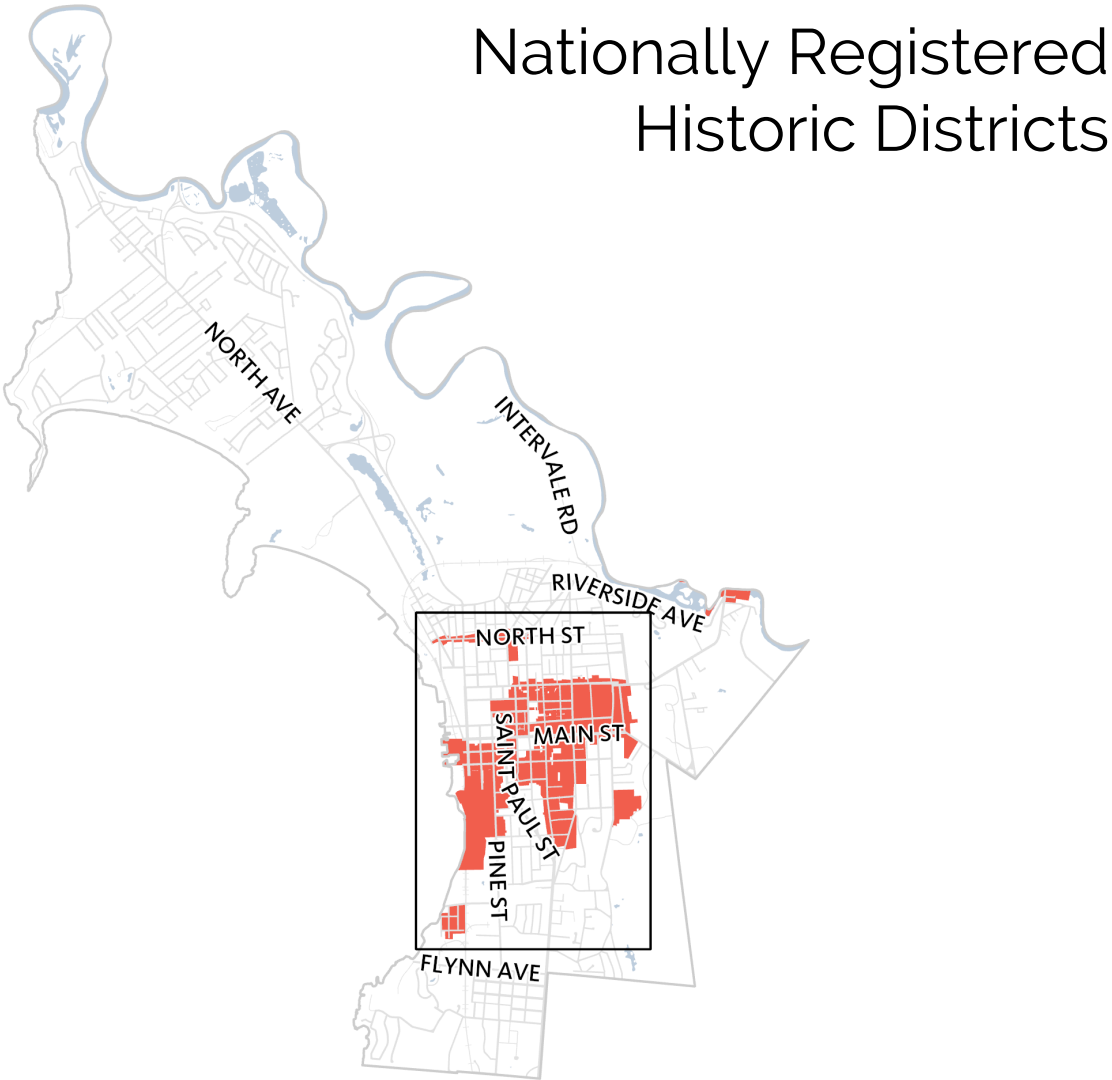
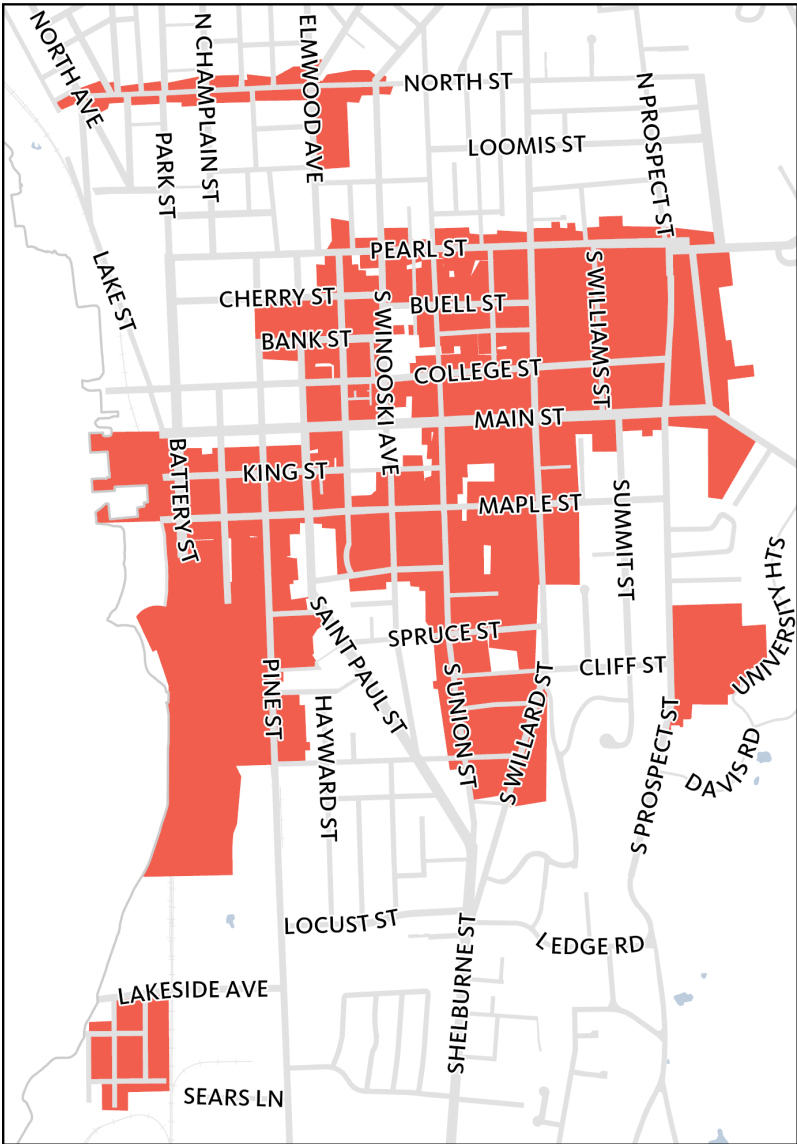
1. Secondary Structures in National Register Historic Districts
2. Secondary Structures on lots areas eligible to be, but not designated as National Register Historic Districts

# Alternative Secondary Structure Height Standards - Historic Districts

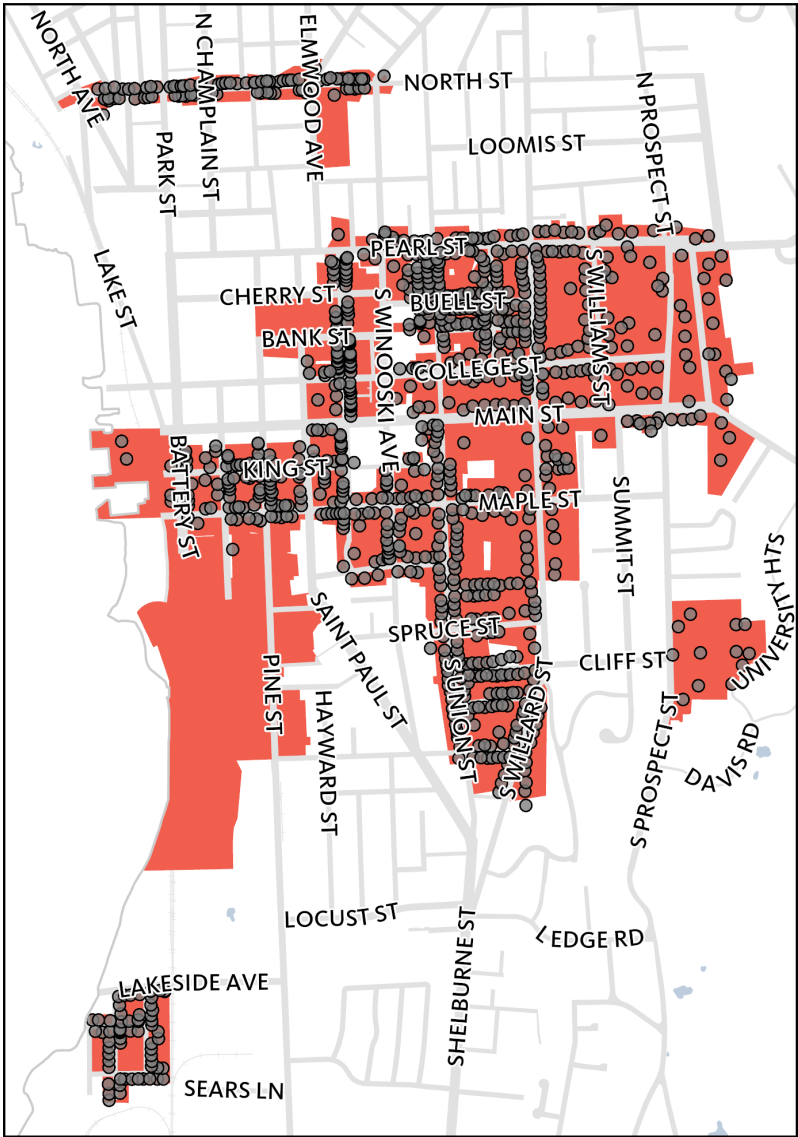
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1. Limit height to the height of any **contributing** structure in the subject National Register Historic District
2. Limit height to the height of the tallest **contributing** structure in the National Register Historic District
3. Limit height to the height of the tallest structure, contributing **or not**, in the National Register Historic District
4. Make all residential buildings, including single family and duplexes, subject to design review in historic districts, which applies DAB review, specifically review of new construction's impact on "size, scale, and proportion, and massing to protect the integrity of the property and its environment."
5. Leave as is

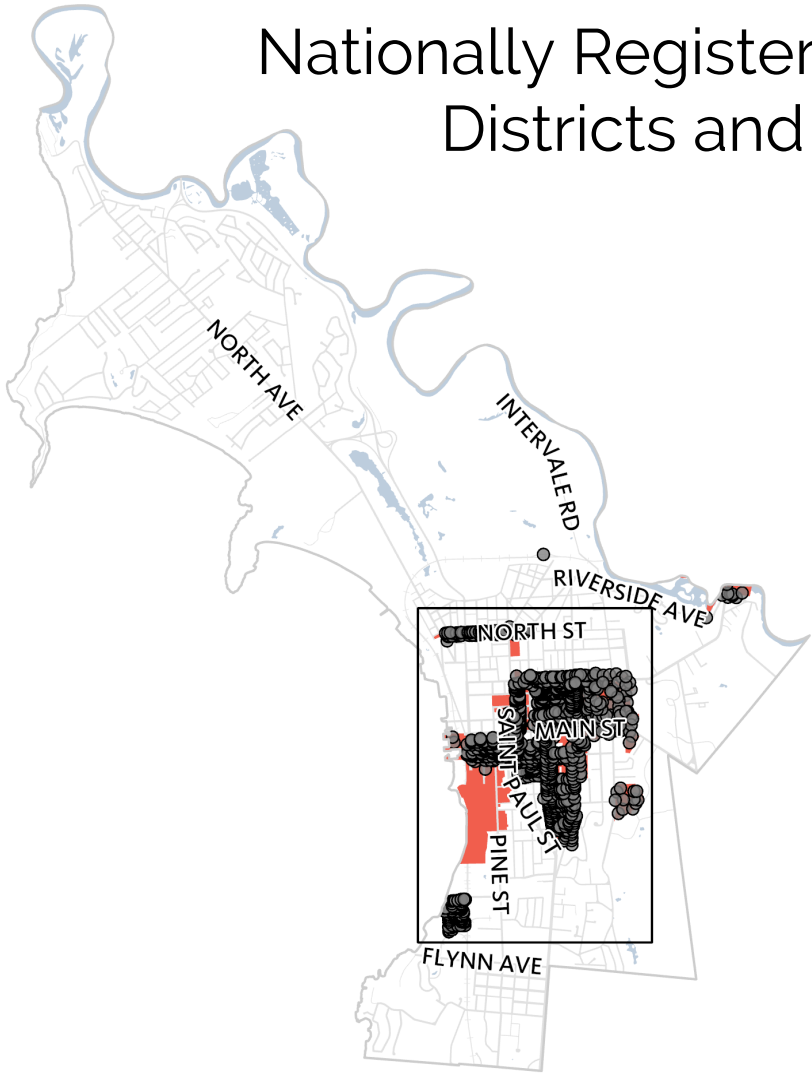
# Alternative Secondary Structure Height Standards - Historic Districts



# Alternative Secondary Structure Height Standards - Historic Districts

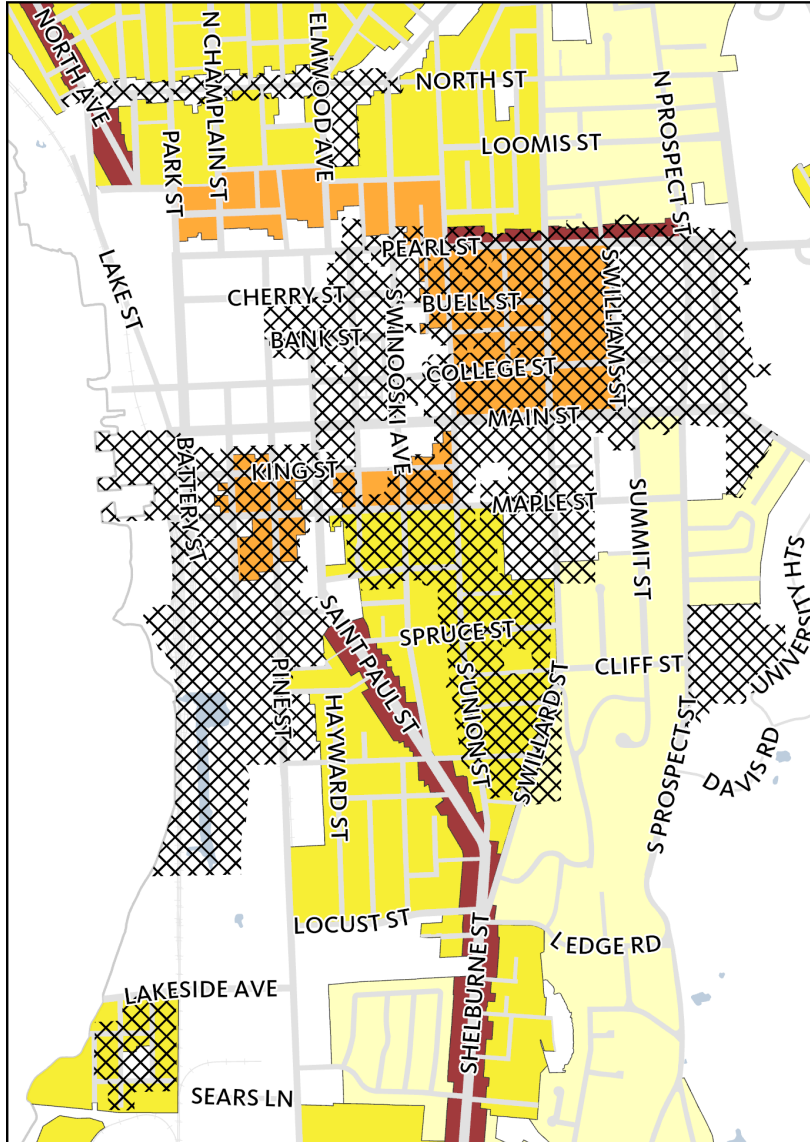


Nationally Registered Historic Districts and Resources

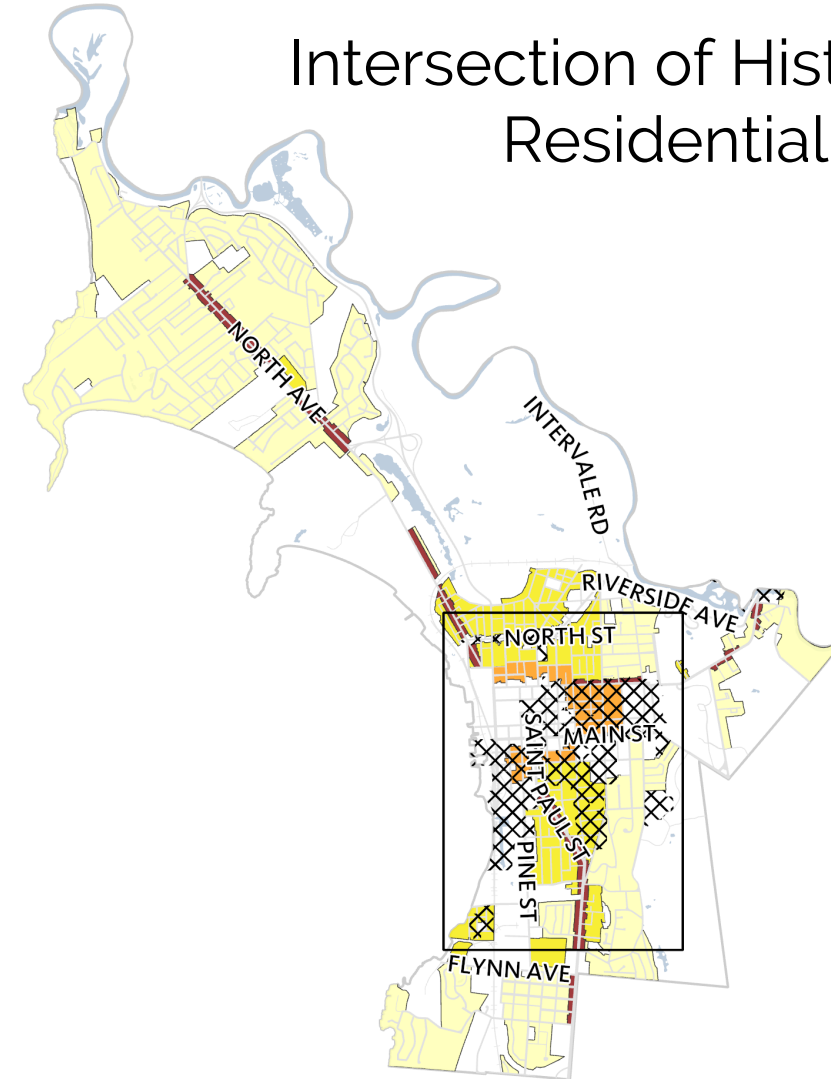




# Alternative Secondary Structure Height Standards - Historic Districts

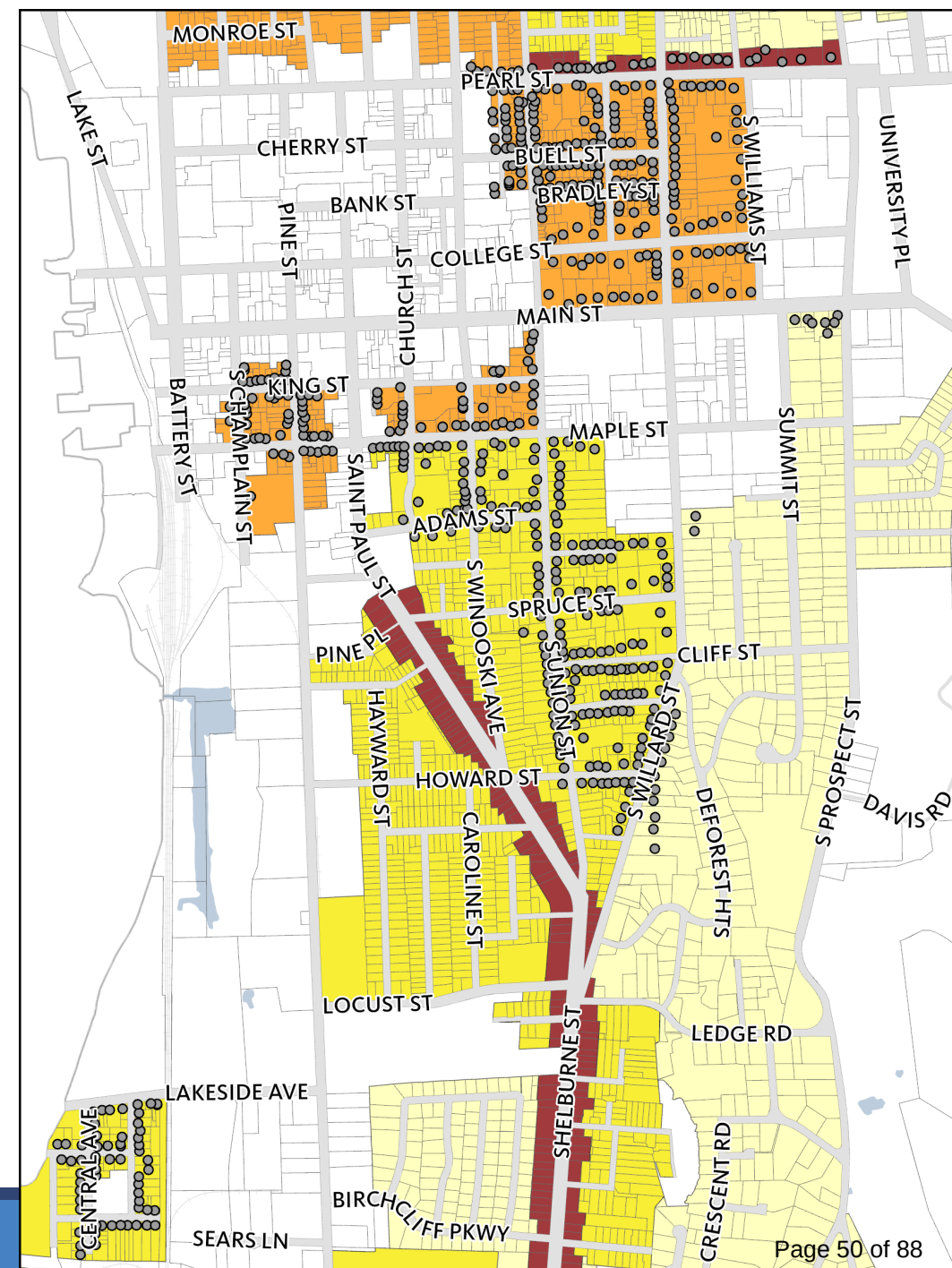


## Intersection of Historic and Residential Districts



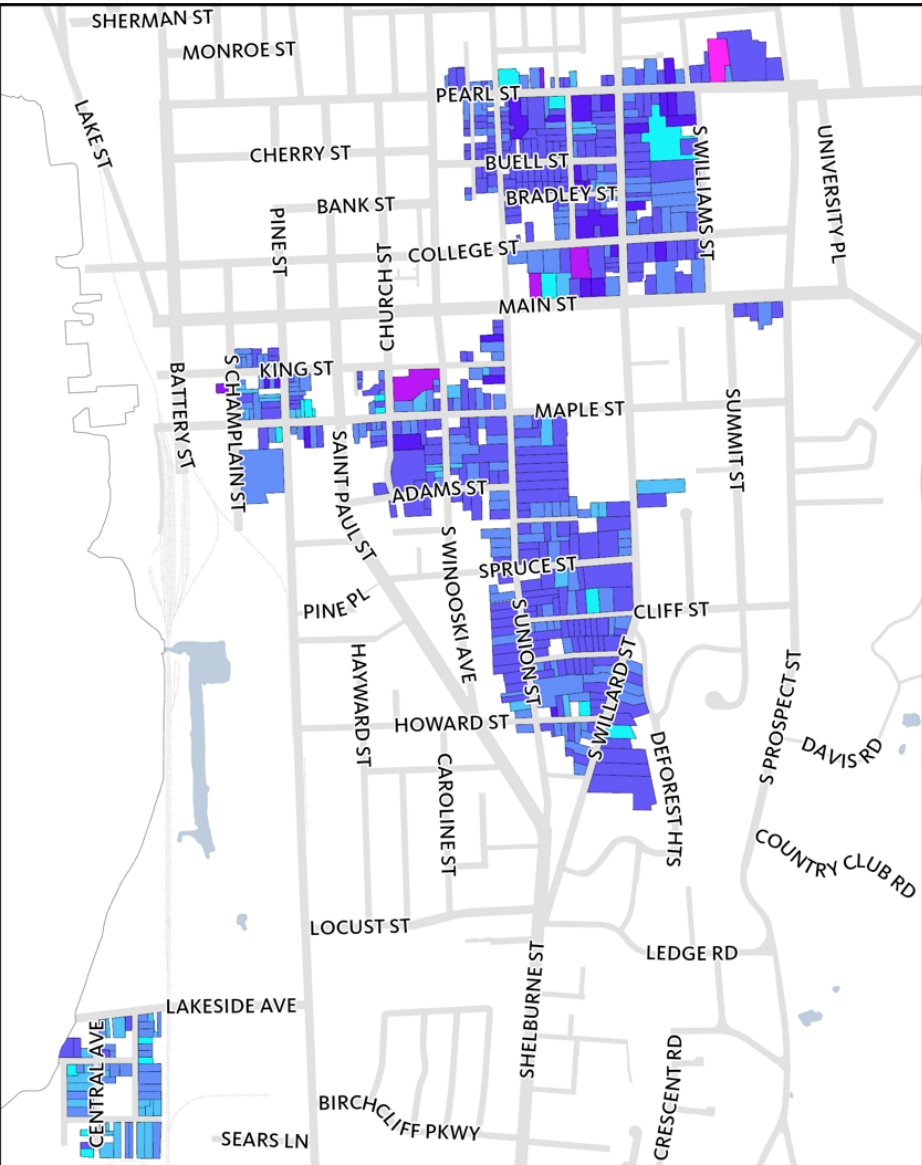
# Alternative Secondary Structure Height Standards - Historic Districts

Nationally Registered Historic Resources within Residential Districts



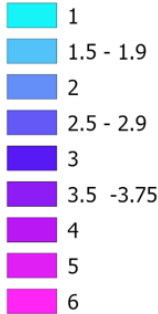
# Alternative Secondary Structure Height Standards - Historic Districts

Height in Existing National Register Historic Districts



## Parcels with Nationally Registered Resources

Maximum Height of Structure on Parcel





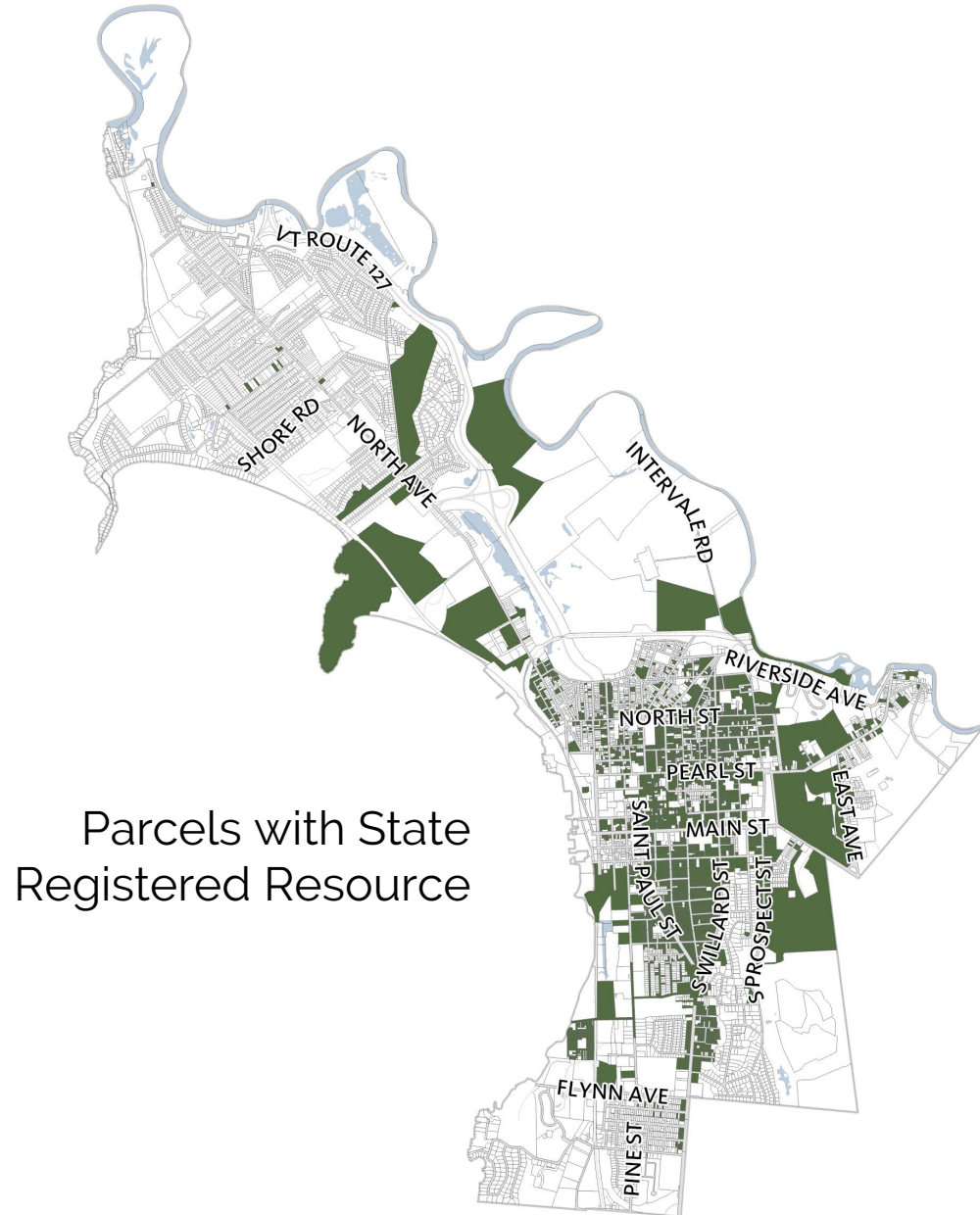
# Alternative Secondary Structure Height Standards - Historic Districts

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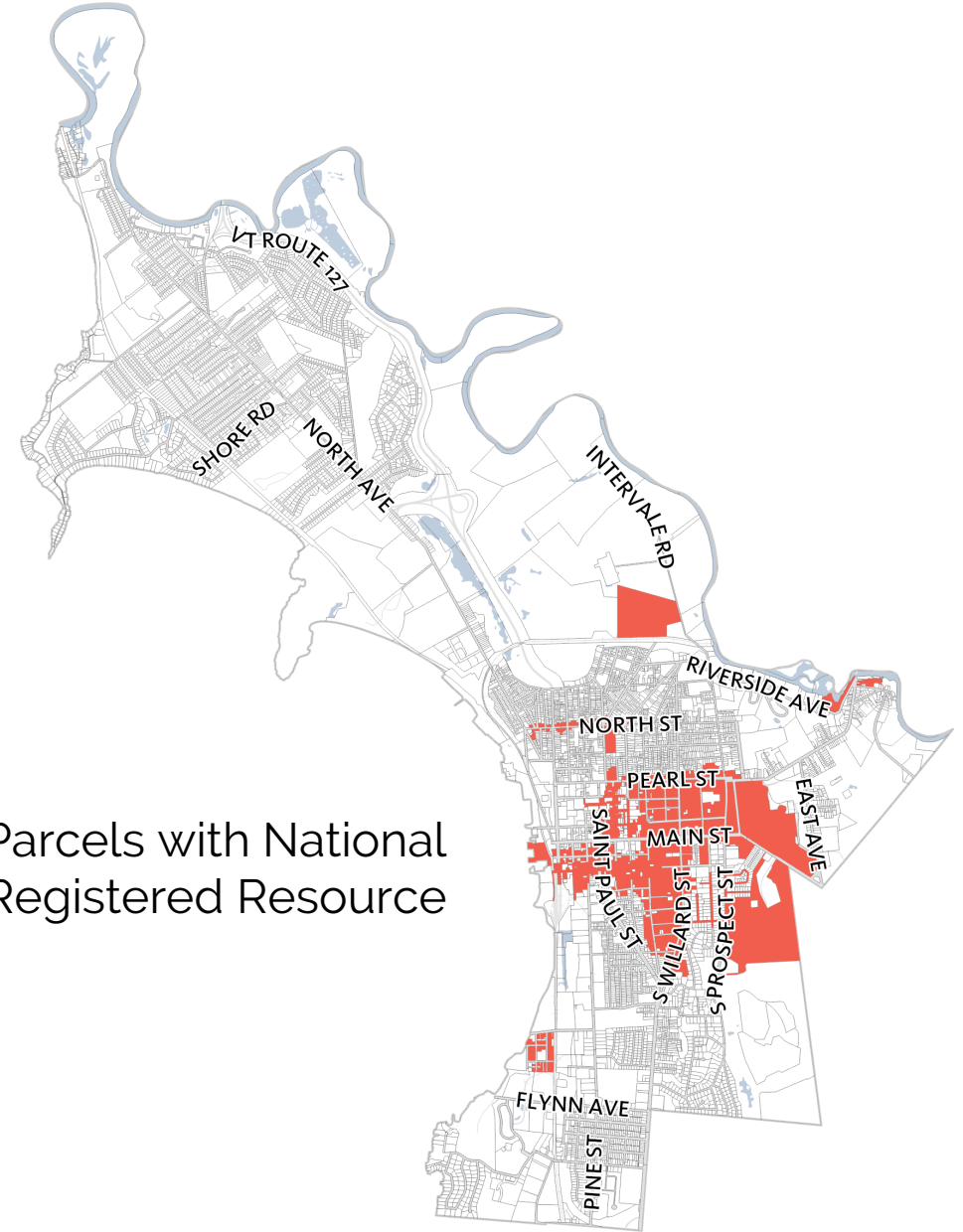
## Existing Context – Lakeside Neighborhood



# Alternative Secondary Structure Height Standards - Historic Districts



Parcels with State  
Registered Resource



Parcels with National  
Registered Resource



# Alternative Secondary Structure Height Standards - Historic Districts

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**OPC Recommended Approach:** Leave as is/no change.

## **CCOC Approach:**

1. Limit height to the height of the Primary Structure on any parcel with a contributing structure in a National Register Historic District or on any parcel with a state registered historic place.

# Alternative Secondary Structure Height Standards -Historic Districts

**Table 4.4.5-2 Principal & Secondary Structures Massing and Placement Standards in Residential Districts**

| District                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Max Height & Stories <sup>1,3,5</sup> | Max Dwelling Units per Structure <sup>2,3</sup> | Max. Principal Structure Footprint <sup>3</sup> | Max. Secondary Structure Footprint <sup>3</sup> | Max Building-face before providing offset <sup>5</sup><br>Max. Linear Elevation before offset <sup>4</sup> | Min. Distance between Structures on same lot |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| Residential Low (RL)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 35'<br>3 stories                      | 4                                               | 1,800 <u>sq.ft.</u>                             | 1,100 <u>sq.ft.</u>                             | 50'                                                                                                        | 15'                                          |
| Residential Medium (RM)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 35'<br>3 stories                      | 4                                               | 1,800 <u>sq.ft.</u>                             | <del>900 sq.ft.</del> <u>1,100 sq.ft.</u>       |                                                                                                            |                                              |
| Residential High (RH)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 50'<br>4 stories                      | N/A                                             | N/A                                             | N/A                                             |                                                                                                            |                                              |
| Residential Corridor (RC)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                       |                                                 | 3,600 <u>sq.ft.</u>                             | N/A                                             |                                                                                                            |                                              |
| <div>1. Details regarding the measurement of and exceptions to height limits are found in Art 5.</div> <div>2. Minimum dwelling unit size is 350 sq. ft.</div> <div>3. Within RL and RM zones, lots may have up to one (1) Principal and one (1) Secondary structure per lot, except as may otherwise be allowed by <u>Table 4.4.5-3 or Article 11. Where an existing Principal Structure contains only an owner-occupied Single detached dwelling, and proposes to add one additional unit within the Principal Structure or in a Secondary Structure, see additional provisions in Sec. 4.4.5 (d) 4. D.</u></div> <div>4. Required on all building <del>faces</del><u>Elevations</u>. Minimum offset is 5 <u>ft</u> measured perpendicular to the building <del>face</del> <u>Elevation</u> in excess of 50 <u>linear feet</u>.</div> <div>5. <u>Secondary Structures on lots within a National Register Historic District and/or that are listed in the Vermont State Register of Historic Places shall have a maximum height no taller than the lot's Primary Structure, provided that in no case shall the maximum height allowed be less than two stories/ 25'.</u></div> |                                       |                                                 |                                                 |                                                 |                                                                                                            |                                              |

# CITY OF BURLINGTON

ORDINANCE \_\_\_\_\_

Sponsor: Office of City Planning,  
Planning Commission

Public Hearing Dates: \_\_\_\_\_

First reading: \_\_\_\_\_

Referred to: \_\_\_\_\_

Rules suspended and placed in all  
stages of passage: \_\_\_\_\_

Second reading: \_\_\_\_\_

Action: \_\_\_\_\_

Date: \_\_\_\_\_

Signed by Mayor: \_\_\_\_\_

Published: \_\_\_\_\_

Effective: \_\_\_\_\_

**In the Year Two Thousand Twenty-Four**

## **An Ordinance in Relation to**

COMPREHENSIVE DEVELOPMENT ORDINANCE  
ZA-24-04, Neighborhood Code 2A

**It is hereby Ordained** by the City Council of the City of Burlington as follows:

That Appendix A-Burlington Comprehensive Development Ordinance of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Article 3: Applications, Permits, and Project Reviews, Part 3, Impact Fees, Sec. 3.3.3(a), Exceptions and Waivers; Part 4 Design Review, Sec. 3.4.2(b) Applicability; moves Map 4.5.1-1 Design Review Overlay District to Sec. 3.4.2(b) as amended and renumbered Map 3.4.2; amends Sec. 4.3.1(e) Residential Districts established; modifies Map 4.3.1-1 Base Zoning Districts; amends the Residential Corridor District purpose statement in Sec. 4.4.5 (a) 5; modifies Map 4.4.5-1 Residential Zoning Districts; updates Table 4.4.5-2; amends Sec. 4.4.5 (d) 1. B. Residential Development Bonuses by re-naming and modifying both Sec. 4.4.5 (d) 1. B. (i) and Table 4.4.5-4; amends Sec. 4.4.5 (d) 1. B. (ii) and deletes Table 4.4.5-5; amends Sec. 4.4.5 (d) 1. B. (ii) and re-numbers Table 4.4.5-6; creates Sec. 4.4.5-2 (d) 2. D. Exceptions to Maximum Building Footprint Limit; creates Sec. 4.4.5 (d) 4. D. Additional Unit; deletes Sec. 4.5.1 Design Review Overlay District and reserves section; deletes Sec. 5.2.3 (b) 10.; amends Sec. 5.2.5 (b) 7.; deletes Sec. 5.4.5 Accessory Dwelling Units; amends Table 7.2.1-B Sign Types Permitted by Form/Zoning District in 7.2.1 Sign Types; and amends Article 13 – Definitions thereof to read as follows:

### **Article 3: Applications, Permits, and Project Reviews**

#### **PART 3: IMPACT FEES**

##### **Sec. 3.3.3 Exemptions and Waivers**

###### **(a) Exemptions:**

The following types of development are exempt from this Part:

1. additions to existing dwelling units, provided such additions are for residential purposes;
2. alterations to an existing use provided that such alteration occurs entirely within an existing building and within the same square footage;

3. land development which does not result in new building square footage (e.g. parking lots, facade renovations, signs, etc.);
4. additions to existing buildings for which the sole purpose is to provide additional means of egress (e.g. stair towers, elevators, etc).
5. the creation of an Additional Unit on lot or within Owner Occupied Single Detached Dwelling as described in Sec. 4.4.5 (d) 4. D.

#### **PART 4: SITE PLAN AND DESIGN REVIEW**

##### **Sec. 3.4.1 Purpose**

These site plan review regulations are enacted to provide for the consideration of site features and their location and arrangement so as to protect important natural and cultural features, ensure the adequacy of parking and circulation, provide for necessary landscaping and screening, and protect and maintain the character and development pattern of the surrounding area.

Additionally, design review regulations are intended to provide for the detailed review of certain uses, structures, and architectural features in those areas of the city which contain structures of historical, architectural, or cultural merit, and where the community has a particular interest in the design of future development in order to address specific land development objectives.

##### **Sec. 3.4.2 Applicability**

###### **(a) Site Plan Review:**

Site Plan Review shall be required for the approval of all development subject to the provisions of this ordinance with the exception of single-family dwellings not otherwise subject to the requirements of Design Review.

###### **(b) Design Review:**

No structure may be erected, reconstructed, substantially altered, restored, moved, or demolished or any site improvement or modification made without approval subject to the provisions of this part and the review criteria described in Art 6 Design Review shall be required for the approval of all development subject to the provisions of this ordinance within the Design Review Overlay District as defined in Article 4 Sec. 4.5.1, and any of the following: the following geographic areas or for all development subject to the following provisions:

1. For any projects located within the geographic areas as delineated as applicable on Map 3.4.2-1 Design Review Applicable.
- 1-2. For any projects within geographic areas delineated as not applicable on Map 3.4.2-1 but that are subject to the following provisions:
  - a. Any development subject to the provisions of Article 3, Part 5 – Conditional Use and Major Impact Review;
  - b. Any development subject to the provisions of Article 5, Part 3 – Non-Conformities;
  - c. Any development subject to the provisions of Article 5, Part 4 – Special Use Regulations;
  - d. Any development subject to the provisions of Sec. 7.1.6 Non-Conforming Signs and Article 7, Part 3 Sign Plans;
  - e. Any development subject to the provisions of Article 10 – Subdivision;
  - f. Any development subject to the provisions of Article 11 – Planned Development; and,
  - g. A project within an RL District where a building contains 3 or more units or proposes more than one building on a lot subject to Sec. 4.4.5.
  - h. Any development made subject to the provisions of this Part by direct reference not otherwise noted here.

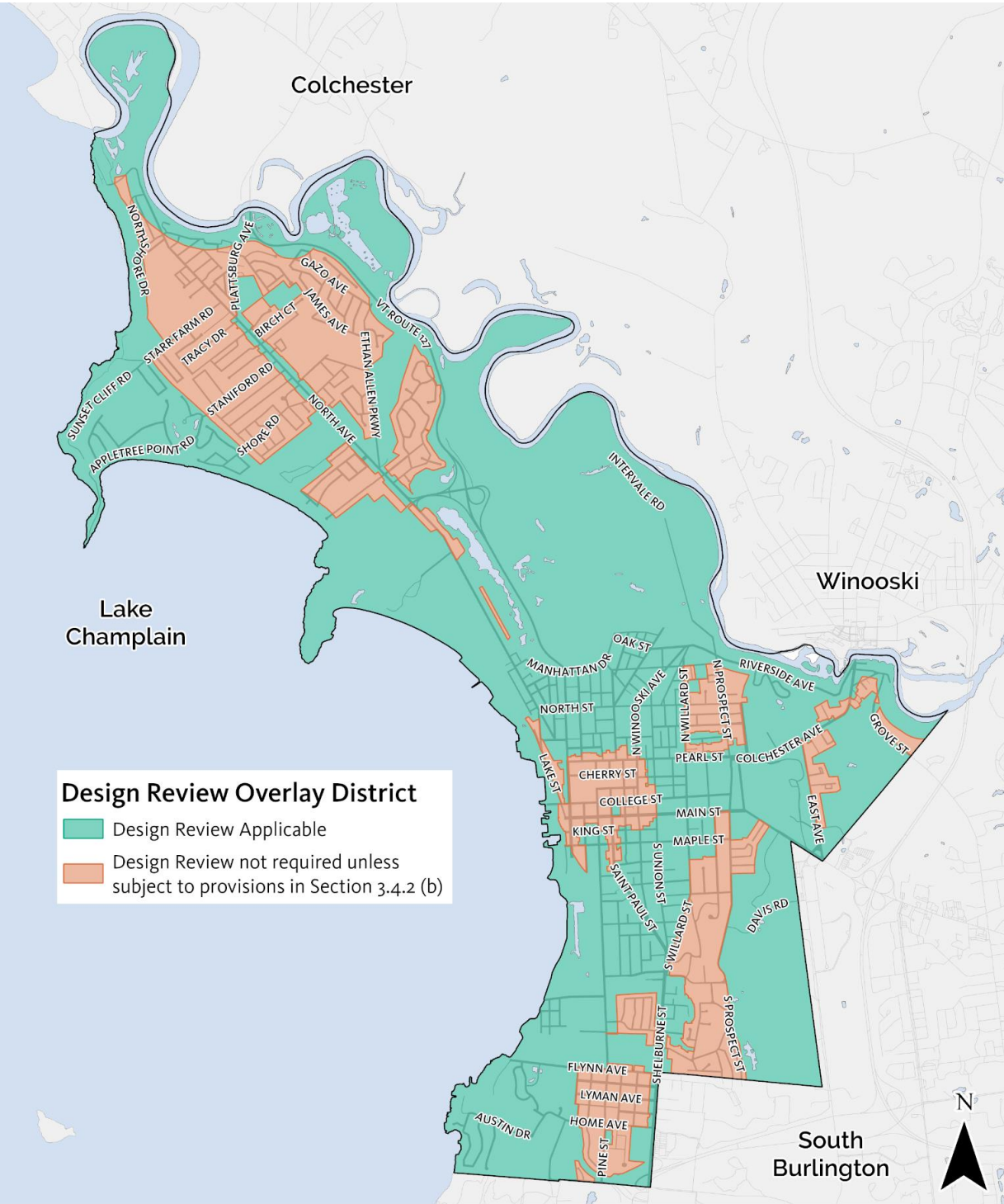
Design Review shall not be required for:

1. Single detached dwellings and duplex dwellings within an RL district not otherwise subject to any of the above provisions.



72  
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~~1.2.~~ All applications subject to the planBTV: Downtown Code under Art. 14, which ~~shall be exempt from review under this section, and the development review principles and standards contained in Article 6—Development Review Standards, and~~ instead shall be subject to the requirements of Article 14.



Burlington Comprehensive Development Ordinance  
Districts effective Jan. 30, 2008 with amendments effective 06-02-2021 (ZA-21-03)

**Article 4: Zoning Maps and Districts****PART 3: ZONING DISTRICTS ESTABLISHED****Sec. 4.3.1 Base Districts Established:**

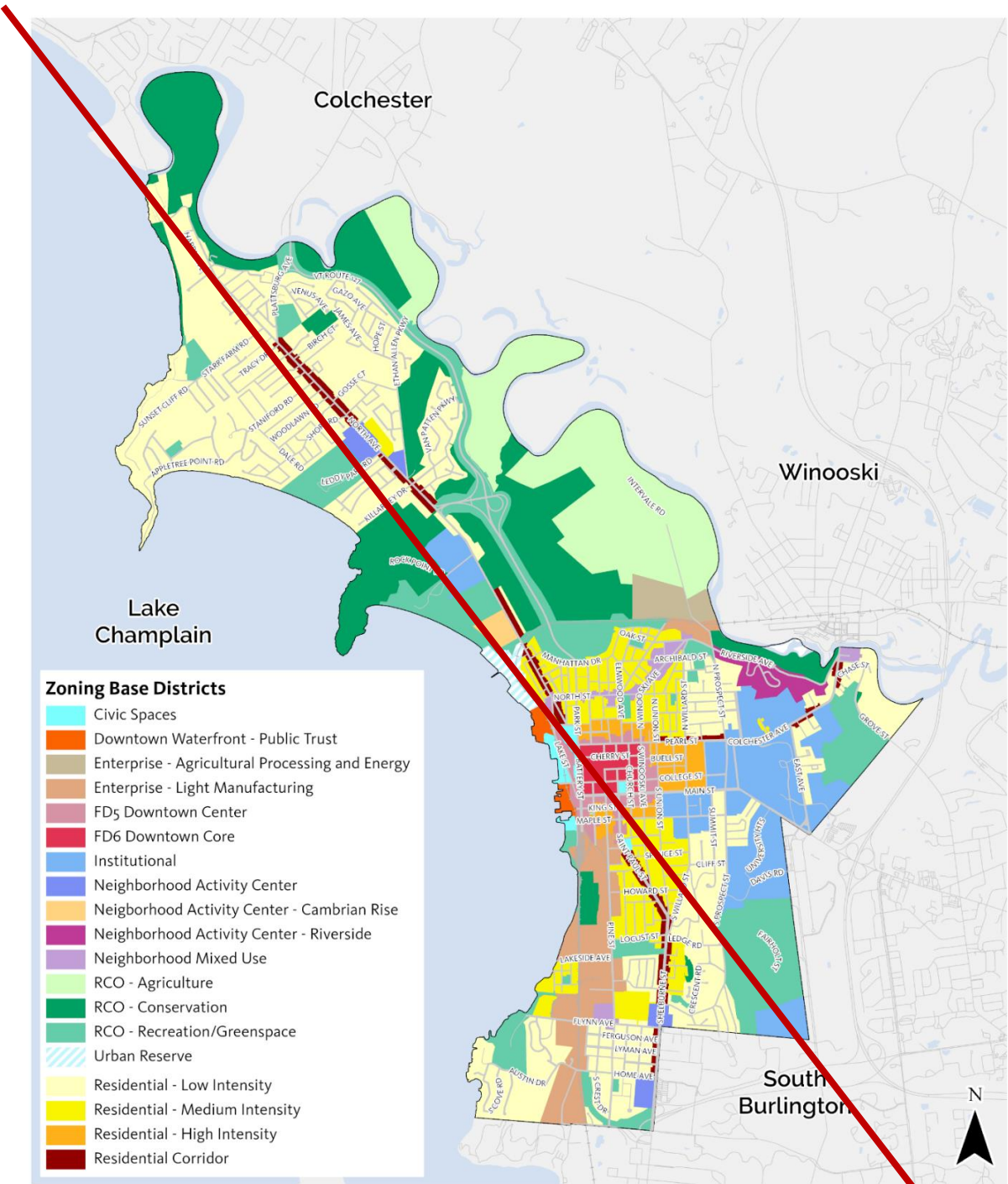
The following zoning districts are hereby established as illustrated in Map 4.3.1-1 and further described in Part 4 below:

(a) through (d) – *As Written*.

(e) A series of four (4) **Residential** districts: (*see Sec. 4.4.5*)

- Residential Corridor (RC), where mapped, this district applies to properties with street frontage on North Avenue, Colchester Avenue, St. Paul Street, Pearl Street, and Shelburne Street to a maximum depth of 200 ft;
- Residential High Intensity (RH);
- Residential Medium Intensity (RM); and
- Residential Low Intensity (RL);

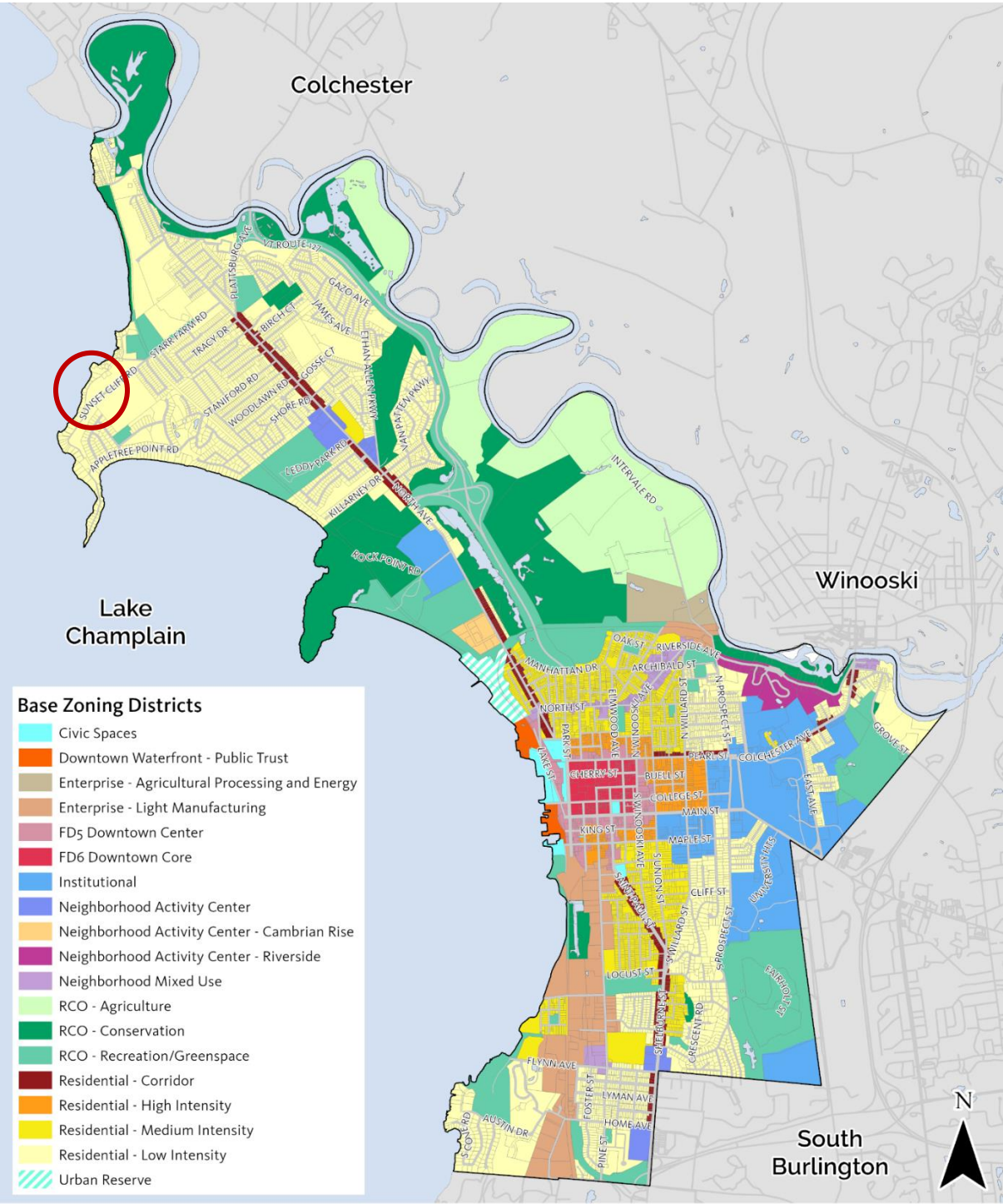
(f) through (g) – *As Written*.



**Map 4.3.1-1 Base Zoning Districts**  
*Burlington Comprehensive Development Ordinance*  
*Districts effective Jan. 30, 2008*

138  
139





**Map 4.3.1-1 Base Zoning Districts**

*Burlington Comprehensive Development Ordinance  
Districts effective Jan. 30, 2008 with amendments effective 06-05-24 (ZA-24-02)*

## Map 4.3.1-1 Base Zoning Districts

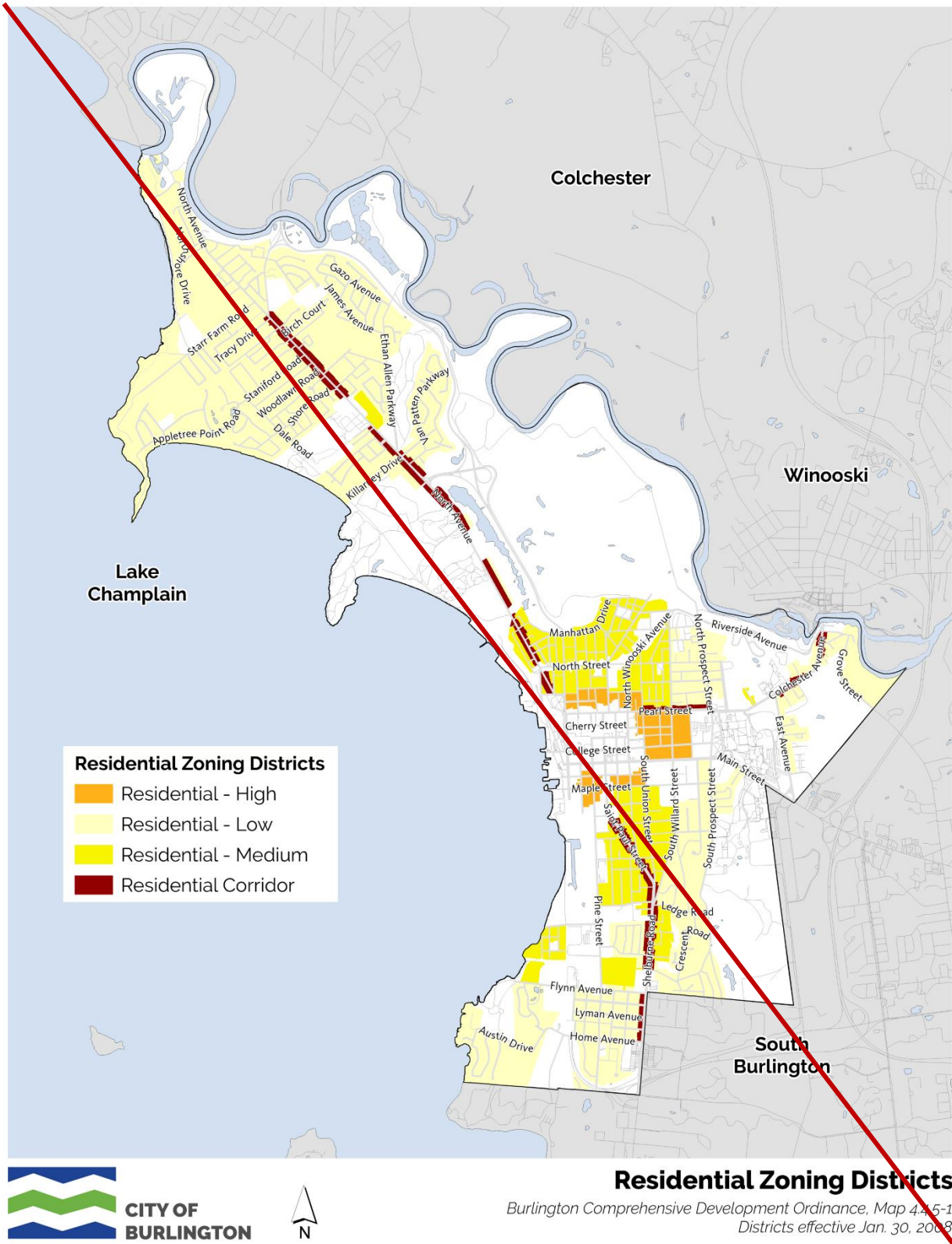
## PART 4: BASE ZONING DISTRICT REGULATIONS

## Sec. 4.4.5 Residential Districts

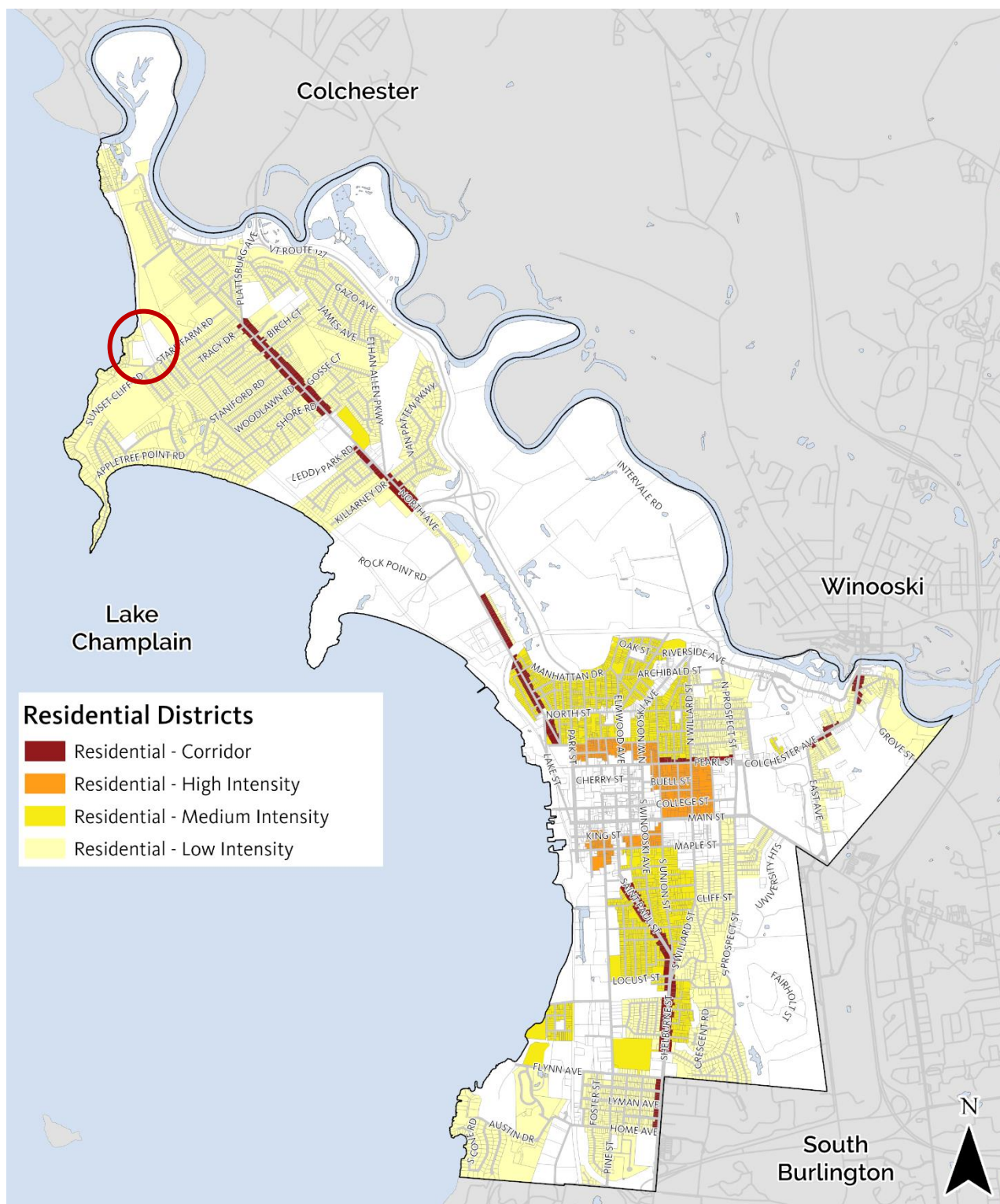
(a) Purpose:  
As Written

The Residential districts as illustrated in Map 4.4.5-1 are further described as follows:

1. The **Residential Lower Intensity (Residential Low, RL)** – *As Written*
2. The **Residential Medium Intensity (Residential Medium, RM)** – *As Written*
3. The **Residential High Intensity (Residential High, RH)** – *As Written*
4. The **Residential Corridor (RC)** district is intended for residential development that includes a mix of housing types such as duplex, triplex, quadplex, townhouse, and mid-sized, multi-unit and mixed-use buildings along major multi-modal transportation corridors that are adjacent to low intensity districts. Single-family detached dwellings are limited to buildings originally built for such purpose. New and infill development may be located closer to the street than historic development patterns, with building heights ~~ranging from two to three and a half up to four~~ stories and high lot coverage. Multiple Principal Uses are allowed, and neighborhood-serving commercial uses may be incorporated in existing or new buildings.









**(b) Dimensional Standards***As written.***Table 4.4.5-1 Lot size, Frontage, Setback, and Lot Coverage Standards in Residential Districts***As written.***Table 4.4.5-2 Principal & Secondary Structures Massing and Placement Standards in Residential Districts**

| District                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Max Height & Stories <sup>1,3</sup> | Max Dwelling Units per Structure <sup>2,3</sup> | Max. Principal Structure Footprint <sup>3</sup> | Max. Secondary Structure Footprint <sup>3</sup> | Max Building face before providing offset <sup>5</sup><br><u>Max. Linear Elevation before offset<sup>4</sup></u> | Min. Distance between Structures on same lot |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|------------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| Residential Low (RL)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 35'<br>3 stories                    | 4                                               | 1,800 sq.ft                                     | 1,100 sq.ft.                                    | 50'                                                                                                              | 15'                                          |
| Residential Medium (RM)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 35'<br>3 stories                    | 4                                               | 1,800 sq.ft.                                    | <del>900 sq.ft.</del> <u>1,100 sq.ft.</u>       |                                                                                                                  |                                              |
| Residential High (RH)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 50'<br>4 stories                    | N/A                                             | N/A                                             | N/A                                             |                                                                                                                  |                                              |
| Residential Corridor (RC)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                     |                                                 | 3,600 sq.ft.                                    | N/A                                             |                                                                                                                  |                                              |
| <div>1. Details regarding the measurement of and exceptions to height limits are found in Art 5.</div> <div>2. Minimum dwelling unit size is 350 sq. ft.</div> <div>3. Within RL and RM zones, lots may have up to one (1) Principal and one (1) Secondary structure per lot, except as may otherwise be allowed by <u>Table 4.4.5-3 or Article 11. Where an existing Principal Structure contains only an owner-occupied Single detached dwelling, and proposes to add one additional unit within the Principal Structure or in a Secondary Structure, see additional provisions in Sec. 4.4.5 (d) 4. D.</u></div> <div>4. Required on all building <del>faces</del><u>Elevations</u>. Minimum offset is 5 ft measured perpendicular to the building <del>face</del> <u>Elevation</u> in excess of 50 <del>ft-linear</del> <u>feet</u>.</div> <div>5. Secondary Structures on lots within a National Register Historic District and/or that are listed in the Vermont State Register of Historic Places shall have a maximum height no taller than the lot's Primary Structure, provided that in no case shall the maximum height allowed be less than two stories/ 25'.</div> |                                     |                                                 |                                                 |                                                 |                                                                                                                  |                                              |

**(c) Permitted and Conditional Uses:***As Written***(d) District Specific Regulations:**

The following regulations are district-specific exceptions, bonuses, and standards unique to the residential districts. They are in addition to, or may modify, city-wide standards as provided in Article 5 of this ordinance and district standards as provided above.

**1. Additional Residential Development Permitted**

In addition to any applicable development permitted according to Article 11- Planned Unit Development, the following additional development types and intensities shall be allowed within the Residential Districts, subject to the following standards.

## A. Reserved

## Table 4.4.5-3 Reserved

## B. Residential Development Bonuses

The following exceptions to maximum allowable residential standards in Tables 4.4.5-1 and 4.4.5-2 may be approved in any combination subject to the maximum limits set forth in Table 4.4.5-6 at the discretion of the DRB. Any bonuses that are given pursuant to this ordinance now or in the future shall be regarded as an exception to the limits otherwise applicable.

(i) ~~Senior-Housing for Older Persons and Individuals with Disabilities Bonus~~

Residential development in excess of the limits set forth in Tables 4.4.5-1 and 4.4.5-2 may be permitted by the DRB for ~~projects including exclusively-senior-housing~~ housing for Older Persons (as defined by the federal Fair Housing Act), housing for Individuals with Disabilities (as defined by the federal Americans with Disabilities Act), or a mixture exclusively thereof -provided the following conditions are met:

- a) No less than twenty-five (25) per cent of the total number of units shall be reserved for low-moderate income households as defined by state or federal guidelines, including no less than ten (10) percent reserved for low-income households. (Projects taking advantage of this bonus are exempt from the Inclusionary Zoning requirements of Article 9, Part 1.);
- b) The proposal shall be subject to the design review provisions of Art. 6;
- ~~c) A maximum of an additional 10 feet of building height may be permitted in the RH District; and,~~
- ~~d)c) Lot coverage, height, and development intensity shall not exceed the following. The maximum dwelling units per building in Table 4.4.5-2 may be waived subject to the DRB approval under Article 11. -and residential densities shall not exceed the following:~~

Table 4.4.5-4: ~~Senior-Housing for Older Persons and Individuals with Disabilities Bonus~~

| District | Maximum <u>Lot Coverage</u> | Maximum <u>Development Intensity Density</u> | Maximum <u>Height</u> |
|----------|-----------------------------|----------------------------------------------|-----------------------|
| RL       | <del>44</del> 55%           | <del>20 du/ae</del> 1.5 FAR                  | 4 stories, 50 ft      |
| RM       | <del>48</del> 65%           | <del>40 du/ae</del> 1.75 FAR                 |                       |
| RH       | <del>92</del> 90%           | <del>80 du/ae</del> 2.0 FAR                  | 5 stories, 62 ft.     |

## (ii) Residential Conversion Bonus

Development in excess of the limits set forth in Tables 4.4.5-1 and 4.4.5-2 may be permitted by the DRB subject to conditional use review for the conversion of an existing non-conforming nonresidential principal use to a conforming residential use subject to all of the following conditions:

- ~~a) Any applicable lot coverage, height, FAR, and units per building limits may be modified by the DRB up to a limit of 100% of the pre-application coverage, height and GFA condition.~~
- ~~a) Lot coverage and residential densities shall not exceed the following:~~

~~Table 4.4.5-5: Residential Conversion Bonus~~

| District  | Maximum Coverage                         | Maximum Density                                |
|-----------|------------------------------------------|------------------------------------------------|
| <b>RL</b> | 50%<br>(62% with inclusionary allowance) | 8 du/ae<br>(8.75 with inclusionary allowance)  |
| <b>RM</b> | 60%<br>(72% with inclusionary allowance) | 30 du/ae<br>(37.5 with inclusionary allowance) |
| <b>RH</b> | 80%<br>(92% with inclusionary allowance) | 60 du/ae<br>(69 with inclusionary allowance)   |

**(iii) Limitations on Residential Development Bonuses:**

For projects where the conditions of more than one applicable bonus listed above and under Sec.5.4.8 (e) are met, and where any applicable development allowances per Article 9 are utilized, the applicant may use the most permissive exemption to the underlying lot coverage or residential intensities applicable.

In no case shall any development bonuses and allowances granted, either individually or in combination, enable a building to exceed the maximum density/development intensity, lot coverage, and building height permitted in any district as defined below:

**Table 4.4.5-56: Maximum Intensity, Lot Coverage and Building Heights with Bonuses**

| District  | Maximum Density FAR*     | Maximum Height     | Maximum Lot Coverage* |
|-----------|--------------------------|--------------------|-----------------------|
| <b>RH</b> | 80 du/ae <u>2.0 FAR</u>  | 45 <u>62</u> -feet | 92 <u>90</u> %        |
| <b>RM</b> | 40 du/ae <u>1.75 FAR</u> | 35 <u>50</u> -feet | 72 <u>65</u> %        |
| <b>RL</b> | 20 du/ae <u>1.5 FAR</u>  | 35 <u>50</u> -feet | 62 <u>55</u> %        |

\*- or 125% of the pre-application gross floor area or coverage of the qualifying principal building as may be applicable per Table 5.4.8-1 Historic Building Rehabilitation Bonus

**2. Exceptions to Dimensional Standards**

**A.** through **C** – As Written

**D. Exceptions to Maximum Building Footprint Limit**

(i) Existing structures legally existing as of January 1, 2024 in excess of the building footprint limits in Table 4.4.5-2 shall not be considered non-conforming. Such buildings shall only be allowed to be converted, adaptively reused, or enlarged, including for the purpose of adding additional units, within the limits this part or as otherwise permitted in Sec. 5.4.8 or Article 11.

(ii) Single-family homes legally existing as of January 1, 2024 in excess of the building footprint limits in Table 4.4.5-2 may be expanded to 125% of the pre-existing footprint, as long as no additional units are added.

**3. Exception for Neighborhood Commercial Uses**

As Written

237 **4. Miscellaneous Standards**238  
239 (A) Through (C) –As Written240 **D. Additional Unit on lot or within Owner Occupied Single Detached Dwelling**241  
242 Where an existing Principal Structure in any Residential Zoning District contains only an owner-occupied Single  
243 Detached Dwelling, and an applicant proposes to add a single additional dwelling unit within the Principal Structure  
244 or within a detached Secondary Structure on the same lot as the owner-occupied home, the application shall be  
245 eligible forshall be subject to administrative review and approval according to Sec.3.2.7 (a) 13, and exempt from  
246 paying impact fees, according to Sec. 3.3.3., except where otherwise required.  
247248 (e) **Effective Date.**249 The amendments to this Section 4.4.5 that allow for a secondary structure within RL and RM zones, except as may  
250 otherwise be allowed by Article 11, are effective October 1, 2024.251 **Article 4: Zoning Maps and Districts**252 **PART 5: OVERLAY ZONING DISTRICT REGULATIONS**253  
254 **Sec. 4.5.1 Reserved Design Review Overlay District**255 **(a) Purpose:**256 The Design Review Overlay District (DR) is intended to provide detailed individual review of certain uses and structures  
257 in those areas of the city which contain structures of historical, architectural, or cultural merit, and where the community  
258 has a particular interest in the design of future development in order to address specific land development objectives.  
259260 **(b) Areas Covered:**261 The geographic<sup>1</sup> areas subject to the Design Review Overlay shall be as delineated on Map 4.5.1—1: Design Review  
262 Overlay, that include the following:263 **(1) The following zoning districts:**264 A. The Downtown Waterfront—Public Trust district and all Neighborhood Mixed Use, Enterprise, Institutional,  
265 Urban Reserve, and Recreation, Conservation and Open Space districts; and,266 B. Portions of the Residential Districts as identified in Map 4.5.1—1 and described below.267 **(2) The following areas within Residential Districts:**268 A. All properties west of the Burlington Bike Path north of College Street;269 B. All properties west of the Vermont Railway line south of Lakeside Ave;270 C. All properties within 500' of Lake Champlain or the Winooski River;271 D. All properties with frontage on Brooks Avenue;272 E. All properties within the area bounded by Maple, South Willard, Howard and South Union streets;273 F. All properties with frontage on the west side of South Union St. between Main and Howard streets;274 G. All properties with frontage on the north side of Howard St. between South Union and St. Paul streets;275 **(3) The following uses, buildings, and properties within Residential Districts:**276 A. All nonresidential uses, residential uses with home occupations, or other conditional uses, having frontage on

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<sup>1</sup> This Section only defines the geographic areas of the city that are subject to Design Review. Other types of development are also subject to Design Review pursuant to the requirements of Article 3, Part 4.



277

~~the following major streets:~~

278

~~(i) — Shelburne Street, from its point of beginning southerly to its intersection with Home Avenue;~~

279

~~(ii) — South Union Street, from its intersection with Howard Street southerly to its terminus at Shelburne Street;~~

280

~~(iii) — St. Paul Street, from its intersection with Howard Street southerly to its terminus at Shelburne Street;~~

281

~~(iv) — Colchester Avenue, from its intersection with East Avenue northeasterly to its intersection with Barrett~~

282

~~Street; and~~

283

~~(v) — North Avenue, from its intersection with Convent Square northerly to its intersection with Plattsburg~~

284

~~Avenue.~~

285

~~(c) — District Specific Regulations: Design Review Overlay District:~~

286

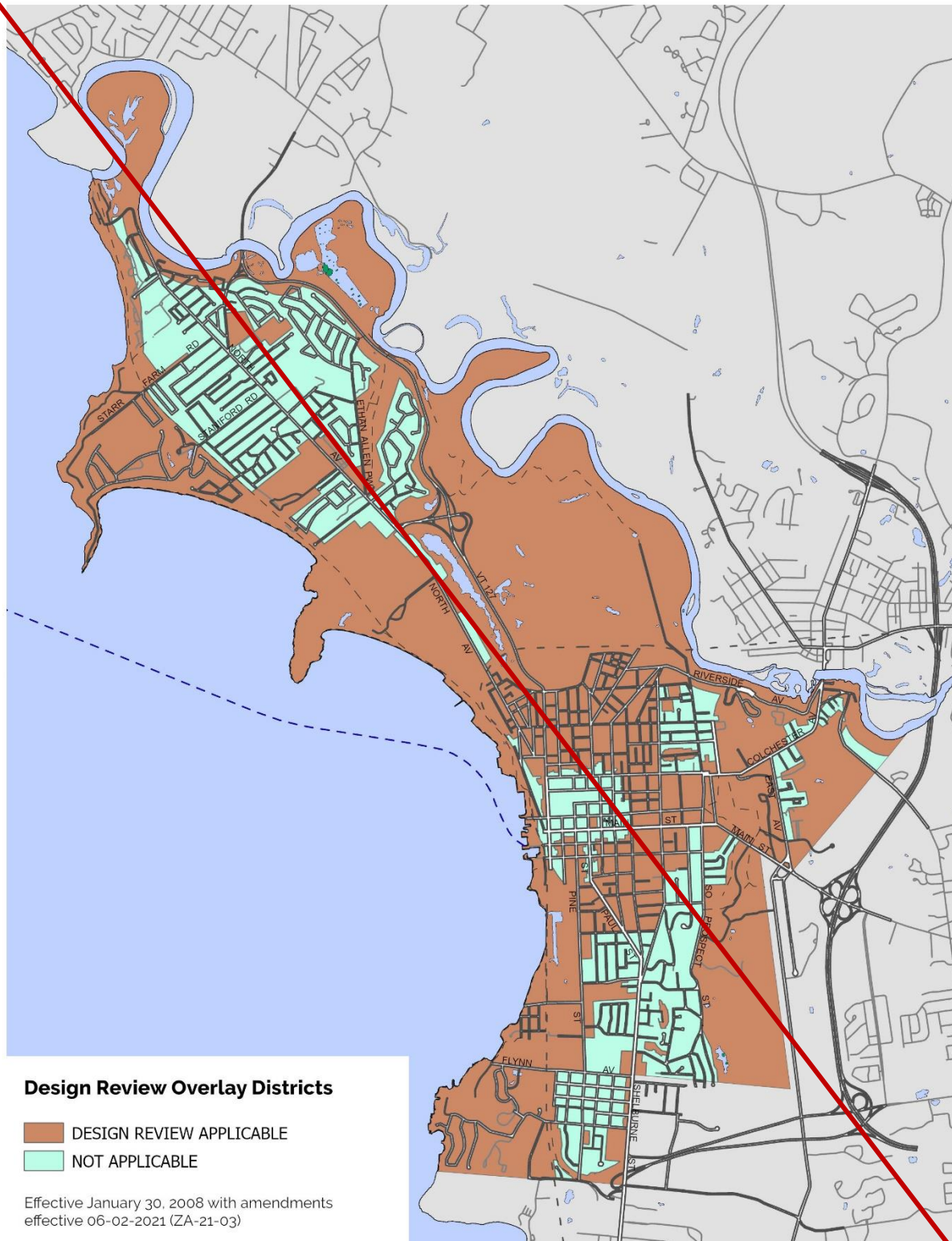
~~Within this overlay district, no structure may be erected, reconstructed, substantially altered, restored, moved, or~~

287

~~demolished or any site improvement or modification made without approval subject to the provisions of Article 3, Part 4~~

288

~~pertaining to Design Review and the review criteria described in Art 6.~~



~~Map 4.5.1 1: Design Review Overlay~~**Article 5: Citywide General Regulations**  
**PART 2: DIMENSIONAL REQUIREMENTS****Sec. 5.2.3 Lot Coverage Requirements**

Where a maximum lot coverage is specified pursuant to the requirements of Article 4, no building or part of a building or impervious surface or other form of coverage shall exceed such maximum allowable except as specifically authorized by this ordinance.

**(a) Calculating Lot Coverage:**

As written.

**(b) Exceptions to Lot Coverage:**

In all districts, the following shall not be counted as lot coverage:

1. through 9. – As Written

~~10. For lot area occupied by an ADU, the DRB may approve up to 650 sq. ft. additional lot coverage over existing lot coverage, even if present or proposed lot coverage exceeds the standard lot coverage limits. To grant such an exemption, the DRB must find that the existing lot coverage has been lawfully created, and that the proposed location, site design, and improvements will enable on-site management of the first one inch of stormwater runoff from the lot area of the ADU exceeding the applicable lot coverage limit, and will not have undue adverse impact on public rights of way based on the review of the DPW Stormwater Program Manager.~~

\*\*\*

**Sec. 5.2.5 Setbacks**

Setbacks between structures and property lines where required are intended to provide access to light and air, provide fire separation and access, and maintain the existing neighborhood pattern of structures and open spaces between them and to the street.

**(a) Setback Required: As written****(b) Exceptions to Yard Setback Requirements**

The following projections into required yard setbacks may be permitted subject to the standards of Article 6 to ensure compatibility with neighboring properties:

1. through 6. – As Written

**7. Driveways**

Common or shared driveways and walkways along shared property lines and associated parking areas, including those to serve residential lots and developments per Sec. 4.4.5 (d) 4.A and Sec. 5.2.2, do not have to meet setback requirements along the shared property line. Other driveway encroachments may be permitted subject to ~~Sec. 4.4.5 (d) 1.A. Tables 4.4.5-1 and 4.4.5-2.~~

8. As Written

**Article 5: Citywide General Regulations****PART 4: SPECIAL USE REGULATIONS****Sec. 5.4.5 Accessory Dwelling Units****(a) Accessory Units, General Standards/Permitted Uses:**

~~Where there is a principal structure on a lot which exists as an owner-occupied single family residence, one accessory dwelling unit, that is located within or appurtenant to such single family dwelling, shall be allowed as a permitted use if the provisions of this subsection are met. An accessory dwelling unit means a dwelling unit that is clearly subordinate to the principal dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. An accessory unit shall not be counted as a dwelling unit for the purposes of density calculation. Additionally, there must be compliance with all the following:~~

- ~~1. The property has sufficient wastewater capacity as certified by the Department of Public Works; and~~
- ~~2. The unit does not consist of more than 900 sq.ft., or 30 percent (30%) of the Gross Floor Area of the principal home, whichever is greater; and~~
- ~~3. Applicable setback and coverage requirements are met, except as provided for in Sec. 5.2.3 (b) 10; and~~
- ~~4. A deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit prior to the issuance of the certificate of occupancy for the unit. Such reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions including owner occupancy. No certificate of occupancy shall be issued for the unit unless the owner has recorded such a notice.~~

**(b) Discontinuance of Accessory Units:**

~~Approval of an accessory dwelling unit is contingent upon owner occupancy of either the principal or accessory dwelling unit as a primary residence. For purposes of this section, owner occupancy means that, after the creation of the accessory unit all individuals listed on the deed for the property must reside in the principal unit or in the accessory unit. If neither the principal unit nor the accessory unit is owner-occupied as a primary residence, the approval for the accessory dwelling unit is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval.~~

~~Furthermore, where additional square footage is added to a single family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.~~



## Article 7: Signs

## PART 2: SIGN TYPES

## Sec. 7.2.1 Sign Types

Table 7.2.1-B Sign Types Permitted by Form/Zoning District (continued)

|                            | Residential |    |                        |                        | Civic, RCO & Urban Reserve |                                       |       |    | Sign Type Standards |
|----------------------------|-------------|----|------------------------|------------------------|----------------------------|---------------------------------------|-------|----|---------------------|
| Sign Type                  | <u>RC</u>   | RH | RM/<br><del>RM-W</del> | RL/<br><del>RL-W</del> | Civic &<br>RCO-R/G         | RCO-A                                 | RCO-C | UR |                     |
| Awning & Canopy Sign       | <u>●</u>    | ●  | ○                      | ○                      | ○                          | ○                                     | ○     | ○  | 7.2.2               |
| Band Sign                  | <u>●</u>    | ○  | ○                      | ○                      | ○                          | ○                                     | ○     | ○  | 7.2.3               |
| Blade Sign                 | <u>●</u>    | ●  | ●                      | ●                      | ●                          | ●                                     | ●     | ○  | 7.2.4               |
| Directory Sign             | <u>●</u>    | ●  | ●                      | ●                      | ●                          | ●                                     | ○     | ○  | 7.2.5               |
| Freestanding Sign          | <u>●</u>    | ○  | ○                      | ○                      | ●                          | ○                                     | ○     | ●  | 7.2.6               |
| Freestanding Yard Sign     | <u>●</u>    | ●  | ●                      | ●                      | ●                          | ●                                     | ●     | ●  | 7.2.7               |
| Marquee                    | <u>○</u>    | ○  | ○                      | ○                      | ○                          | ○                                     | ○     | ○  | 7.2.8               |
| Monument Sign              | <u>○</u>    | ○  | ○                      | ○                      | ●                          | ○                                     | ○     | ●  | 7.2.9               |
| Outdoor Display Case       | <u>●</u>    | ○  | ○                      | ○                      | ●                          | ●                                     | ○     | ○  | 7.2.10              |
| Projecting Sign            | <u>●</u>    | ○  | ○                      | ○                      | ●                          | ○                                     | ○     | ○  | 7.2.11              |
| Sandwich Board             | <u>●</u>    | ○  | ○                      | ○                      | ●                          | ●                                     | ●     | ●  | 7.2.12              |
| Wall Sign                  | <u>●</u>    | ●  | ●                      | ●                      | ●                          | ○                                     | ○     | ○  | 7.2.13              |
| Window Sign                | <u>●</u>    | ●  | ●                      | ●                      | ●                          | ●                                     | ●     | ○  | 7.2.14              |
| ● - Sign Type is permitted |             |    |                        |                        |                            | ○ - Sign Type is <u>not</u> permitted |       |    |                     |

**Article 13: Definitions**

**Sec. 13.1.2 Definitions**

For the purpose of this ordinance certain terms and words are herein defined as follows:

Unless defined to the contrary in Section 4303 of the Vermont Planning and Development Act as amended, or defined otherwise in this section, definitions contained in the building code of the City of Burlington, Sections 8-2 and 13-1 of the Code of Ordinances, as amended, incorporating the currently adopted edition of the American Insurance Association's "National Building Code" and the National Fire Protection Association's "National Fire Code" shall prevail.

Additional definitions specifically pertaining to Art. 14 planBTV: Downtown Code can be found in Sec. 14.8, and shall take precedence without limitation over any duplicative or conflicting definitions of this Article.

\*\*\*

**Building Footprint:** The sum of the area of the largest floor of a Building measured from the exterior Elevations. It does not include un-insulated porches if said areas are not used for human occupancy, nor protrusions in a wall (i.e. a bay window) if such protrusions do not create habitable area.

\*\*\*

**Elevation:** An exterior wall of a Building.

\*\*\*

\* Material stricken out deleted.

\*\* Material underlined added.

Ordinances 2024/ZA-24-04 Neighborhood Code 2A  
CCOC 9-12-24

From: Sharon Bushor  
September 16, 2024  
Re: Neighborhood Code Ordinance

As I reflected on the amendments put forward by this committee, I want to thank you for the attention you have given this Ordinance. My position is more in sync with your revisions and believe represents concerns and comments by residents versus those put forward by developers, large and small.

To recap those concerns:

Many felt 4 more units in the second structure was too many and favored two.

Many including some Planning Commissioners had concerns about the height of the second structure which could dwarf the primary structure. I had proposed that the height of the second structure could not exceed that of the primary one with two exceptions;

If the primary structure was a single story, a two story secondary structure would be allowed.

Additional height up to 35 feet could be approved if an affordable unit was included. (MY ATTEMPT TO INSERT A SMALL AFFORDABILITY COMPONENT WHICH IS LACKING IN THIS HOUSING ORDINANCE. HOW CAN THAT BE?????)

A request to reinsert the language regarding stormwater runoff. It was part of the section on ADUs which is being eliminated. Since the lot coverage in RL and RM is increased, it seems appropriate to address the impact of potential increased runoff. My recommendation was discussed by the Planning Commission but Scott Gustin stated it was not necessary because it is part of the review process. That may be true but it was included in the ADU Section and because its environmental impact is critical, reinserting this language emphasizes the need to address it. Please consider including this in the amended version.

The discussion around making the maximum square footage of the second structure at 1100 sq ft stems from conversations where the size of lots in RL and RM actually vary. The guard rails to keep it size appropriate are lot coverage and now with your proposed height limitation. If a lot can accommodate an 1100 sq ft structure why not allow it?

So much more in this Ordinance is deserving of your critical eyeballs and further discussion but realize time has run out. A real loss to get this legislation something we desire as the goal for future development in Burlington rather than legislation that many fear will erode quality of life leaving us with less family housing (owned or rented), no increase in much needed affordable housing and further tipping the scale creating even more rental housing. As one person who has left Burlington and published a Planning Chronicle puts it "Burlington's attempt to address the housing crisis has led to legislation that has lost the much needed balance of housing and quality of life".

Thank you.

Sharon Bushor  
Ward 1 resident

## Goals:

To create a committee that is trusted and perceived as fair by both the public and the police department to greatest extent possible.

## Conceptual membership of panel:

- Members should be from outside of the community to limit bias
- Hired professionals-contract
- Should have a solid background in how policing works
- Take willing but random voters and ask to serve on panel—chosen like jurors from a pool
- Panel is a “binding” arbiter between police and commission so member should be agreed to by both (*GB concern not way panel set up*)
- Select from current Police Commissioners
- Members of Burlington general community
- Members who represent diversity of age, economic status, gender, areas of the city, ...
- Not come from a policing background

## Who serves:

- Pay three independent arbiters \$1,000 per day
- Pay whoever serves
- Pay one individual contractor
- Representatives from business, crime victims
- Someone from police academy who is not from Burlington
- Representation from both police and social justice groups
- A retired police officer, retired public defender, or retired criminal court judge
- HR Director
- Subject matter expert
- Resident of City of Burlington regardless of immigration status
- Person with lived experiences—houseless, mental health issues, domestic violence, people who have had interactions with criminal justice system
- BIPOC or marginalized communities to have diversity of racial or national origin



- Gender diversity
- Representation from Church St. Marketplace Commission

#### Qualifications:

- City council president
- Politically neutral/balanced
- City resident
- Registered to vote in Burlington
- Have to be fair and have history that demonstrates that they can properly demonstrate discretion
- Some members from Burlington, not all
- In depth understanding of policing
- Support policing as part of a justice system
- Do not have strong political ideologies that would drive them in one or another direction
- Live in Burlington for at least 5 years
- Understanding how important and difficult a police officer's job is
- In depth knowledge of HR practices
- People who have been in police dept., mayor's office, commissions, city employees
- Demonstrated history of working to improve Burlington
- Subject matter expert

#### Disqualifications:

- Current law enforcement officials
- People who have been in police dept., mayor's office, commissions, city employees
- Non-resident

#### Who should make appointments:

8/14/24

Who serves:

- Ad hoc panel
- Expertise in DEI category that has been justice involved in past
- Expertise in HR discipline
- Previous policing experience
- Previous prosecutorial
- Public defender experience
- 2 lawyers
- Director of HR or REIB
- 10 years experience in law enforcement including policing, prosecution, investigation, law clerks, and/or judicial
- One member of general public appointed by Mayor
- Work in criminal society organizations involved in society reform or combatting systemic racism, ie: ACLU, Southern , Poverty Law Foundation
- People with experience in mental health, domestic violence

Who staffs:

- Independent attorney hired for each panel with access to administrative staff, investigative services

Timeline for creating body?

- 7 days
- Need more time then 7 days, up to 15 days

Timeline for making decision?

- Currently 14 days for Police Commission in directive
- 30 days internally, with up to additionally 60 days for extensions generally based on scheduling considerations
- 14 days for panel? 30 days for panel? If allow extensions, should put in criteria

8/26/24

Chair Shannon's proposal:

1-Director of HR

2-Mayor appoint director of REIB, CEDO, or CJC

3 & 4 Mayor appoint 2 people with at least 10 year experience in law enforcement as a law enforcement officer, prosecutor, or public defender

5-City Council President appoint 1 with at least 10 year experience in law enforcement as a law enforcement officer, prosecutor, or public defender

2 of the 3 outside individuals appointed by the Mayor and Council President must be Burlington residents. The Mayor and President will coordinate to ensure that there is sufficient diversity on the panel and that the panel can meet in a timely fashion.

Councilor McKnight said she took issue with having the Mayor effectively appoint four of the five members, as well as the Chief of Police. She said she would prefer the Mayor only appoint two of the five. She also said preference should be given to Burlington residents, but could be expanded to Chittenden County if necessary.

Councilor Bergman said he did not want City staff being on the panel. He said all the Department Heads mentioned work with the Chief of Police on a regular basis. He also disagreed with the high professional experience requirement. He said any person chosen from outside the City should have a connection to Burlington. He agreed with Councilor Brown McKnight about not having four of the five members be appointed by the Mayor.

**Resolution Relating to**

CHANGES TO CITY CHARTER ARTICLES 62, 63, AND 65  
REGARDING POLICE OVERSIGHT

**RESOLUTION 7.5.**

Sponsor(s): Charter Change  
Committee

Introduced: 07/15/24

Referred to:

Action: adopted as amended

Date: 07/15/24

Signed by Mayor: 07/17/24

**CITY OF BURLINGTON**

In the year Two Thousand Twenty-Four.....

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, over the past several years, as part of its continued commitment to oversight and  
2 accountability, the City Council and the Administration have continued to take steps to revise Burlington's  
3 police oversight, transparency, and accountability practices; and

4 WHEREAS, pursuant to a resolution adopted by the Council on February 6, 2023, the City Council  
5 requested the Ordinance Committee and Charter Change Committee to hold joint meetings, allowing for  
6 community and stakeholder input on the disciplinary authority of the Chief of Police, the oversight role of the  
7 Police Commission, and the creation of a separate community oversight body independent from the  
8 Burlington Police Department; and

9 WHEREAS, over a span of eight months, the Joint Ordinance and Charter Change Committee met  
10 fourteen times, seeking and receiving community and stakeholder input on the issues; and

11 WHEREAS, the Joint Committee voted to move forward a proposed charter change for public  
12 comment with the understanding it may be placed upon the ballot after a final vote of the Burlington City  
13 Council; however, after the first public hearing before the City Council on January 16, 2024 it was referred to  
14 the Police Commission for review and comment; and

15 WHEREAS, the Police Commission met over the span of three months and brought forth their  
16 thoughts to the City Council prior to the proposed Charter Change being brought back up by the Charter  
17 Change Committee who met substantively four times regarding police oversight between June 12, 2024 and  
18 July 1, 2024; and

19 WHEREAS, the Charter Change Committee unanimously referred the proposed language below to the  
20 full City Council for consideration and voted 2-1 to place the proposed language on the November 5, 2024  
21 ballot and warn the language for public hearing;

\* \* \* \* \*

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**RESOLUTION RELATING TO**

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**Adopted by the City Council**

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..... Clerk

Approved....., 20 .....

..... Mayor

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NOW, THEREFORE, BE IT RESOLVED that the City Council approves the amendments to the city charter recommended by the Charter Change Committee and requests the Mayor to place the following question on the ballot of the General Election to be held on November 5, 2024 and the City Clerk to set public hearings on the this question in accordance with Charter §303 and 17 V.S.A. § 2645:

*"Shall the Charter of the City of Burlington, Acts of 1949, No. 298 as amended, be further amended to amend Article 62, Police Department; Article 63, Chief of Police and Captain; and Article 65, Removal or Suspension, thereto to read as follows:*

## ARTICLE 62. POLICE DEPARTMENT

### 183 Board of police commissioners; composition; terms.

The board of police commissioners shall consist of seven (7) legal voters and should represent the diverse nature of said city's constituents, including those from historically marginalized communities, to be appointed by the city council with mayor presiding to serve for three (3) years and until their successors are appointed and qualified.

### 184 Same-powers and duties.

(a) The city council shall make rules and regulations for the government of the entire police ~~foree-department~~ and shall fix the qualifications of applicants for positions and service on said ~~foree-department~~ and to the extent permitted by applicable law, the chief of police shall furnish the city council with any information they may require concerning the finances of the police department. The chief of police shall be responsible for all expenditures made by the police department and no expenditures shall be made by the department except in conformity with the standards promulgated by the city council.

(b) The board of police commissioners shall have such authority and responsibility relating to the management, auditing, or monitoring of the police department, its services and facilities, as may be delegated from time to time by resolution, ordinances, and orders of the city council. Said board shall notify the mayor, ~~and the~~ chief administrative officer, and city council, in writing, of any and all changes, modifications or additions to the rules and regulations of the department.

(c) Without limitation to the foregoing, the board of police commissioners and the chief of police may propose rules and regulations for the government of the entire police department in a manner not inconsistent with those established by the city council. Adoption of such proposed rules and regulations requires joint approval by the board of police commissioners and the chief of police. In the event joint approval is not provided by the board of police commissioners and the chief of police, either party may bring forward to the city council the proposed rule or regulation for the city council's consideration.

(d) The board of police commissioners shall have the authority to receive and review all civilian and internal allegations of misconduct by members of the police department. The mayor's proposed budget and the city council shall annually appropriate an amount necessary for the adequate support and facilitation of such review. To the greatest extent permitted by law, the chief of police shall provide the board of police commissioners timely updates of any review, investigation, or disposition of alleged misconduct. The board of police commissioners shall have the ability to request additional information from the chief of police and access to those documents or other evidence relied upon by the chief of police in reviewing allegations of misconduct as the city council shall designate by ordinance. For complaints of alleged misconduct that constitute an offense subject to an investigation of the Vermont Criminal Justice Training Council pursuant to 20 V.S.A 2401 et seq. or for which the chief of police intends

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to impose discipline constituting loss of pay, suspension, or termination, the complaint may not be disposed until the board of police commissioners is notified of the proposed disposition.

After receiving notice from the chief of police of the recommended or actual disposition relating to the review of alleged misconduct, the board of police commissioners shall have the authority to:

(i) recommend an alternative disposition to the chief of police within a time established by ordinance; or

(ii) independently investigate any allegation of misconduct by members of the police department upon a 2/3 majority vote. Such investigation or review shall be conducted by an independent investigator hired by the board of police commissioners, and approved by the city attorney's office, and completed within a time established by ordinance. Upon the conclusion of such an investigation, the board of police commissioners may make a recommendation per subsection (i). The board of police commissioners shall not have the authority to investigate or impose discipline upon the chief of police. Matters regarding the alleged misconduct of the chief of police shall be addressed in conformity with section 190(b) of this Charter and other relevant Vermont statutes.

(e) Upon receiving a recommendation by the board of police commissioners in subsection (d), the chief of police may accept the recommendation subject to the notice and hearing provisions in Article 62, section 190(a) or reject the recommendation. In the event the chief of police rejects the recommendation, the chief of police shall immediately notify the board of police commissioners. Upon receiving notice of the rejection, the board of police commissions may, upon a 2/3 majority vote, request that an independent panel decide the disposition of the matter within a time established by ordinance, subject to the notice and hearing provisions set forth in in Article 62, section 190(a). The disposition of the independent panel shall be final, subject to any applicable right of appeal or grievance process.

This independent panel shall consist of three (3) to five (5) persons appointed per ordinance.

## ARTICLE 63. CHIEF OF POLICE AND CAPTAIN

### 185 Officers of police ~~foree~~department designated.

(a) The direction and control of the entire police ~~foree~~department, except as herein otherwise provided, shall be vested in a police officer who shall be called the chief of police, and such other ranking police officers as the city council shall authorize, subject to the ordinances, resolutions, and orders of the city council; and, provided that the mayor shall retain the powers and duties of chief executive officer pursuant to §116. The order of rank and succession within the police department shall be as designated by the city council by regulation.

(b) Except as herein otherwise provided, such officers shall have the powers and duties granted to police officers by Vermont law and assigned to them by regulations adopted under section 184 of this Charter.

## ARTICLE 65. REMOVAL OR SUSPENSION

### 190 Chief of police may remove member for cause; hearing.

(a) Whenever it shall appear to the chief of police that any member of said ~~foree~~police department has become incompetent, inefficient or incapable from any cause, or is or has been negligent or derelict in his or her official duty, or is guilty of any misconduct in his or her private or official life, or whenever any well-grounded complaints or charges to such effect are made in writing to the chief of police by a responsible person against such member, the chief of police may investigate and, after appropriate notice and hearing, dismiss such member from the ~~foree~~police department, order a reduction in rank, or suspend the member without pay for a specified time period in excess of 14 days. In connection with any possible dismissal, demotion, or suspension for more than 14 days, the chief of police's notice to the member shall be given at least 48 hours prior to any hearing and shall include a description of the

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charges being considered. In connection therewith, the chief of police shall have the power to subpoena documents and witnesses and to administer the oath to such witnesses. Such a subpoena will be subject to enforcement or modification in conformity with the procedures set forth in 3 V.S.A. §§ 809a and 809b. The board of police commissioners, or in the case it has already offered an opinion on discipline pursuant to §184(d)(i), or in the case that the voting number of commissioners falls below four (4) due to declared actual or apparent conflict(s) of interest, an independent panel comprised as in §184(e) shall hear any appeal filed in a timely manner with respect to such actions of the police chief. The time of filing an appeal and the nature of the appellate process shall be as determined by such board of regulation. Following its consideration of any such appeal, the board may affirm, modify, or vacate the decision made by the police chief.

(b) Whenever it shall appear to the mayor that the chief has become incompetent, inefficient, or incapable from any cause, or has been negligent or derelict in his or her official duty, or is guilty of any misconduct in his or her private or official life, or whenever any well-grounded complaints or charges to such effect are made in writing to the mayor by a responsible person, the mayor may suspend the chief of police from duty pending a hearing thereon by the city council. The city council shall forth-with notify the chief of police of the charges preferred by them, or of the complaints or charges presented by such responsible person in writing, and shall thereupon proceed to consider and investigate the same. It shall appoint a time and place for the hearing of such complaints and charges so made, shall give the chief of police reasonable notice of the same, not less than 48 hours, and the city council shall have the power to subpoena documents and witnesses and to administer the oath to such witnesses. Such a subpoena will be subject to enforcement or modification in conformity with the procedures set forth in 3 V.S.A. §§ 809a and 809b.

(c) If, upon hearing, the city council shall find such complaints or charges to be well founded, it may dismiss the chief of police from the ~~free~~ police department, demote him or her in rank, or suspend him or her without pay for a period not to exceed 60 days. The procedures outlined in this section shall control in the event of any conflict with section 129 of this Charter as pertains to the removal of the chief of police.

(d) The chief of police may, without notice or hearing for any infraction, violation, or disobedience of any of the rules and regulations of the police department that may seem to the chief of police sufficient, suspend from duty without pay any member of the police ~~free-department~~ for a period not to exceed 14 days.

AND BE IT FURTHER RESOLVED, the Ordinance Committee shall prepare a draft ordinance outlining the composition of the independent panel authorized by §184(e) of the amended City Charter, if enacted, and shall transmit the draft ordinance to the City Council on or by its meeting on September 23, 2024.

\*Materials underlined added

\*\*Materials stricken deleted

KS/Resolutions 2024/Changes to City Charter Arts. 62, 63, & 65 Regarding Police Oversight  
7/11/24



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*as amended*  
Adopted by the City Council

July 15....., 20 24.....

*[Signature]* Clerk

Approved..... July 17....., 20 27.....

*[Signature]* Mayor

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